



# **Pro-Active Regulation in 2009**

## **Legislation and Regulation, Education and Training, Trusteeship and Administration**

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# PRO-ACTIVE REGULATION IN 2009

## Agenda

- Regulation before the Pensions Acts
- The Pensions Acts 1990-2008
- Pensions Board approach to Regulation
- Pro-Active Regulation in 2009
- Regulation and Trusteeship
- Regulation and Administration
- Conclusions



# REGULATION BEFORE THE PENSIONS ACTS

- Trust Law and Equitable Principles
- The Trustee Acts 1893 and 1958
- The Trust Documents
- EU Law
- Revenue Requirements
- Fragmented Regulatory Framework



# THE PENSIONS ACTS 1990 – 2008

- Part I – Preliminary and General
- Part II – Establishment of Pensions Board
- Part III – Preservation of Benefits
- Part IV – Funding Standard
- Part V – Disclosure of Information
- Part VI – Trustees of Schemes
- \*<sup>1</sup> Part VI A - Registered Administrators
- \*<sup>2</sup> Part VII – Equal Treatment

\*<sup>1</sup> *Introduced by the Social Welfare and Pensions Act, 2008*

\*<sup>2</sup> *Equal Pension Treatment introduced by Social Welfare Act, 2004*



# THE PENSIONS ACTS 1990 – 2008

\*<sup>3</sup> Part VIII– Compulsory and Voluntary Reporting

\*<sup>3</sup> Part IX – Miscellaneous Applications to the High Court

\*<sup>3</sup> *Introduced by the Pensions (Amendment) Act, 1996*

\*<sup>4</sup> Part X – Personal Retirement Savings Accounts (PRSA's)

\*<sup>4</sup> Part XI – Pensions Ombudsman

\*<sup>5</sup> Part XII – Cross Border Schemes

\*<sup>4</sup> *Introduced by the Pensions (Amendment) Act, 2002*

\*<sup>5</sup> *Introduced by the Social Welfare and Pensions Act, 2005*

- Social Welfare Law Reform and Pensions Act, 2006
- Social Welfare and Pensions Act, 2007
- Social Welfare and Pensions Act, 2008

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# PENSIONS BOARD APPROACH TO REGULATION

## Historical

- Encouraged broad compliance with Pensions Act
- Reflected
  - large number of schemes
  - lack of previous pensions legislation
  - policy of encouraging voluntary supplementary pension provision
- Heavy reliance on disclosure of information provisions
- Gradual move towards stricter policy of expecting full compliance
- Required shift from reactive to pro-active approach

# PENSIONS BOARD APPROACH TO REGULATION

## Currently

- Pro-active approach since 2007 resulting from Operational Review
- Reflects
  - international best practice in supervisory field
  - need to have regard to principles of regulation
  - risk based model
  - direction of resources to most suitable areas
- Involves - Supervisory approach based on hierarchy of risk priorities  
and  
-Pro-active engagement with regulated entities and their administration providers

# PENSIONS BOARD APPROACH TO REGULATION

## Key Objectives

- To ensure that :
  - No pension monies are misappropriated
  - Beneficiaries receive their full entitlements
  - Schemes are appropriately funded
  - Pension assets are appropriately invested
  - Members are provided with enough information to make appropriate decisions



# PRO-ACTIVE REGULATION IN 2009

## Pensions Board Regulatory Activity

- Aligned to Regulatory Priorities
- Priorities include
  - Annual interaction with range of schemes – initially largest DB (Level 1 Meetings)
  - Annual interaction with Administrators/RAs/Pension Providers (Level 1 and Level 2 Meetings )
  - Appropriate interaction with all DB schemes failing the funding standard (Correspondence and Level 1/Level 2 Meetings)
  - Compliance audits -Providers and Schemes
- On-the-spot fines investigations
  - S18 investigations – on-site and off-site
  - Prosecutions - where necessary



# PRO-ACTIVE REGULATION IN 2009

## Pensions Board Regulation Function

- One supervisory function - Regulation
- PRSA supervisory process streamlined and integrated into ongoing provider contact
- Scheme registration now comes within Regulation function
- Portfolio system adopted for DB schemes/Pension Providers
- ‘Open Door’ policy remains

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# PRO-ACTIVE REGULATION IN 2009

## Collaboration with other Parties

- Trustees
- Pensions Ombudsman
- Garda Fraud Squad
- ODCE re Section 150/Section 160 of the Companies Act
- CCABI
- NERA
- Liquidators
- Financial Regulator

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## REGULATION AND TRUSTEESHIP

- Much of Board's regulatory power applies to Trustees
- Reflects trustees onerous and increasing obligations under Pensions Act
- Trustee regulation must be matched with support for trustees
- Trusteeship Review 2007 recommended that :
  - Administrators be regulated
  - Employers be obliged to provide training for trustees
- Recommendations implemented in SW and Pensions Act 2008
- On – line training being developed by Board and Trustee Handbook soon available on line
- IIPM Trustee Certificate endorsed in Handbook and in Trusteeship Review

# REGULATION AND ADMINISTRATION

- Trustees heavily reliant on third party administration
- Trusteeship Review examined position in detail
- concluded that scheme administrators (not other service providers) be regulated as no formal qualification existed
- RA regime commenced 1 Nov 2008
- Important support for trustees
- RAs independently supervised
- RAs capable of performing core functions to reasonable standard
- IIPM Diploma in Pensions Administration significant contribution to professional standards

# PRO-ACTIVE REGULATION IN 2009

## Conclusions

- Regulatory tools available to the Board continue to be developed and fine-tuned
- Additional powers allow Board to check compliance of larger number of schemes than before
- RA regime very important contribution to efficiency of Board's regulatory efforts
- Direct engagement with trustees and regulated entities proving very useful
- Board's current regulatory approach provides more realistic and visible deterrent to non-compliance with the Pensions Acts
- Trustees, Administrators, Providers and Educators all have a role to play in meeting the Board's expectations of full compliance

