

LCP Radar – Pensions Authority Information Update on IORP II related issues

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18 May 2022 - The Pensions Authority has provided an update on a range of matters related to the transposition of IORP II legislation.

The update is very welcome as it provides additional clarity on certain aspects and extends the deadline for implementation of key requirements of the legislation.

1. Disclosure of information

The Pensions Authority has confirmed it will not require a Pension Benefit Statement (PBS) to be prepared with an effective date earlier than 1 January 2023 provided that trustees/ registered administrators continue to provide annual benefit statements and (for DC schemes) statements of reasonable projection to active members.

The Authority will issue guidance on the calculation assumptions to be used for the DC projections in the PBS by the end of July.

2. Investment Regulations

Pension schemes must invest predominantly in “regulated markets”. The definition of a “regulated market” has now been added to the Pensions Act. The definition may be quite restrictive as it appears only to define “regulated markets” as those markets regulated by an EU member state. This definition could cause serious issues for schemes which may invest outside of EU markets. This matter has been raised with the Authority via several channels and a response is still outstanding.

The Authority has now said that it *“understands that schemes may decide to defer consequent investment or related decisions until the Authority has concluded its examination.”*

3. Annual Compliance Statement (ACS)

Trustees must prepare the 2022 ACS not later than 31 January 2023. The 2022 ACS form will remain unchanged from the 2021 form.

Trustees will not be required to submit the 2022 ACS to the Authority in 2023. However, the Authority will carry out sample checks and audits of this obligation as part of its ongoing supervisory activity. Trustees will be required to digitally submit the 2023 ACS to the Authority in February 2024.

4. Use of electronic communications

The Authority has said that *Trustees are permitted to provide information to members or beneficiaries using electronic methods in accordance with section 2(8) of the Act. In doing so, they need to comply with the Electronic Commerce Act 2000 (the ECA).*

The Authority has also said that trustees are responsible for determining how they comply with the ECA requirements and what type of consent is required from members to receive information electronically (i.e. active or passive consent). In coming to this conclusion, trustees should have regard to the specific profile and experience of their own scheme membership when deciding what type of consent is most appropriate.

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LCPs View

LCP welcomes the Pensions Authority update and we look forward to additional clarity regarding Pension Benefit Statements and Regulated markets.

Trustees should continue to engage with their advisors to ensure they reach compliance with all relevant aspects of the IORP II legislation; by the end of the year for occupational pension schemes and by 1 July 2022 for One Man Arrangements and Master Trusts.

If you would like to find out more about how LCP can help trustees and sponsors of pension arrangements, or if you have any questions on this update, please contact [Roma Burke](mailto:roma.burke@lcpireland.com) at roma.burke@lcpireland.com or the LCP partner who normally advises you.

Note of Work

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