

Mission Statement



“To enhance the understanding of Financial Planning as a profession and to represent the views of our members with Regulatory, Governmental, Statutory and Consumer bodies.”



Presentation Today

Regulatory Update

Paula Downey



IORPS II and an Evolving Pensions Landscape

Gerard Keane



REGULATORY UPDATE

28 MAY 2019

ANALYSIS OF THE CURRENT REGULATORY
ENVIRONMENT AND UPCOMING ISSUES FOR
FINANCIAL PLANNERS



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MAIN REGULATORY THEMES FOR FINANCIAL PLANNERS IN 2019?



MAIN REGULATORY THEMES FOR FINANCIAL PLANNERS IN 2019?

The Past MiFID 2 and AMLD4



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MAIN REGULATORY THEMES FOR FINANCIAL PLANNERS IN 2019?

The present Current Supervisory
Priorities



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MAIN REGULATORY THEMES FOR FINANCIAL PLANNERS IN 2019?

The Future

- CP116 Intermediary Inducements –
Enhanced Consumer Protection measures
- Emerging Regulatory Topics



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MiFID 2 Addendum to CPC, August 2017



Target market assessment – what CPC requires:

“14.4 Where a regulated entity offers, recommends, arranges or provides an investment product, it shall have in place adequate arrangements:
a) to obtain all appropriate information on the investment product and the investment product approval process, **including the identified target market of the investment product**, and
b) to **understand the characteristics and identified target market of each investment product.**”

An issue for product manufacturers only?



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Target Market Assessment – what does it mean in practice?

Manufacturer: obliged in product design and promotion to specify the type(s) of client for whose needs, characteristics and objectives the product is compatible and to identify any group(s) of clients for whom it isn't compatible. Manufacturer must identify the potential target market

Distributor (You!): For non-standard investment products (e.g. funds other than UCITS, structured deposits) vigilance is required in reviewing product documentation (usually the KID/KIID) to identify the target market and you are obliged to satisfy yourself that your client falls within the target market before recommending the product



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1. Is your client the type of client the product is targeted at? i.e. if not aimed at “retail” unlikely to be targeted at your client

2. Does your client have the required knowledge and experience: i.e. look out for “sophisticated investor” or similar, does that describe your client?

3. What is your client’s financial situation/ability to bear losses? e.g. “you may lose the entire sum invested”, can your client bear that loss?

4. Is your client’s risk tolerance compatible with the risk/reward profile of the product? i.e. Is the risk indicator in the KID/KIID compatible with your assessment of your client’s risk appetite?

5. Is the product compatible with your client’s objectives and needs? i.e. is the product suitable?

MiFID 2 Addendum to CPC, August 2017



Cost disclosures on investment products

Requirement = disclose appropriate information in good time to clients or potential clients with regard to all costs and related charges including:

- information relating to both investment services and ancillary services,
- the cost of advice, where relevant
- the cost of the financial instrument recommended or marketed to the client and how the client may pay for it, encompassing any third-party payments.



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MiFID 2 Addendum to CPC, August 2017



Cost disclosures on investment products?

- costs to be disclosed both as a % and as given value
- Information to be provide both ex ante (pre sale/estimated) and post ante and an illustration of the effect of costs both ex ante and ex post is required
- Annual cost statement must be provided by MiFID firms giving detailed analysis including payments to intermediaries



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Some key elements of AMLD4 that should be implemented in your firm by now



The Criminal Justice (Money Laundering and Terrorist Financing) (Amendment) Act 2018

1. Statutory requirement to complete a documented annual Business Risk Assessment, which should be considered by the Board.
2. Procedure required to identify Irish PEPs, also must carry out Enhanced Customer Due Diligence on Irish PEPs (source of wealth), and have “senior management” approval to take on a PEP as a client



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A key element of AMLD4 that needs to be implemented in the next few months



The European Union (Anti-Money Laundering: Beneficial Ownership of Corporate Entities) Regulations 2019

Companies* are required to maintain an internal register of Beneficial Owners including names, addresses and PPS numbers.

The register must be available for inspection.

Companies are required to register with the Central Register operated by the CRO before 22 November 2019 (see <https://rbo.gov.ie/>)



*except listed companies



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The present Current Supervisory Priorities

Overarching themes across all sectors of financial services industry include:

- Conduct and culture
- Financial crime and unauthorised activity
- Outsourcing



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Current Supervisory Priorities: Conduct and culture for IIA/IDD firms

1. **Governance** – evidence of minuted Board meetings
2. **Fitness and Probity**
 - **Dear CEO letter**: CPD register? Annual self certification of F&P for all PCF/CF holders? Full disclosure of material facts to CBI
 - **Minimum Competency**: CPD and training undertaken must be relevant
3. **Conflicts on Interest and inducements**
 - Up to date policy that is reviewed annually and isn't "boiler plate"
 - Detailed disclosure of potential and actual conflicts
 - Full transparency in disclosing fees, charges and 3rd party payments



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Current Supervisory Priorities: Financial crime and unauthorised activity

Ongoing themed inspections across all sectors, to date 1 significant fine what is required?

1. Risk based approach
2. Detailed AML and CTF procedures and accompanying manual
3. Staff training covering *inter alia* recognising suspicious activity, trigger events which require CDD to be revisited
4. Specialist training for MLRO if not experienced in the role
5. Evidence that client transactions are monitored for unusual activity
6. PEP and financial sanctions screening
7. Annual Business Risk assessment and evidence that it's reviewed by the Board

Current Supervisory Priorities: **Outsourcing**

CPC requires that :

“A regulated entity must ensure that in all its dealings with customers and within the context of its authorisation it ensures that any outsourced activity complies with the requirements of this Code;”

“*outsourced activity*” is where a regulated entity employs another person (other than a natural person who is an employee of the regulated entity under a contract of service) to carry out an activity on its behalf;

CBI has fined Ulster Bank for outsourcing failure leading to 2 day outage of ATM machines



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Outsourcing in IIA/IDD firms?

Typically outsource IT support and potentially storage of sensitive client data.

Risks:

- Is sensitive client data handled in compliance with GDPR and protected from cyber theft?
- Risk of loss of critical records in the event of breakdown in service

Requirements for outsourcing governance and risk mgmt.

- Due diligence pre-selection; cost should not be the only factor in choice of provider
- Contract and Service Level Agreement
- Ongoing monitoring of service provided & disaster recovery plan



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The Future - CP116 Intermediary Inducements – Enhanced Consumer Protection measures



“proposing measures to require firms to avoid conflicts of interest created by poorly designed inducement arrangements and provide greater transparency to consumers ...

it should be possible to properly design the arrangements by which a product producer remunerates an intermediary it has appointed to sell its products, rather than the customer having to pay a fee up-front to get advice from those intermediaries

provided of course that the arrangements in question are made clear to the customer from the outset, proposing to improve the level of transparency on this point

provided industry plays its part in designing such incentives correctly, it will also avoid the ‘advice gap’ that can emerge where product producer inducements are banned outright.”



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CP116: Main proposed changes to CPC:



1. Definitions

“**inducement**” = means a fee, commission or non-monetary benefit, whether target-based or otherwise, paid or provided to a regulated entity by a third party or a person acting on behalf of a third party, other than the consumer or a person acting on behalf of the consumer, excluding minor non-monetary benefits.

“**minor non-monetary benefits**” = such benefits that are capable of enhancing the quality of the service provided to a consumer and are of a scale and nature such that they could not be judged to impair compliance with the regulated entity’s duty to act in the best interest of the consumer.

E.g. participation in conferences, seminars and other training events on the benefits and features of a specific financial instrument, or hospitality of a reasonable de minimis value, such as food and drink during a business meeting or conference, seminar or other training events



CP116: Main proposed changes to CPC:



2. No more “independent”

Replicates requirement for investment intermediaries i.e. can only describe yourself as independent if undertake fair and personal analysis of market and “where the intermediary does not accept and retain an inducement for the provision of advice for any of its regulated activities, other than a fee paid by a consumer to whom the advice is provided”

3. Specifies when an “inducement” or “minor monetary benefit” is acceptable

- (a) [if it] is designed to enhance the quality of the relevant service to the consumer,
- (b) does not impair compliance with the regulated entity’s duty to act honestly, fairly and professionally in the best interests of the consumer, and
- (c) does not impair compliance with the regulated entity’s obligation to satisfy suitability requirements.



CP116: Main proposed changes to CPC:



4. Conflicts of Interest (N.B.)

Replicates requirement for investment intermediaries i.e. more detailed Col policy/procedure demonstrating how conflicts arising from receipt of inducements are avoided and managed

The conflicts of interest to be avoided shall include conflicts with regard to the following inducements:

- i) Inducements linked to the achievement of targets that do not consider the consumer's best interests, e.g., targets relating to volume or profit, or bonus payments linked to business retention.
- ii) Inducements linked to the size of a mortgage loan.
- iii) Soft commission arrangements, i.e., agreements under which a regulated entity receives goods or services, in return for which it agrees to direct business through or in the way of another person.

If conflicts can't be avoided? **Disclose, disclose, disclose..... and get client acknowledgment**

Must keep records detailing how Col avoided, managed and disclosed on a case by case basis



CP116: Main proposed changes to CPC:

5. Suitability

When assessing the suitability of a range of products (i.e. fair and personal analysis) only permissible to accept and retain the lowest inducement amount that is available within the range of products which are considered suitable

6. Transparency/Disclosure

Must display in offices (and on website) comprehensive summary of the details of all inducement arrangements that it has agreed with product producers , including

- (a) the basis on which the inducement is paid or provided to the intermediary;
- (b) an indication of the agreed amount or percentage of the inducement where the inducement is paid or provided to the intermediary on this basis;
- (c) details of any agreed fees, administrative costs, or non-monetary benefits in the inducement arrangement; and
- (d) any agreed additional benefits that may be paid or provided to the intermediary as part of the inducement arrangement, including any benefits which are not related to intermediary's individual sales.

The Future some final thoughts

1. Rise of digital; fintech; robotics – role of financial planner?
2. View from across the pond:
 - focus on “**client outcomes**”, “**value for money**” and client “**needs**” taking precedence over “**wants**”
 - suitability of pensions advice [DB to DC transfer advice under scrutiny]



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CPD Attendance Sheet

AGM & Networking Event
27th June Doheny & Nesbitts

Annual Conference
19th September 2019 in Palmerstown House

Evaluation Form

New Membership?



SFPI

Society of Financial
Planners Ireland



IORPS II and an Evolving Pensions Landscape

By
Gerard Keane
Newcourt Retirement Fund Managers Ltd

Content



- IORPS II
- Pension Challenges for Planners
- Pensions Technical Brief
- Questions

IORPS II – The Headlines



“HEADLINES”

- The end of the Self Administered Market !!!!
- No borrowing allowed on Occupational Pension Schemes
- Concentration of Assets – Maximum limit of up to 50% of occupational pension scheme assets can be invested in unregulated investments
- Substantial increase in regulation and cost to members

IORPS II Directive



EU legislative targets:

- ✓ Enhanced pension scheme governance
- ✓ Enhanced risk assessment
- ✓ Increased disclosure of information to members

The Pensions Authority want to mould the Market into a framework that they will be able to regulate effectively.

History of IORPS



The original IORPS Directive was transposed into Irish legislation in September 2005. It contained the same rules in relation to the concentration of scheme assets and borrowing.

Occupational Pension Schemes (Investment) Regulations, 2005 FAQs

However

To what schemes to these regulations apply?

All schemes except small schemes (i.e. those with less than 100 active and deferred members) must prepare a Statement of Investment Policy Principles (SOIPP). The remaining investment regulations apply to all schemes, except for single member schemes. This includes defined benefit and defined contribution, and both active and frozen schemes. Single member schemes are schemes whose rules limit membership to a single member (except where a Pension Adjustment Order applies), and where the member has control of the investment of the scheme. These Regulations do not apply to PRSAs. PRSAs are not occupational pension schemes for the purposes of the Pensions Act 1990, as amended.

What does IORPS II mean for schemes?



- Minister Regina Doherty (DEASP) claims “...implementation is not retrospective so no effect on existing contracts...” – **incorrect**
- All members of one member schemes or 10,000 member schemes need to be afforded the same protections – **incorrect**
- No difference between a one member arrangement and a group arrangement – **incorrect**

IORPS II “...if fully implemented will negatively impact all schemes...”

What does IORPS II really mean for schemes?



- Proposed four trustee meetings per annum
- Statement of Investment Policy Principles (SIPP)
- Audit requirement for Trustee Annual Report applicable to all schemes
- Firms would require an internal audit function
- Trustee would require certain qualifications, with fitness and probity requirements also applying (different to CB requirements?)
- No borrowing except for liquidity
- Restrictions on investment rules (50/50), with additional currency requirements applying

Net Effect of IORPS II?



- Substantial increase cost to member/employers
- Increased cost of trusteeship
- Heightened regulation on all stakeholders
- Trustee qualifications
- Restricted investment choice for clients
- May restricted fee options for advisors
- One size fits all approach to retirement planning

Legal Challenge



Market action:

- Legal action taken by APTI
- Have successfully got a stay on the implementation of the Directive as it applies to one member arrangements
- Next High Court hearing is on 28th May
- Strong case on a number of grounds
 - Implementation of original IORPS Directive
 - Previous derogation

Who is looking for a derogation?



Pro derogation

- APTI
- Brokers Ireland
- Insurance Ireland

Opposed to derogation

- Dept. Employment Affairs and Social Protection
- Pension Authority



Pensions Challenges for Financial Planners

Pensions Challenges



- IORPS II
- Master Trust – Scheme Governance
- Pensions simplification – PRB/Personal Pensions
- Tax relief
- ARF/A(M)RF changes
- Auto Enrolment by 2022

Master Trusts



What is a Master Trust?

- Multi-employer Occupational Pension Scheme
- Each employer has their own part within the arrangement
- One Legal Trust
- One Trustee Board

Master Trusts



Are Master Trusts the way forward?

Advantages

- Increased governance
- Lower pension scheme administration costs than a single employer scheme
- Members may benefit from the ongoing management and oversight of investment

Disadvantages

- Employer has less control – little involvement in design or governance
- Low costs doesn't necessarily mean good member outcomes
- The pension provider is likely to manage the appointment of the Trustee Board which could lead to conflicts of interest
- BIG is not always beautiful – lack of competition, no tailored solutions, limited investment choice, reduced member engagement

Master Trusts



Our conclusion

- Master Trusts are a viable option
- Advisors should consider all options, before recommending a Master Trust
- Clients should be made aware of the benefits, the limitations and the alternatives
- If your client decides that a Master Trust suits their requirements they need to understand the importance of ongoing independent expert advice

Pension Simplification



- Simplify pension structures – PRB and Personal Pension to convert to PRSAs
- Streamline tax relief structures for pension contributions
- Proposal to provide A(M)RF benefits from the OPS rather than a separate contract
- PRB bulk transfer regulations
- Benchmark of 34% of average earnings for state contributory pension, with future increases linked to CPI
- Potential change to tax relief levels for employer contributions



Pensions Technical Brief

Technical reminder



- Spouses employment
- Death benefit
- Managing the Cap
- Managing your income in drawdown
- Distribution of pension assets in retirement
- QROPS

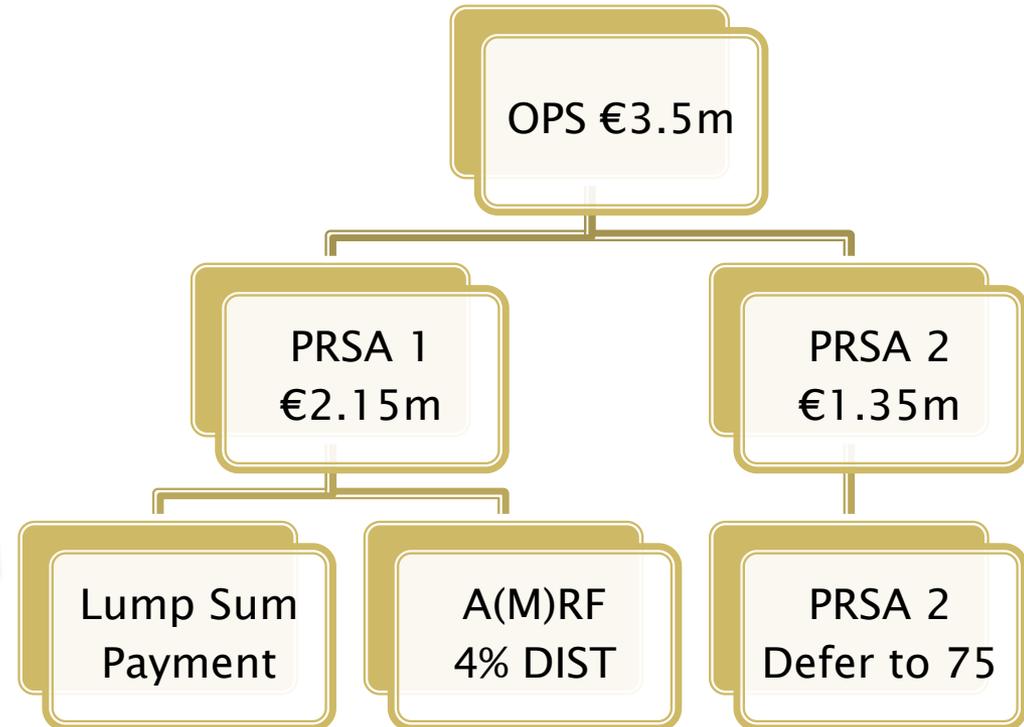
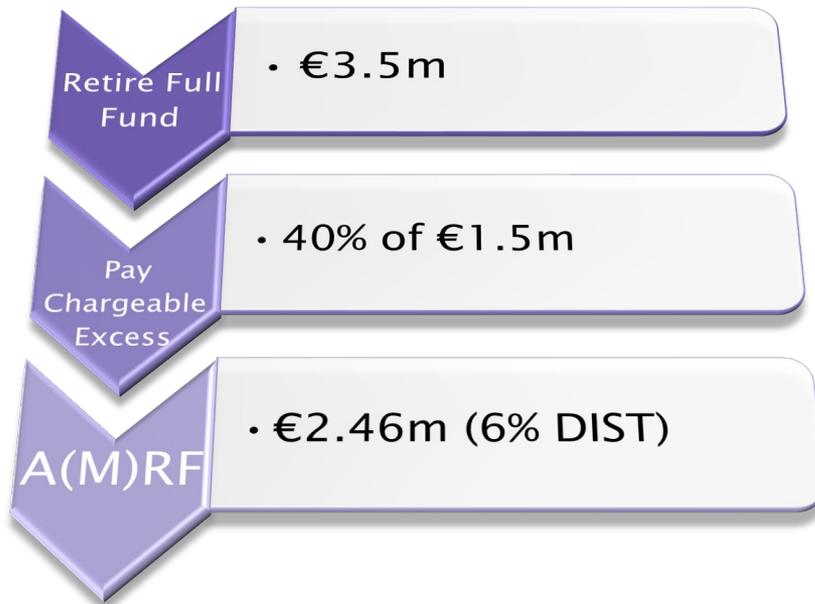


Managing your Retirement

Case Study



Male 60 years of age with an Occupational Pension Scheme (OPS) of €3.5 million, no previous benefits drawn and 14 years active scheme service.



Case Study

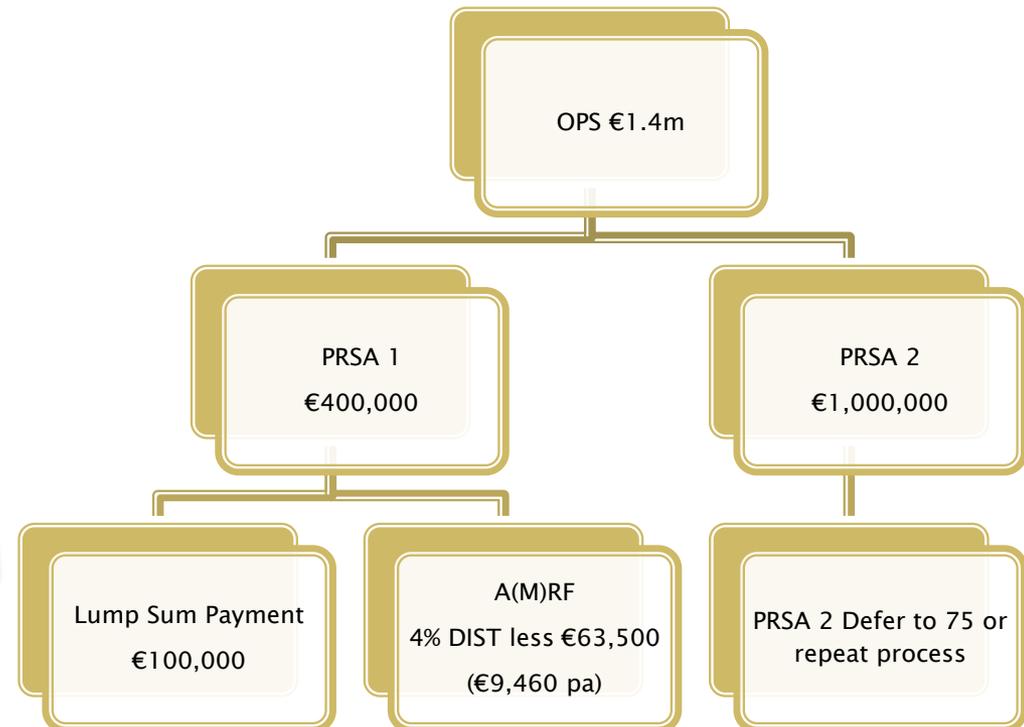
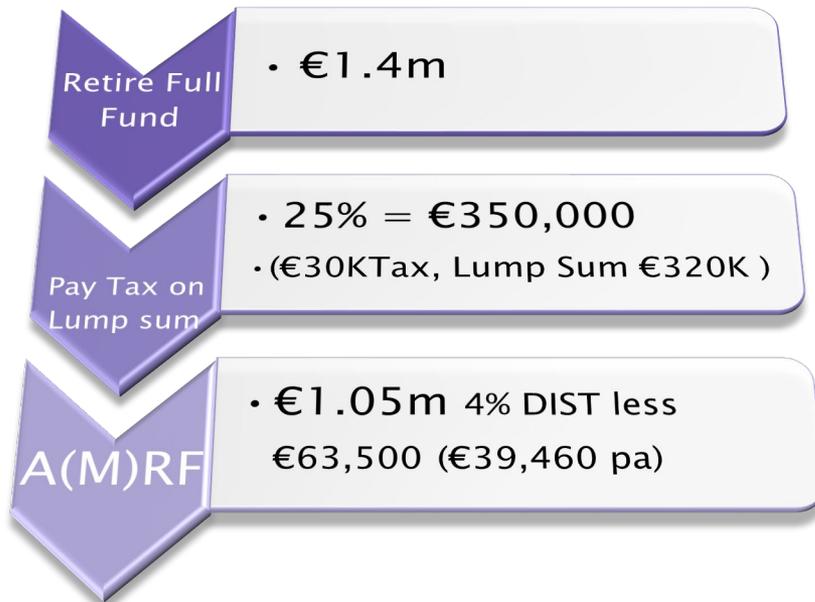


- First option incurs an immediate tax charge of €540,000 (offset €60K)
- Client distributes 6% per annum but from PRSA1 it would be 4% per annum
- PRSA 2 has no distribution requirement
- Potential distribution reduced by 25% from 60 to 75 years of age
- Client dies before age 75 the full fund in PRSA2 is paid to their estate tax free, saving €540K in tax plus tax on ARF

In summary, if your client has benefits in excess of the SFT or their PFT, as their advisor you can add real long term value in the form of strategic pension and tax planning advice.

Case Study (deferred distribution)

Male 60 years of age with an Occupational Pension Scheme (OPS) or PRSA of €1.4 million, no previous benefits drawn and 14 years active scheme service.



Case Study



- Phased drawdown of your benefit may provide tax planning opportunities
- In this example PRSA2 has no distribution requirement
- PRSA 2 allows the gross funds to be invest until age 75 years
- Client distributes 4% per annum from PRSA1
- Potential distribution reduced by circa €30K per annum
- If client dies before age 75 the full fund in PRSA2 is paid to their Estate tax free

Strategic pension advice by using all the pension contracts at your disposal.

Summary



- The Self Directed Market is continuing to grow rapidly as clients seek returns in alternative investments and is an Advisor driven Market
- Self Directed structures allow Advisors' clients investment choice and control
- Legislative and regulatory changes currently being formulated, have the potential to reshape the business as we know it
- Managing client's pensions and investments in this ever changing environment is an opportunity for Advisors



Important Note

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Newcourt Retirement Fund Managers Limited is regulated by the Central Bank of Ireland.



Appendix

Introduction to Newcourt



Newcourt Pensioner Trustees Limited (Newcourt)

Newcourt Retirement Fund Managers Limited (NRFM)

- Over 25 years experience administering Self Directed Pensions
- Provide Corporate Trustee and Registered Administrator services
- Approved under MiFID and act as a Qualifying Fund Manager
- Dealing exclusively with third party advisors
- No investment mandate, no investment conflicts of interest

Senior Management Team



- Gerard Keane – Managing Director
- Danny McGill – Director of Sales
- Brian Macdonald – Director of Operations

Senior Business Development Managers

- Ed Rafferty – Dublin, East Coast and North West
- Mark Kenny – Munster
- Willie Burns – Midlands and West Coast

Thank You & Any Questions



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