

Self Administered Individual Pension Arrangements

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Introduction

This morning I am going to look at the structure of various self administered individual defined contribution pension products, i.e. arrangements not hosted by a life assurance company, and the comparison with equivalent life company products in terms of client protection, taxation and retail intermediary compliance obligations.

In the presentation I use the following terms

- 'you' or 'yours' referring to a registered insurance intermediary and/or an investment intermediary authorised under the Investment Intermediaries Act 1995;
- 'regulated' to mean subject to authorisation and regulation by the Central Bank of Ireland as a financial services provider.
- 'Buy Out Bond' and 'BOB' to refer to an insurance policy which is an approved retirement benefit scheme, which can only accept transfer values.
- The terms 'Personal Retirement Bond' and 'PRB' are also used in the marketplace to describe an approved retirement benefit scheme, which can only accept transfer values. However, for the sake of simplicity, and because official sources when referring to a Buy Out Bond only refer to an insurance policy, in this presentation I use the terms:
 - 'Buy Out Bond' and 'BOB' to refer to an insurance policy which is an approved retirement benefit scheme, which can only accept transfer values;
 - 'Personal Retirement Bond' and 'PRB' to refer to an approved retirement benefit scheme, which can only accept transfer values, which is *not* an insurance policy, e.g. a MIFID firm arrangement.

But in the marketplaces the terms are used interchangeably.

- 'IIA' refers to the 'Investment Intermediaries Act 1995'.
- 'MIFID' refers to 'European Union (Markets In Financial Instruments) Regulations 2017

The views expressed in this presentation are my own and I am not offering advice to you.

You should obtain your own independent professional compliance and taxation advice before categorising any services you provide as regulated or unregulated.

Life company individual pension products

Life company individual pension products

The products

Let us look first at typical life company individual pension products, before we consider the equivalent self administered ones. The typical life company products are :

- PRSAs;
- Retirement annuity contracts (RACs);
- Buy Out Bonds (BOBs);
- ARFs & AMRFs; and
- Executive Pension Plans (EPPs), i.e. a one member DC occupational pension scheme.

EPPs, RACs, and PRSAs are approved by Revenue Commissioners under Part 30, Chapters 1,2 and 2A respectively, TCA 1997.

ARFs and AMRFs are not required to be approved by Revenue ¹but are provided for in legislation in s784A-D TCA 1997, which set out operational conditions for the operation of such funds.

What is a Buy Out Bond?

It is worth spending a little time looking at what a BOB is, because it's also relevant when we come to look at MIFID firm PRBs.

Unlike RACs, PRSAs and EPPs, BOBs have no specific legislative grounding. They are not mentioned specifically as Buy Out Bonds in Part 30 Taxes Consolidation Act 1997.

Revenue E Brief 72/11 in relation to BOBs attempts to define what a BOB is:

'While the structure of generic BOB policies approved by Revenue under Chapter 1 of Part 30 of the TCA 1997 would technically come within the broad definition of a DC scheme, they are not occupational pension schemes in the normally accepted sense. They are approved by Revenue as a specialist pension vehicle to receive transfer payments from occupational pension schemes as a consequence of a scheme member leaving service, the winding up of a scheme, or of pension splitting in the context of a Pension Adjustment Order. They are not pension savings vehicles (as commonly understood) in their own right.'

BOB policies issued by life assurance companies are referred to² in section 34(3) Pensions Act 1990 in relation to the option of an occupational pension scheme member with a deferred benefit to take a transfer value to a new arrangement:

'policies or contracts of assurance that are effected on behalf of the member with one or more undertakings (within the meaning of the Insurance Act, 1989) and that are approved by the Revenue Commissioners for the purposes of Chapter 1 of Part 30 of the Taxes Consolidation Act 1997, which policies or contracts of assurance shall not be deemed to be an occupational pension scheme for the purposes of this Act.'

Therefore the statutory right to take a transfer value to a BOB in respect of a preserved benefit in an occupational pension scheme extends only to BOBs which are insurance policies.

A BOB policy is also 'approved arrangement' for accepting Pension Adjustment Order transfer values provided for in section 12(5) Family Law Act 1995, section 17(5) Family Law (Divorce) Act 1996, and

¹ even though referred to in legislation as 'approved' retirement funds and 'approved' minimum retirement funds

² although not specifically by the term BOB or PRB

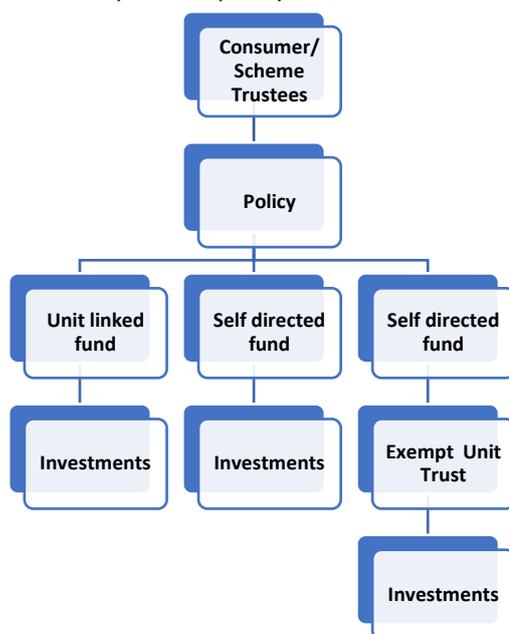
Life company individual pension products

sections 123(1) and 189(1) Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010. Again this legislation refers only to insurance policy BOBs.

BOB policies are approved by Revenue under Chapter 1 Part 30 TCA 1997 as a 'retirement benefit scheme'³ although not an exempt approved scheme because it is not established under an irrevocable trust⁴. BOBs can only accept transfer values.

Structure

A typical structure of an individual pension policy is as follows:



A conventional unit linked fund is the most common option, but a number of life companies also offer a self-directed fund option (sometimes referred to as a 'wrapper'), where the client (or a MIFID firm appointed by the client under a delegation by the life company) directs the investment of an individual portfolio of assets in the self directed fund.

The policyholder owns the pension policy whose value is determined by the fluctuating value of the fund to which it is linked.

The unit/self directed fund is not a separate legal entity and hence the client does not legally own the underlying investment assets. The fund is simply a notional allocation of some of the life company's assets to determine the value of the policy linked to the fund from time to time. Therefore the life company legally owns the underlying investment assets.

In some cases the self directed fund first invests in units of an account in an exempt unit trust (EUT) operated by a 3rd party, which then invests in the underlying assets. An EUT is an unregulated vehicle and is explained later on in the section on Regulated v Unregulated Investments.

Taxation of investment returns

The various life company pension products above benefit from tax free investment returns by being part of the life company's pension business for tax purposes:

³ Because Part 30, TCA 1997 only allows for Revenue 'approval' of retirement benefit schemes, RACs, RAC Trust, s785 life assurance, and PRSAs. Therefore a BOB must be a retirement benefit scheme as it is not any of the other arrangements subject to Revenue approval.

⁴ See s774(1) TCA 1997

Life company individual pension products

RACs	s706(3)(a) TCA 1997
PRSAs	s706(3)(d) TCA 1997
ARFs	s784A(5) TCA 1997
EPPs	s706(3)(b) TCA 1997
BOBs	s706(3)(b) TCA 1997, for a BOB policy purchased by the administrator of an exempt approved retirement benefit scheme. While this technically does not include a 2nd BOB policy to which the first BOB policy purchased by the scheme trustees may be transferred later on, and so forth, Revenue have confirmed in that such 2 nd and later BOB policies are still considered to fall under s706(3)(b) and are classified as life company pension business, even though they were not directly purchased by the administrator/trustees of an exempt approved scheme.

As pension business of a life assurance company, these policies also benefit from tax free returns from UK dividends and rental income under the Irish/UK Double Taxation Agreement as the Agreement includes exemption for 'insurance companies in respect of their pension business'.

Authorisation to advise on life company products

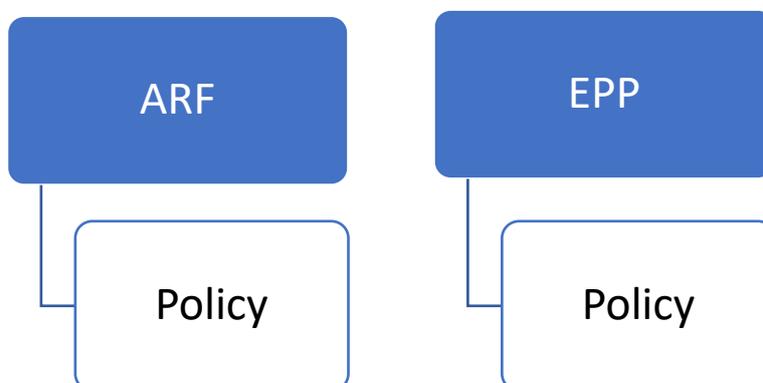
If you wish to provide advice on and/or arrange any life company pension product on a professional basis, you must be a registered insurance intermediary with the Central Bank of Ireland (CBI) under the EU Insurance Distribution Regulations 2018 (IDR).

All services you provide in relation to the pension policy are therefore regulated with one possible exception; in the case of a self directed fund, where you advise on and arrange an investment for the client in an unregulated product such as a Loan Note issued by a private company. The service provided in relation to the Loan Note is an unregulated service, as the Loan Note is not a regulated product. I cover later on what are regulated and unregulated investments.

Conduct of business rules

As a registered insurance intermediary, your conduct and advice on all policies, including pension policies, is subject to the Central Bank's Consumer Protection Code (CPC) and the Insurance Distribution Regulations (IDR).

There is a subtle difference in the case of ARFs and Executive Pension Plans. In these cases, the policy is an **asset** of the arrangement, but the policy itself is not the arrangement:



Therefore, if you search the CPC for any reference to an ARF, you will find none, because an ARF is not a regulated product. Similarly, for an EPP. But you will find plenty of references to insurance policies.

Life company individual pension products

So you could argue therefore that generic advice you give about life company ARFs and EPPs⁵ that is not specific to the policy is not subject to the CPC and IDR.

However under the IDR, the term ‘insurance distribution’ is defined to cover ‘**any activity involved in advising on, proposing, or carrying out other work preparatory to the conclusion of contracts of insurance**’.

Therefore, the associated tax and pension technical advices which you typically provide when advising on and selling life company ARFs and EPPs, could possibly be said to be ‘insurance distribution’ as it is an activity related to putting the pension policy in place and hence an integral part of your regulated insurance intermediary service.

But the scope of the IDR in relation to advising clients on ARFs and EPPs provided by life companies is not certain.

Client protection

The client is protected in a number of ways in their dealings with the life company as the provider of the pension policy and with you as a registered insurance intermediary advising on and arranging that policy:

- The life company is authorised and regulated by the CBI (or equivalent authority in another EU Member State), and is subject to ongoing capital and solvency requirements;
- You are required to be authorised and regulated by the CBI as an insurance intermediary;
- You are required to comply with the CPC and IDR in providing an insurance distribution service to your clients;
- you are required to hold ring fenced Professional Indemnity Insurance cover for your insurance distribution activities of €1,300,380 per claim and €1,924,560 in aggregate;
- In the client’s dealings with you, they are covered by the Investor Compensation Scheme. The current limit on compensation is 90% of the loss to a maximum payout of €20,000.
- Your remuneration is disclosed to the client through the Life Assurance (Provision of Information) Regulations, 2001 (SI 15 of 2001) (with the exception of Executive Pension Plans) and for PRSAs through separate PRSA disclosure regulations;
- Your remuneration is also subject to further disclosure by CPC 4.58, 4.58A and 4.61. In particular 4.58A requires you to maintain a summary (or a link to a summary) on your website of your commission terms agreed with life assurance companies;
- You are required to meet the Central Bank’s Minimum Competency Code for Pensions when providing advice to and arranging pension policies for clients⁶;
- You are required to meet CBI general fitness & probity standards as a financial adviser dealing with consumers;
- The client can take an unresolved complaint about your services to the Financial Services & Pensions Ombudsman to seek redress; and

⁵ E.g. advice on retirement benefit options, tax relief, Revenue funding limits, etc.

⁶ Note that the requirements in relation to EPPs, ARFs and AVCs relate to life company pension policies and not to equivalent self administered pension products. E.g. *approved retirement funds (ARFs) whose liabilities are fully secured by one or more contracts of assurance*

Life company individual pension products

- While there is no insurance compensation scheme which would kick in if the life company becomes insolvent, the policyholder is protected in a number of ways by the insolvency and winding up of a life assurance company ⁷:
 - Assets life companies hold for policyholders are segregated separately from their shareholder assets.
 - Policyholder claims take precedence, after wind up expenses, over all other claims on the life company's assets.

⁷ See : *European Communities (Reorganisation and Winding-Up of Insurance Undertakings) Regulations 2003, SI 168 of 2003*

Regulated v Unregulated investment services

Regulated v Unregulated investment services

Why it matters

Before going on to look at self administered individual pension arrangements, it is important to know which investment products are regulated and which are not.

By 'regulated' in this context I mean that you as an intermediary are required to be authorised and follow associated conduct of business rules when providing advice on and arranging such investments for a client on a professional basis.

It is important to know which of your services in relation to individual pension products are regulated and which are not, because it impacts on the following:

	Regulated services	Unregulated services
Need to be authorised by the Central Bank to provide the service	✓	×
Consumer Protection Code applies to your service:		
• Use 'Regulated by the CBI' on your stationary emails and website	✓	×
• Must provide Statement of Suitability, etc.	✓	×
• Commission/fees subject to CPC disclosure, 4.57, 4.58 and 4.58A	✓	×
PI cover applies	✓	?
		It depends on whether your PI cover covers unregulated services or not.
Fees/commissions from service count for Central bank levy purposes	✓	×
		Lines 17 and 18 of intermediary one line return to CBI relate only to regulated activities
Can a client sue you or take a case to the Financial Services & Pensions Ombudsman?	✓	✓ ⁸

Note that for unregulated services there can be a mismatch between your PI cover, which may not cover your unregulated services, and liability for your unregulated service; note in particular that a client can take a complaint about an unregulated service provided by a regulated firm to the Ombudsman.

⁸ A client can take a complaint against an authorised intermediary in relation to the provision of a 'financial service' which term is not explicitly restricted to regulated services.

Regulated v Unregulated investment services

Regulated investment services

Regulated investment services for a retail intermediary fall under one of two headings:

- Insurance distribution; and
- Investment Intermediary Act services.

	Insurance distribution	Investment Intermediaries Act
Products covered	<ul style="list-style-type: none">• Insurance policies: life, pension and general	<ul style="list-style-type: none">• MIFID firm PRSAs• Listed shares & bonds• Collective investment funds, e.g. UCITS
Activity regulated	<ul style="list-style-type: none">• any activity involved in advising on, proposing, or carrying out other work preparatory to the conclusion of contracts of insurance, of concluding such contracts, or of assisting in the administration and performance of such contracts, in particular in the event of a claim	<ul style="list-style-type: none">• receiving and sending on to a product producer a client application or order to invest in or sell a particular product above• acting as a deposit broker/agent• providing advice on investing in or selling a particular product above• referring a client to another regulated entity, such as a MIFID firm, for the purpose of the other firm providing regulated investment services to the client

For the Investment Intermediaries Act (IIA) products listed above, you must be authorised by the CBI under the Act to advise on and sell such products, separate to your insurance intermediary authorisation. You must also hold separate PI cover for your IIA activities, at a level similar to your IDR PI cover, and follow the CPC in your conduct of business.

It is important to note that in relation to the investment of regulated products you can only provide investment advice to clients and/or arrange such products for them; the client must then make the investment decision themselves or use a MIFID firm to manage their investments on their behalf.

As an IIA intermediary, you can not make investment decisions under an authority from your client; you can only receive and transmit client investment orders to a product producer, such as a MIFID firm. Only MIFID firms authorised to do so can provide a discretionary investment management service for their clients.

MIFID investment services

If you are a retail intermediary, as I am assuming you are, you are not authorised to advise on any MIFID financial instrument. However you can be authorised under the IIA for listed shares and bonds and collective investment funds.

Therefore it is illegal for you, as a retail intermediary, to advise on or arrange MIFID financial instruments which are not listed shares and bonds or collective investments, such as :

- transferable securities which are not listed shares and bonds;

Regulated v Unregulated investment services

- Contract for Difference (CFDs)
- Options, future, and swaps.

Unregulated investment services

Services you provide in relation to investments *other than* insurance policies, MIFID financial instruments, and the IIA investments listed above, are generally unregulated services, meaning that you are NOT required to be authorised by the CBI to advise on and arrange such products and your hence your service in relation to such products is unregulated and NOT subject to the CPC or any other regulatory oversight.

We can therefore divide potential investments for which you might provide services to your pension clients into two lists:

Regulated	Unregulated
<ul style="list-style-type: none">• Pension policies issued by life assurance companies• MIFID firm PRSAs• Listed shares & bonds• Collective investment funds, e.g. UCITS• Deposits	<p>Examples include:</p> <ul style="list-style-type: none">• Units in an exempt unit trust• Direct property investment• Non transferable shares & bonds in private companies• Direct investment in precious metals and commodities, e.g. gold

Exempt unit trust (EUT)

An exempt unit trust (EUT) is an investment trust not open to the public and only available to pension funds and registered charities who are entitled to tax free investment returns⁹. It is unregulated because it is not required to be authorised under the Unit Trust Act 1990¹⁰.

Anyone can set up an EUT; there is no product approval process or prior authorisation required from the CBI other than as a Trust Services Provider¹¹. There is no regulatory oversight of the operation of an EUT, other than a requirement for the trustee to submit an annual list of investors to Revenue on form EUT1.

Typical providers of EUTs used in self administered individual pension products include:

- MIFID firms; and
- Pensioner Trustee companies

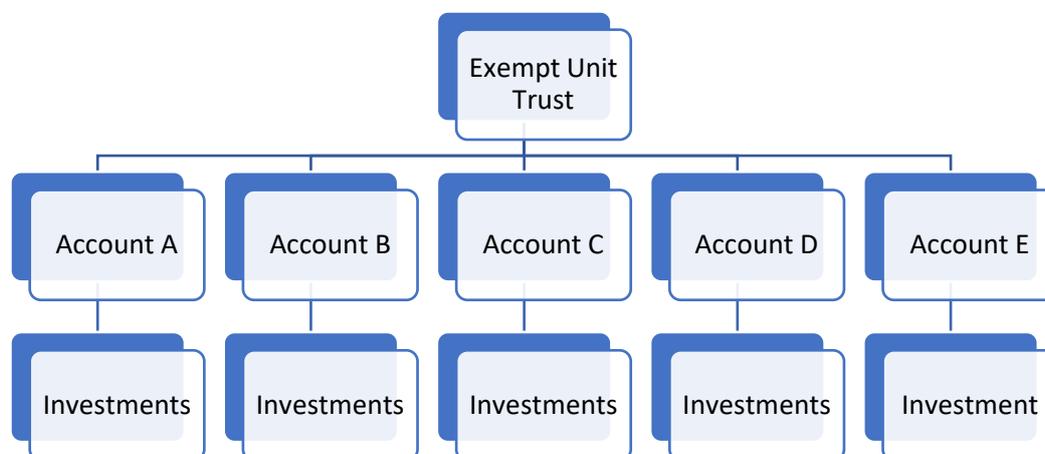
⁹ A good background to an exempt unit trust can be found on the Revenue Tax & Duty Manual [27-01-01](#)

¹⁰ Assuming the EUT does not fall within the Alternative Investment Fund Managers Directive (AIFMD), i.e. assuming there is no pooling of funds between investors

¹¹ A trustee of an EUT must be authorised under the Criminal Justice (Money Laundering and Terrorist Financing) Act, 2010 as a Trust Services Provider (TSP). If the trustee is not a regulated financial services provider in their own right (or a subsidiary of such a regulated entity) they are authorised directly by the Department of Justice but this authorisation only refers to a fit & proper test to act as a professional trustee, for AML purposes.

Regulated v Unregulated investment services

Each pension investor in an EUT has their own account or sub trust within the EUT, so that investor assets are not pooled:



Therefore, pension investor A would have their own Account A with no other pension investor in that account. The pension investor legally owns units in the EUT account; that is the sole asset of their pension account. The underlying investment assets held by the EUT account are legally owned by the trustees of the EUT, usually a MIFID firm or a Pensioner Trustee company.

Arranging a pension client's investment in an EUT is not a regulated service, because units in an EUT are not a regulated product.

As we shall see later, MIFID firm pension arrangements are generally structured around an EUT of the type above; the pension investor invests in an EUT account which in turn invests in underlying investments, some of which may be regulated and some unregulated.

Self administered individual pension products

Self administered individual pension products

By 'self administered' I mean not hosted by a life assurance company and not structured around a policy issued by the life company.

The main providers of self administered individual pension products are a number of MIFID firms and their main products are:

- MIFID firm PRBs¹².
- MIFID firm ARFs
- MIFID firm PRSAs, and
- Small Self-Administered Pension Arrangements (SSAS)¹³

In relation to the product, the client gets separate services from you, the adviser, and from the MIFID firm.



The distinction between regulated and unregulated services is sometimes not clean and clear cut and can be confusing, as we shall see.

In particular, some MIFID firms structure and market self administered individual pension products so that the firm only provides unregulated services to the client, even though some or all of your services provided to the client in relation to the same product are regulated.

In effect the MIFID firm wears two hats:

- As a MIFID firm regulated by the Central Bank of Ireland; and
- As a trustee and administrator of the pension product, which service is not regulated by the Central Bank of Ireland. In the case of individual pension products, some MIFID firms wear the second hat, i.e. provide only unregulated trustee and administration services.

Let us first look at each of the four products in turn.

¹² there are a small number of PRBs issued by Pensioner Trustee companies associated with retail intermediaries, but I do not cover these directly in this presentation. However the structure of these retail intermediary PRBs is, I believe, identical to that outlined on the following page for Type B PRBs.

¹³ A one member DC exempt approved retirement benefit scheme which falls under the Revenue definition of a SSAS in Chapter 19.1 of Revenue Practice.

Self administered individual pension products

MIFID firm PRBs

A MIFID firm PRB is **not** an insurance policy or an IIA or a MIFID financial instrument. Therefore, such a PRB has no legal status on its own; rather it is an 'account' or segregation of assets approved by the Revenue Commissioners as a retirement benefit scheme only for the acceptance of transfer values.

A MIFID firm PRB is typically structured in one of two ways¹⁴:

- **Regulated**

A direct portfolio of investments held by the MIFID firm, through a nominee company, as client assets. The funds and investments are held on the balance sheet of the MIFID firm as client assets. I refer to this PRB as **Type A**.

The MIFID firm provides one or more MIFID investment services in relation to the PRB account, e.g. reception and transmission of investment orders, advice, discretionary portfolio management, etc. I therefore refer to this type of PRB as 'regulated' because the provider is providing one or more regulated MIFID services to the client, and the investments are held on the MIFID firm's balance sheet as client assets.

or

- **Unregulated**

The PRB account invests in units of an account in the firm's exempt unit trust which in turn holds a portfolio of investments for the PRB investor. I refer to this PRB as **Type B**. The firm acts as trustee of its exempt unit trust, which is an activity not regulated by the Central Bank of Ireland.

In the case of this type of PRB, the MIFID firm does **NOT** provide any MIFID regulated service to the client. The services it provides are acting as trustee of and administering the client's account in their EUT, and neither of these services are subject to authorisation and regulation by CBI as a regulated financial services provider.

It is for this reason you will see a warning, like the following, on a MIFID firm's literature for such a PRB:

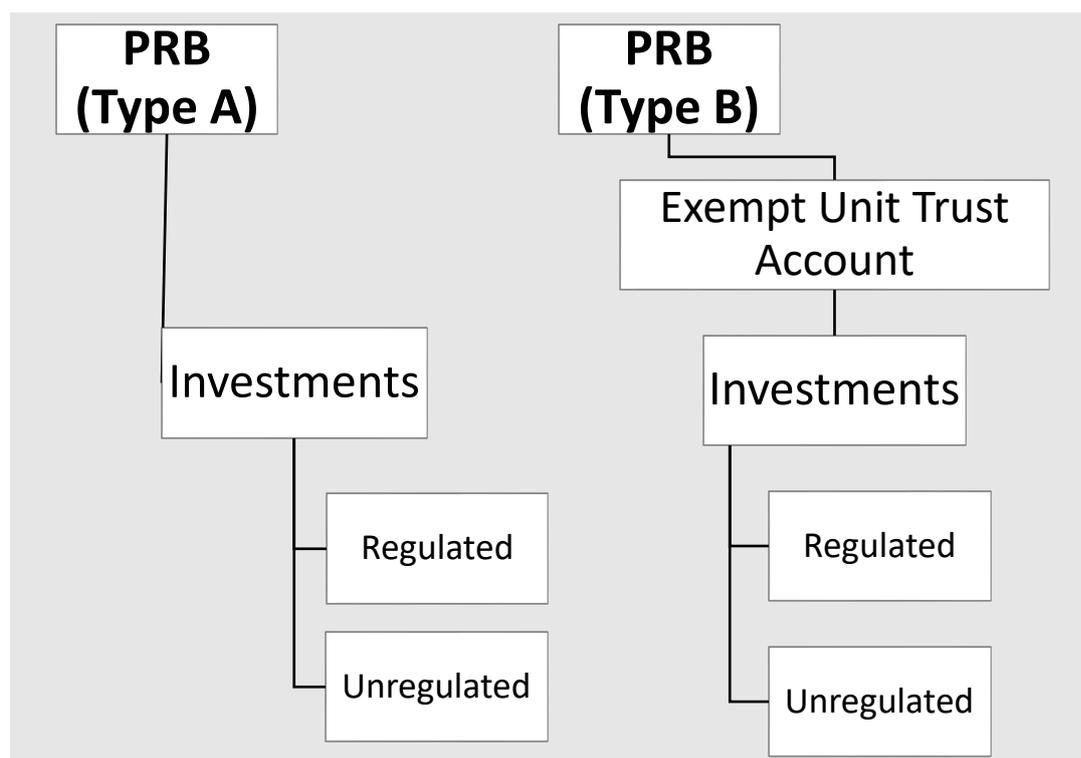
'our services are unregulated services and are not subject to the supervision of the Central Bank. The Consumer Protection Code (CPC), Client Asset Regulations (CAR) and the Investor Compensation Scheme do not apply to such services.'

In effect the MIFID firm is making it clear to the client that it is providing only administration and trustee services to him or her and these services are not regulated. Therefore, the normal protections of the financial regulatory system such as the Investor Compensation Scheme do not apply to their PRB and EUT account.

The alternative structures can be represented in a simplified manner as follows:

¹⁴ there may be some self administered PB structures that do not correspond exactly to the Type A and B outlined above; they may be a hybrid between A and B.

Self administered individual pension products



The underlying PRB investments might, under either structure, be made:

- by the client on an execution only basis;
 - by the client on an advisory basis where you or another investment adviser advises the client on which investments to buy and sell but the client makes their own investment decisions;
- or
- the client appoints a MIFID firm to manage the investments on a discretionary portfolio management basis.

In relation to services provided to the MIFID firm PRB client, the following shows which, in my view, are and are not regulated:

Self administered individual pension products

Which PRB services are regulated?

	PRB Type A	PRB Type B
The MIFID firm's services provided to the client	Yes	No , because the firm does not provide any MIFID regulated service to the client.
When you recommend a client invest in that PRB	<p>Yes, because you are referring the client to the MIFID firm hosting the PRB for regulated investment services.</p> <p>You need to be authorised under the IIA for listed shares & bonds and collective investment funds.</p> <p>The CPC applies to this recommendation.</p>	<p>No, because you are NOT referring the client to the MIFID firm for regulated investment services, but to buy units in an unregulated exempt unit trust (EUT).</p> <p>You do not need an IIA authorisation to recommend a client to invest in a Type B PRB.</p> <p>The CPC does not apply to this recommendation.</p>
When you advise on and/or arrange a regulated investment for the client's PRB account	<p>Yes</p> <p>You will need an appropriate authorisation, depending on the type of regulated product arranged for the client, i.e. either registered insurance intermediary or IIA authorisation.</p> <p>The CPC applies to this service.</p>	<p>Yes</p> <p>You will need an appropriate authorisation, depending on the type of regulated product arranged for the client, i.e. either registered insurance intermediary or IIA authorisation.</p> <p>The CPC applies to this service.</p>
When you advise on and/or arrange an unregulated investment for the client's PRB account	<p>No; if the investment is not an insurance policy, Investment Intermediaries Act or MIFID instrument, you do not need to be authorised to advise on or arrange that investment.</p> <p>The CPC does not apply to this service.</p>	<p>No; if the investment is not an insurance policy, Investment Intermediaries Act or MIFID instrument, you do not need to be authorised to advise on or arrange that investment.</p> <p>The CPC does not apply to this service.</p>

So if a PRB Type B invests only in unregulated products, e.g. property, loan notes, etc. the entire arrangement from top to bottom is unregulated. Regulation only intrudes into Type B PRBs if the client's PRB account invests in regulated products, such as a UCITS.

Self administered individual pension products

As pointed out earlier, the statutory right under the Pensions Act and family law legislation of a member or trustees to take or make a transfer value payment from an occupational pension scheme applies only to BOBs which are insurance policies and does *not* include MIFID firm PRBs:

Statutory right to take/make transfer value	to a MIFID firm PRB	to a life company BOB
Deferred member's right under s34(3) Pensions Act to take a transfer value in lieu of preserved benefit	●	●
Scheme trustees right under s35(1) or s48(3) Pensions Act to make a compulsory transfer of a deferred member's preserved benefit in certain circumstances	●	●
PAO beneficiary's right to take a transfer value in lieu of a designated benefit	●	●
Trustees' right to make a compulsory transfer for a DC scheme member in lieu of a PAO designated benefit, in certain circumstances	●	●

● no statutory right take/make a transfer value ● statutory right to take/make a transfer value

In relation to taking transfer values from occupational pension schemes in respect of preserved benefits, the Pensions Authority issued a reminder to scheme trustees on 16th July 2012 as follows:

Reminder to trustees – Buy Out Bonds

Only buy-out bonds which are issued by insurance undertakings fall under the Pensions Act 1990. Trustees of occupational pension schemes should therefore note that:

- a) Where a member applies for a transfer payment of their preserved benefit, trustees are not obliged to effect such a payment into a buy-out bond which is not issued by an insurance undertaking; and
- b) Where trustees seek to make a transfer payment of a member's preserved benefit without the member's consent to a buy-out bond (under section 35 or 48 of the Pensions Act 1990), they are only permitted to make such a payment into a buy-out bond issued by an insurance undertaking.

Therefore it would be problematic for scheme trustees to make a compulsory transfer value payment to a MIFID firm PRB (of Type A or B).

Even where a voluntary transfer is initiated by the scheme member or PAO beneficiary to a MIFID firm PRB (Type A or B), the scheme trustees may not benefit from the discharge¹⁵ provided in the relevant legislation for transfers made to BOBs which are insurance policies.

¹⁵ E.g. see s17(17) Family Law (Divorce) Act 1996 in respect of PAO transfer values, and s34(5) Pensions Act in respect of preserved benefit transfer values.

Self administered individual pension products

MIFID firm ARFs

Like a MIFID firm PRB, a MIFID firm ARF is **not** recognised by the regulatory system as an investment product. It is not an insurance policy, an IIA or a MIFID instrument. Therefore, a MIFID firm ARF has no legal status in its own right; it is an ‘account’ or segregation of assets rather than a ‘product’.

Providing services to clients for MIFID firm ARFs is therefore similar to that outlined above for MIFID firm PRBs; there may be MIFID firm Type A and Type B ARFs, and therefore depending on the structure used and what the ARF invests in, the Qualifying Fund Manager (QFM) and your services may be regulated or unregulated.

It is a legislative requirement for a MIFID firm wanting to act as a QFM for ARFs that it be authorised to hold client monies. However all four MIFID firms which market Type B ARFs while authorised to hold client monies (which they must be in order to be a QFM) do not in fact do so for their ARF clients, as all clients funds and assets are held by the firm within the EUT as a trustee of the EUT, and not as a MIFID firm.

MIFID firm PRSAs

Unlike MIFID firm PRBs and ARFs, a MIFID firm PRSA account IS an Investment Intermediaries Act product. This makes the MIFID firm PRSA product different to their PRB and ARF products which are not an IIA product.

To be a PRSA provider, the MIFID firm’s MIFID authorisation must permit it to engage in the proposed activities as a PRSA provider, and the PRSA product must be approved by the Pensions Authority and Revenue.

As outlined for MIFID firm PRBs and ARFs, MIFID firm PRSAs may be structured as Type A or Type B, where Type B uses the EUT as the asset holding vehicle. With Type B PRSA, the MIFID firm’s service to their PRSA client is unregulated.

As a MIFID firm PRSA is an IIA investment instrument, it is therefore always a regulated service to recommend a particular MIFID firm PRSA to a client.

Which PRSA services are regulated?

	PRSA Type A	PRSA Type B
The MIFID firm’s services provided to the client	Yes	No , because the firm does not provide any MIFID regulated service to the client.
When you recommend a client invest in that PRSA	<p>Yes, because you are referring the client to the MIFID firm hosting the PRB for regulated investment services. You are also recommending a particular PRSA provider to the client and a PRSA is an investment instrument under the Investment Intermediaries Act.</p> <p>You need to be authorised under the IIA for PRSAs, listed shares & bonds and collective investment funds.</p> <p>The CPC applies to this recommendation.</p>	<p>Yes, because the PRSA is an investment instrument under the Investment Intermediaries Act, and you are recommending a particular PRSA provider.</p> <p>You need to be authorised under the Investment Intermediaries Act for PRSAs.</p> <p>The CPC applies to this recommendation.</p>

Self administered individual pension products

	PRSA Type A	PRSA Type B
When you advise on and/or arrange a regulated investment for the client's PRSA account	<p>Yes</p> <p>You will need an appropriate authorisation, depending on the type of regulated product arranged for the client, i.e. either registered insurance intermediary or IIA authorisation.</p> <p>The CPC applies to this service.</p>	<p>Yes</p> <p>You will need an appropriate authorisation, depending on the type of regulated product arranged for the client, i.e. either registered insurance intermediary or IIA authorisation.</p> <p>The CPC applies to this service.</p>
When you advise on and/or arrange an unregulated investment for the client's PRSA account	<p>No; if the investment is not an insurance policy, Investment Intermediaries Act or MIFID instrument, you do not need to be authorised to advise on or arrange that investment.</p> <p>The CPC does not apply to this service.</p>	<p>No; if the investment is not an insurance policy, Investment Intermediaries Act or MIFID instrument, you do not need to be authorised to advise on or arrange that investment.</p> <p>The CPC does not apply to this service.</p>

The regulatory position for a client taking out a MIFID firm Type B PRSA is anomalous because:

- the firm must be authorised as a MIFID firm to qualify to be a PRSA provider in the first place;
- the client enters a PRSA contract with a firm regulated by CBI;
- the PRSA product is approved by the Revenue Commissioners and the Pensions Authority, and is subject to a high level of regulation by the Pensions Authority under the Pensions Act;
- you as the adviser must be authorised by the CBI under the IIA to advise on and arrange the PRSA and all of your services in relation to the PRSA (apart from advising on and arranging an unregulated investment) are regulated;

BUT

- the PRSA provider, i.e. the MIFID firm, provides no regulated service to the client.

Small Self-Administered Pension Schemes (SSAS)

A SSAS, like a MIFID firm PRB and ARF, is **not** recognised by the regulatory system as an investment product. It is not an insurance policy, an IIA or a MIFID financial instrument, although it may invest in regulated investments. It is a trust recognized by legislation as an exempt approved retirement benefit scheme.

However SSAS are different from MIFID firm PRBs, ARFs and PRSAs we looked at earlier in that:

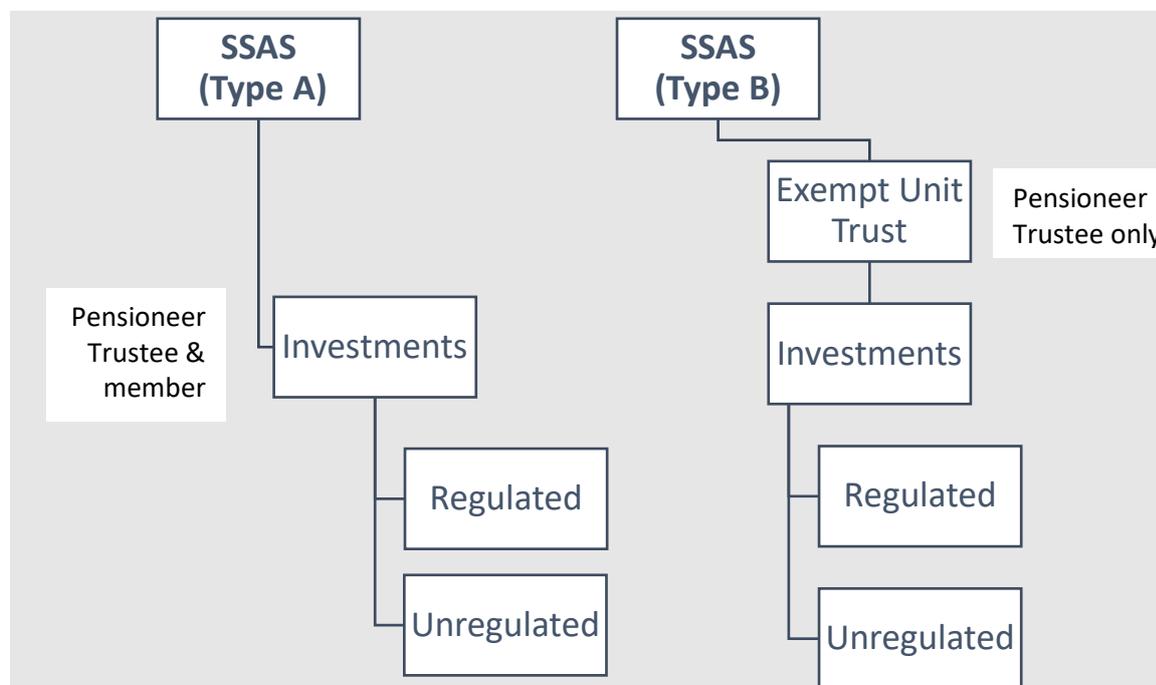
- the 'provider' is not a MIFID firm, but typically a Pensioner Trustee company not regulated by the CBI; therefore a SSAS provider is not directly regulated as a financial services provider by the Central Bank¹⁶.

¹⁶ Some Pensioner Trustee companies are subsidiaries of regulated MIFID or retail intermediary firms and are authorised by the Central Bank as a Trust Services Provider under the Criminal Justice (Money Laundering and Terrorist Financing) Act, 2010. But this authorisation only refers to a fit & proper test to act as a professional trustee. Other Pensioner Trustee companies which are not subsidiaries of regulated MIFID or retail intermediary firms, are authorised directly by the Department of Justice & Equality as a Trust Services Provider.

Self administered individual pension products

- the legal owner of the SSAS fund are the scheme trustees, usually the Pensioner Trustee and the sole member, and not the member personally as in the case of PRBs, ARFs and PRSAs. The trustees of the SSAS are the legal owner of the scheme's assets.
- SSAS are a trust whereas an ARF, PRB and PRSA are personal contracts.

Like MIFID firm PRBs, ARFs and PRSAs, there are two main designs or structures used for investing SSAS funds:



There is an important distinction between SSAS Type A and Type B in relation to the legal ownership of the underlying investments:

- In Type A the underlying investments are legally owned by the trustees, typically the Pensioner Trustee Company and the sole member; but
- In Type B, the underlying investments are legally owned by the Pensioner Trustee Company only.

Of course in both cases the sole member is the beneficial owner of the investments, but as pointed out above the legal ownership does differ.

From a CBI regulatory point of view, it does not really matter which structure is used, as the Pensioner Trustee company's activities are not regulated by the CBI as a financial services provider.

Which SSAS services are regulated by the Central Bank?

	PRSA Type A	PRSA Type B
The provider's, i.e. Pensioner Trustee, services to the employer and member	No	No

Self administered individual pension products

	PRSA Type A	PRSA Type B
When you recommend a client/employer invest in that SSAS	No , because the SSAS is not an investment instrument under the Investment Intermediaries Act, and the Pensioner Trustee is not a regulated financial services provider. The CPC does not apply to this recommendation.	No , because the SSAS is not an investment instrument under the Investment Intermediaries Act, and the Pensioner Trustee is not a regulated financial services provider. The CPC does not apply to this recommendation.
When you advise on and/or arrange a regulated investment for the SSAS account	Yes You will need an appropriate authorisation, depending on the type of regulated product arranged for the client, i.e. either registered insurance intermediary or IIA authorisation. The CPC applies to this service.	Yes You will need an appropriate authorisation, depending on the type of regulated product arranged for the client, i.e. either registered insurance intermediary or IIA authorisation. The CPC applies to this service.
When you advise on and/or arrange an unregulated investment for the client's SSAS account	No ; if the investment is not an Investment Intermediaries Act or MIFID financial instrument, then you do not need to be authorised to advise on or arrange that investment. The CPC does not apply to this service.	No ; if the investment is not an Investment Intermediaries Act or MIFID financial instrument, then you do not need to be authorised to advise on or arrange that investment. The CPC does not apply to this service.

So it doesn't really matter whether the SSAS uses an EUT or invests directly in the underlying assets, as either way your services are unregulated, EXCEPT where you advise on and arrange a regulated investment for the SSAS, e.g. a UCITS fund, in which case that particular service is regulated by CBI and subject to the CPC.

Taxation of investment returns

MIFID firm individual pension products are generally entitled to investment returns free from Irish taxes:

PRSAs	s787I TCA 1997 – income tax S256(1) TCA 1997 - DIRT s608(2) TCA 1997 - CGT
ARFs	s784A(2) TCA 1997 – income tax & CGT s784A(6) TCA 1997 – DIRT
SSAS	s774(3) TCA – income tax s256(1) TCA 1997 - DIRT s608(2) TCA 1997 – CGT

The terms Buy Out Bonds or Personal Retirement Bonds (PRBs) are not referred to specifically in tax legislation, the question then arises as to what basis there is for MIFID firm PRBs to offer tax exempt investment returns, as they do in practice.

A PRB is an approved retirement benefit scheme. However gross returns only apply to *exempt approved* retirement benefit schemes, which can be achieved in one of two ways:

Self administered individual pension products

- an approved scheme established under irrevocable trust, which a PRB is not because it is a personal contract;
- or
- Revenue having regard to any special circumstance issued a 'direction' under s774(1)(c) TCA 1997 that s774 applies to the approved scheme, i.e. it is treated as if it were established under an irrevocable trust.

MIFID firm PRBs must therefore have obtained a Revenue direction under s774(1)(c) TCA 1997 in order to provide returns free from Irish income tax, DIRT and CGT. Or, more likely, PRBs are administered by Revenue as if they were exempt approved retirement benefit schemes.

In relation to obtaining exemption from UK withholding taxes on dividends and rental income under the Ireland/UK DTA, it is necessary for Irish Revenue to certify to HMRC the MIFID firm product as 'superannuation business' and 'exempt approved'; however in the DTA the term 'superannuation business' is defined as: '*a sponsored superannuation scheme within the meaning of section 783 (1) of the Taxes Consolidation Act, 1997 or a trust scheme or part of a trust scheme approved under section 784 or section 785 of that Act.*' The reference to s783(1) means an employer sponsored pension schemes, e.g. a SSAS.

So, the individual pension arrangements technically able to exemption from tax on UK rental income under the DTA are:

- Revenue approved employer schemes, such as a SSAS;
- A self employed RAC Trust scheme; and
- Life company pension business products, which includes life company ARFs, BOBs, EPPs, PRSAs and RACs.

Technically there is no explicit provision in the Ireland/UK DTA for similar relief for MIFID firm PRBs, PRSAs or ARFs, but in practice Revenue do certify self administered PRBs and PRSAs to HMRC for the purposes of the Ireland/UK DTA as 'exempt approved' and 'superannuation business', but not self administered ARFs.

Where assets are held by the self administered pension arrangement within an EUT, as MIFID firm Type B products do, I understand Revenue look through the EUT to the pension investor in order to certify PRB, SSAS and PRSAs claims for exemption from UK taxes on UK dividends and rental property held by the EUT account on behalf of the SSAS, PRB or PRSA.

Life company ARFs, being part of the life company's pension business, benefit from Ireland/UK DTA, but MIFID firm ARFs do not. Therefore if an ARF investor wants to benefit from the Ireland/UK DTA they must use a life company ARF product.

Remuneration disclosure

Remuneration you receive from MIFID firms and other regulated entities in connection with the provision by you of regulated services for self administered pension arrangements are subject to CPC 4.57, 4.58, 4.58A and 4.61 disclosure obligations. Fees received from the client are not.

Note in particular CPC 4.57 (which does not apply to insurance commissions) that you must disclose to the client the 'nature and amount' of any remuneration you will receive from a product producer (like a MIFID firm) for a regulated service prior to offering, recommending, arranging or providing a regulated product or service to that client.

However remuneration you receive from product producers for unregulated services are not subject to CPC disclosure as CPC only covers your regulated activities.

Self administered individual pension products

Therefore the following MIFID firm/product producer remuneration paid to you in respect of self administered pension arrangements are, in my view, not subject to the CPC provisions as they relate to services you provide which are unregulated:

- initial remuneration for recommending and arranging a MIFID firm Type B PRB or Type B ARF
- initial remuneration for recommending and arranging a SSAS
- commission/remuneration received in respect of arranging an unregulated product for the client, e.g. direct property, Loan Notes, etc.
- In the case of trail fees received from a MIFID firm/product producer my view is this:
 - if the account to which the trail fee relates is invested **only** in regulated investments, the full trail fee must relate to a regulated service and hence falls under CPC;
 - if the account to which the trail fee relates is invested **only** in unregulated investments, e.g. a property, the full fee must relate to an unregulated service and hence does NOT fall under CPC
 - if the account to which the trail fee relates is invested in a mix of regulated and unregulated investments, it may be impossible or very difficult to split your trail fee as between regulated and unregulated services.

However if the trail fee can be split accurately between regulated and unregulated investments, then it is open to you to apply the CPC disclosure provisions only to the regulated part of the trail fee.

It may all depend on how you described the services you promised to provide the client in return for the trail fee; see CPC 4.58.

Client mandated fees paid from a self administered pension arrangement to an adviser seem to escape the CPC remuneration disclosure provisions on the basis that the MIFID firm is only acting as a paying agent in deducting the fee instructed by the client and paying it over to the adviser, i.e. the MIFID firm is not paying the remuneration from its own margin to the adviser.

However there are two significant complications with this approach, in my view:

- The fee may be subject to VAT, as it is a fee agreed by and charged to the client by the adviser, because that is the basis on which the fee is said to escape CPC disclosure; and
- There are doubts whether a client can, from the gross value of a pension arrangement, pay a fee for a personal service. It's a bit like presenting your dentist bill to your QFM and asking them to pay it gross from your ARF!

In my view there is a risk therefore that taking such a fee from the gross value of the pension arrangement is not in accordance with the rules of the pension arrangement and relevant legislation and/or may be subject to tax in the client's hands as withdrawal from the pension account.

For example, the definition of a *distribution* from an ARF, which is subject to PAYE, includes:

'any payment or transfer of assets out of the fund or any assignment of the fund or of assets out of the fund by any person, including a payment, transfer or assignment to the individual beneficially entitled to the assets'

The MIFID firm deducting the client mandated fee and paying it to the adviser is a short cut for paying it first to the client who then pays it to the adviser, and therefore at least for ARFs seems to be a taxable transaction for the client?

Self administered individual pension products

In the case of life company pension products, of course the intermediary can add on a trail commission and/or an initial commission and have it deducted from the value of the pension policy. Does the same argument not apply there as well?

However the crucial difference in that case is that payments are insurance commissions paid by the life company to the adviser and are determined between the life company and the adviser; hence the use of codes to be filled in by the insurance intermediary on proposal forms indicating the combination of initial and trail commission which will apply in an individual client case. It is therefore a payment of commission by the life company rather than payment of a client fee to the adviser, and hence in my view, is not subject to VAT and is subject to CPC remuneration disclosure.

The crucial factor is who determines the remuneration paid to the adviser, the client or the MIFID firm/adviser. If the former then it must be a client fee; if the latter it is remuneration/commission from the MIFID firm.

VAT

Insurance services and commissions are broadly exempt from VAT.

However some fees you charge or receive in relation to self administered pension products may be subject to VAT, such as:

- fees you charge directly to the client, and in this I would include client mandated fees taken from the pension arrangement and paid to the adviser for the reasons stated above ; and
- a trail fee paid to you from a SSAS account (not through an EUT)

In general the annual management fee charged by the MIFID firm to an EUT is exempt from VAT; on this basis a share of that EUT annual management fee you receive from the MIFID firm should also be exempt from VAT if the EUT trustees have contracted you to provide services to the running of the an EUT account, e.g. provide investment advice to the client and arrange investments for the client.

However you should take your own professional tax advice on the VAT status of fees you charge and receive in respect of self administered pension arrangements. I am not providing tax advice, just stating a personal opinion.

Where a fee is charged to an individual for pensions advice on a self administered pension product, it is not tax deductible for the individual.

By comparison commissions taken from a pension policy value are in effect tax deductible for the client in that the commission is taken from the gross pension policy value which was funded by tax deductible contributions.

Professional Indemnity Insurance cover

Registered insurance intermediaries must have PI cover for their insurance intermediary activities.

Retail intermediaries authorised under the Investment Intermediaries Act must have a similar level of separate PI cover for their IIA intermediary services.

In relation to unregulated services provided by retail intermediaries, i.e. services which are not covered by the IDR or the IIA:

- some PI covers only regulated services and does not cover any unregulated services; while
- some PI covers regulated services but offers an option at an additional cost to increase the PI cover to also include unregulated services, i.e. then covers regulated and unregulated services.

Self administered individual pension products

Therefore some intermediaries may have PI cover for their unregulated services but others have not, depending on the type of PI cover they hold.

Therefore if you are providing unregulated services to clients in relation to MIFID firm pension products and your current PI cover does not cover unregulated services, you may need to consider extending your PI cover to cover such unregulated services.

Financial Services & Pensions Ombudsman

Your client can take a complaint about an unregulated service provided by you and/or the MIFID firm to the Ombudsman, as a client can take a complaint in relation to the provision of a 'financial service', which term is not restricted in the legislation to regulated financial services.

However note that there may be a mismatch between an intermediary's PI cover which in some cases may not cover unregulated services, and the right of a consumer to take a complaint about such services to the Ombudsman.

Retail intermediaries and their clients therefore carry a financial exposure for bad advice in relation to unregulated services, where the intermediary does not have PI cover for such services. Without PI cover, a retail intermediary may be unable to make good a financial loss suffered by the client arising from bad advice given as part of an unregulated service.

Minimum Competency Requirements

The CBI's Minimum Competency Code and Regulations require retail intermediaries to ensure persons acting on their behalf providing advice to consumers on retail financial products meet the standards sets out in the Minimum Competency Code and associated Regulations.

One category of retail financial products is Pensions which mainly covers only life company pension products:

Pension Retail Financial Products for Minimum Competency Code

Issued by a life assurance company	Others
<ul style="list-style-type: none">• occupational pension schemes whose liabilities are fully secured by one or more contracts of assurance;• personal pension plans, which term is assumed to refer to retirement annuity contracts issued by life assurance companies;• AVCs whose liabilities are fully secured by one or more contracts of assurance• ARFs and AMRFs whose liabilities are fully secured by one or more contracts of assurance;• Annuities issued by life assurance companies; and• Buy Out Bonds; this term is assumed to refer only to life company contracts but could possibly extend to MIFID firm PRBs?	<ul style="list-style-type: none">• PRSAs, both life company and MIFID firm

Therefore the MCC and standards do **not** apply to individuals who provide advice and information to consumers on:

Self administered individual pension products

- MIFID firm ARFs
- Small Self Administered Pension Scheme (SSAS); and
- also possibly do not apply to MIFID firm PRBs, particularly Type B.

Client protection

As we have seen some MIFID firm individual pension products involve a mix of regulated and unregulated services, and so the client in some circumstances is covered by the financial regulatory system and in other cases isn't. There can therefore be regulatory 'gaps' for the consumer.

This is in contrast to a life company pension arrangement which (apart from the rare exception of an intermediary organising an unregulated investment for a self directed fund) the client's interaction with the life company and insurance intermediary is entirely regulated.

The main gaps in regulatory protection for the consumer with MIFID firm Type B arrangements and SSASs, are :

Gaps in regulatory protection for the consumer

Regulatory gap	MIFID firm PRB Type B	MIFID firm ARF Type B	MIFID firm PRSA Type B	SSAS
Provider's client services are not subject to CBI regulation or oversight	●	●	● ¹⁷	●
Client assets are held in an unregulated fund, an exempt unit trust	●	●	●	●
Investor Compensation Scheme does not apply to provider's dealings with the client	●	●	●	●
Retail intermediary is not subject to CBI oversight or CPC when advising on and arranging the product for a client	●	●	●	●
Retail intermediary is not required to have PI cover to advise on or arrange this product for a client	●	●	●	●
Intermediary remuneration from the arrangement (other than when advising on and arrangement a regulated investment) is not subject to CPC or other statutory disclosure to the client	●	●	●	●
Adviser does not have to meet CBI's Minimum Competency Code when providing advice to clients on this arrangement	●	●	●	●

● = is a gap in regulatory protection

● = regulatory protection applies

¹⁷ However some aspects of the firm's operation of the PRSA are subject to oversight by the PRSA actuary and the Pensions Authority.

Self administered individual pension products

Treat your unregulated services as regulated?

Where unregulated services are a small part of your overall retail intermediary business, it may be tempting to operationally classify and treat all of your business as regulated. However in doing so:

- you still can NOT use the 'Regulated by the Central Bank' byline on your business stationary, website and emails when providing unregulated services. (See CPC 4.7 to 4.9);
- you may unintentionally mislead the client to whom you provide an unregulated service that the service you provide is regulated, given that the client is dealing with you as a regulated firm; and
- where your PI cover does not extend to unregulated services, while you may operationally treated unregulated services as regulated your PI cover will almost certainly not follow you and hence you may be exposed.

So you don't really have the option to operationally classify and treat all your investment business as regulated where some of it is unregulated; you MUST split out your unregulated services and use separate business stationary, section of your website and emails when providing these unregulated investment services to your clients.

But you could decide, while still complying with CPC 4.7 to 4.9, to level up, i.e. :

- follow CPC when providing unregulated advice and services, e.g. provide a Statement of Suitability etc. as if it was a regulated product; and
- follow CPC disclosure rules in relation to your remuneration received for unregulated services, i.e. follow CPC 4.57,4.58, 4.58A and 4.61 for all your remuneration and income.

However there is always the danger that in levelling up as above, with the best of intentions, providing a Statement of Suitability etc. in respect of an unregulated service may give the client the impression that the product and service you provide is regulated when in fact it is not.

Summary

Summary

- Life company individual pension products are subject to a high level of regulation and consumer protection measures
- It is important as a retail intermediary to know which of your services are regulated and which are not.

In particular advising on and arranging an investment which is *not* an insurance policy, an IIA or MIFID financial instrument, is an unregulated service. An example is advising on or arranging an investment for a pension client in an exempt unit trust or a non transferable Loan Note issued by a private company.

- An exempt unit trust is an unregulated fund, and is used in a lot of MIFID firm individual pension products to hold client assets and funds.
- Some MIFID firms offer one or more of PRBs, ARFs, PRSA and SSAS. They may be structured in one of two different ways, depending on the services provided by the firm to the client:
 - Regulated (which I refer to as Type A) : where the firm will provide one or more regulated services to the client;
 - Unregulated (which I refer to as Type B): where the firm does not provide any regulated services to the client, but rather provides a service of trusteeship and administration of an exempt unit trust which holds the underlying investment assets for the client.

Where a MIFID firm structures its pension product to provide a totally unregulated service, i.e. Type B, it will typically put a notice on the relevant application form and brochure to this effect, e.g. :

'our services are unregulated services and are not subject to the supervision of the Central Bank. The Consumer Protection Code (CPC), Client Asset Regulations (CAR) and the Investor Compensation Scheme do not apply to such services.'

- Because a MIFID firm hosting a type B pension arrangement provides unregulated services only and the pension arrangement (with the exception of a PRSA) is not recognised as an IIA or MIFID instrument, all of your client services in relation to MIFID firm Type B pension products are unregulated with the following exceptions which are regulated services:
 - Advising on and arranging a MIFID firm PRSA; and
 - Advising on and arranging a regulated investment for the client's pension account.
- A MIFID firm PRB (Type A or B) is an approved retirement benefit scheme but not an exempt approved scheme. The MIFID firm PRB obtains gross investment returns on an administrative basis as exempt returns are only provided to exempt approved schemes or to approved schemes which have obtained a Revenue direction that they are exempt approved schemes.
- The statutory right under the Pensions Act and family law legislation of a member, PAO beneficiary or scheme trustees to take a transfer value only extends to BOBs which are insurance policies and does *not* extend to MIFID firm PRBs (Type A or B).

Compulsory trustees transfers to MIFID firm PRBs are therefore problematic.

- Remuneration you receive from MIFID firms in connection with the provision by you to clients of regulated services for MIFID firm pension products are subject to CPC 4.57,4.58,4.58A and 4.61 disclosure obligations. Fees charged to and received from the client are not.

Summary

- Remuneration you receive from product producers for unregulated services are not subject to CPC disclosure as CPC only covers your regulated activities.
- In my view client mandated fees taken from the pension account of a MIFID firm pension product and paid to you, the adviser, for a service provided to the client are problematic because such deduction gross from the pension account may not in accordance with the rules of the pension arrangement and relevant legislation and/or may be subject to tax in the client's hands as withdrawal from the pension account.
- Your client can take a complaint about an unregulated service provided by you and/or the MIFID firm to the Ombudsman, as a client can take a complaint in relation to the provision of any 'financial service' by a regulated financials service provider.

Therefore if you are providing unregulated services to clients in relation to MIFID firm pension products and your current PI cover does not cover unregulated services, you may need to consider extending your PI cover to cover such unregulated services

- There are a number of regulatory gaps in consumer protection in the provision of MIFID firm Type B Pension products to consumers.
- When providing unregulated services you MUST comply with CPC 4.7 to 4.9 which requires you to:
 - NOT use 'Regulated by the Central Bank of Ireland' on your business stationary used when providing unregulated services;
 - NOT use 'Regulated by the Central Bank of Ireland' on the separate section of your website which relates to your unregulated services;
 - NOT use 'Regulated by the Central Bank of Ireland' on your emails when providing unregulated services;

The views expressed in this presentation are my own and I am not offering advice to you.

You should obtain your own independent professional compliance and taxation advice before categorising any services you provide as regulated or unregulated.

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