An tÚdarás Pinsean
The Pensions Authority

Submission form

Consultation on PRSA charges

Please send your submission by Tuesday, 17 November 2015 to Mary Broderick at mbroderick@pensionsauthority.ie.

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No:	**Questions**
Q1	Given the objective of Part X in relation to the restriction, disclosure and operation of PRSA charges for the protection of the PRSA contributor, what operational difficulties, if any, do PRSA Providers currently have in complying with the requirements?
A1	We understand that Providers face a number of practical difficulties in relation to charges, including 1. The restrictions on charges may prohibit Providers from being able to offer best in class investment options under a PRSA e.g. some diversified multi assets funds where the TER may vary according to underlying assets held. It may not be in the interest of contributors if the investment offering provided by a PRSA Provider is driven solely by these restrictions rather than the provision of an appropriate range of investments.

	Also, it is difficult for PRSA Providers to offer funds which include guarantees, due in part to the difficulty in identifying the costs of guarantees in terms of initial and / or annual charges. Many collective investment vehicles have a fee structure which includes performance-related fees. This often prevents their use by PRSAs where the fee is not expressed a percentage of total assets. In other cases, funds may have fee structures which vary depending on the underlying asset mix at any given time e.g. a fund on a Standard PRSA that invests partly in an ETF may breach the 1% annual charge cap if the investment manager decides (within their investment mandate) to increase the holding in the ETF for strategic or tactical reasons. This can create challenges for PRSA Providers to review and adjust their own annual charge in a timely manner so that they remain compliant. 2. Given that each PRSA product has a specific approved charging structure, PRSA Providers can only offer a range of charging structures through having multiple approved products. This may favour the larger Providers and can act as a barrier to entry. This is unnecessarily cumbersome, and could be largely avoided by having the defined charging structure for each product as a maximum rather than the only allowable charge for the product. 3. Charges (such as custody and audit fees) within collective investment schemes may include elements which are not in the form of a percentage of subscriptions or fund size, e.g. they are fixed expenses within the fund and therefore do not meet the restrictions on charges in Section 104 of the Act. 4. In the case of self-directed PRSAs, the charges may depend on the specific investment choice made by the consumer which can be varied and extremely difficult to ascertain in advance when the Initial Statement of Reasonable Projection is issued. A similar issue arises if a switch is made from a low-cost cash fund to an equity fund which incurs higher charges. A particular issue in these cases is that the initial disclosure of charges may not be representative of the longer term. This may arise when Providers are required to produce an initial SRP within 7 days and have been instructed to invest temporarily in Cash until the investment strategy/structure is finalised. 5. Charges within collective investment schemes may be difficult to determine precisely, especially where there are layers of such vehicles or where funds are managed by third parties. This may limit the range of investments a Provider will make available under a PRSA to the detriment of the contributor. This could be addressed by allowing some flexibility when assessing the precise level of charges under an investment so that all material charges are identified and disclosed. 6. Under Section 104(11) PRSA Providers must give two months' notice of changes to charges, and under section 112.1 Providers must issue revised

	Statements of Reasonable Projection where charges change. These requirements apply irrespective of the scale of the change in charge or the reason for the change. In some circumstances these requirements appear quite onerous, particularly in the context where, as noted above, some changes to charges are not entirely within the control of the PRSA Provider. 7. Pooled funds which were originally deemed to be compliant for use by PRSAs can be subject to changes which make them no longer compliant. The Provider is then forced to advise contributors that they must remove such funds and offer an alternative investment option. This may be contrary to the contributors best interests e.g. there may be costs associated with disinvestment. These areas also present difficulties for PRSA Actuaries in making determinations of compliance under Section 119 of the Act.
Q2	What changes could be made to the current Part X requirements in relation to PRSA charges to make compliance by PRSA Providers more transparent, consistent and verifiable, while still retaining the protections afforded by Part X to PRSA contributors in relation to charges?
A2	We recognise the importance of consumer protection in the area of PRSA charges, particularly in relation to Standard PRSAs. However we believe that certain changes could be introduced which would not adversely affect this. 1. Some scope should be introduced for charges which are not proportional to contribution or fund size. It should be sufficient that the total charge within a fund is below a stated percentage of the fund size. 2. Subsection (i) of the definition of charges in Section 91 states that charges include any deduction from the PRSA assets or a contribution for the benefit of certain listed parties (the PRSA Provider, an intermediary, including an investment business firm authorised under the Investment Intermediaries Act, 1995 , or a member firm authorised under the Stock Exchange Act, 1995 , or the employer). We would question why only these specific parties are listed, and whether the scope of this part of the definition should be wider. 3. In practice it may not be possible to be precise about all charges incurred under a PRSA. Practical problem areas for PRSA Actuaries include obtaining hard and reliable information about layers of sub-funds. A reasonable level of enquiries regarding sub-fund charges should be sufficient, for example in relation to estimating non-headline charges by reference to published expense ratios or standard cost adjustments. We

would propose that the Section 119 Certificate be amended so that the PRSA Actuary certifies compliance of charges "in all material respects".

In addition the Certification completed by the PRSA Actuary under the PRSA (Operational Requirements) Regs, 2002 should be extended to include the statement "except for minor instances of non-compliance (as set out in the attached schedule)".

4. At present there is no clear requirement for a PRSA Provider to refer proposed changes in charges to the PRSA Actuary in advance. We would recommend that an obligation for PRSA Providers to inform the PRSA Actuary in advance of making changes in PRSA Provider charges should be introduced. This will allow the PRSA Actuary to advise whether the proposed new charges are compliant.
5. Different Providers can take different interpretations with legislation. For example,
    a. Some Providers may consider certain investment vehicles for Non Standard PRSAs (e.g. Exchange Traded Funds) to fall outside the definition of Pooled Funds Section 91 of the Act and hence the restrictions on charges may not be applicable. This can lead to uncertainty and inconsistencies between Providers and Products.
    b. Some Providers may consider that the term "charges made under a PRSA contract", which is used a number of times in Section 104 of the Act, allows for the possibility that some charges (e.g. taken by a third party investment manager directly from a pooled fund) do not fall under this definition.
    c. Some Providers may interpret the Table of Remuneration to include only remuneration paid by the PRSA Provider, and to exclude any payments made by another party (e.g. investment manager) to an intermediary.
    d. The definition under Section 91 (1) "Charges of the net proceeds of stock lending" is somewhat unclear and can be open to different interpretations. This would benefit from some additional guidance or clarity. This may particularly impact some ETFs. We believe that the definition of charges relating to stock-lending should be clear, and should not limit the capacity of PRSA Providers to invest in funds or assets where stock-lending charges are typical of those that would be incurred on a competitive arms-length basis.
    e. The reference to custodians in paragraph (e) of the definition of charges (Section 91(1) of the Pensions Act) should be clarified. We understand that this is generally interpreted as meaning custodians to PRSA assets as defined in the same section, rather than the more widely understood meaning of the word within the context of a

	pooled fund.
Q3	Is there any merit in Part X distinguishing between the definition of Standard and non-Standard PRSAs in its application to charges? If so, why?
A3	Yes. There is merit in maintaining the current more restrictive regime for Standard PRSAs (maximum charges, pooled fund investment etc), as a mass-market product, with a more flexible approach for Non-Standard PRSAs. However this should not lead to a situation with adverse outcomes for contributors of either product. In particular, there should be no obvious inconsistencies in the treatment of investments between them.
Q4	Are there any other definitions of charges in general use (such as MIFID Regulations, Life Assurance Regulations) that would simplify matters if substituted for the charges definitions used in Part X?
A4	We note the ongoing consultation in relation to PRIIPS, and would suggest that any changes in the charges definitions in Part X should be consistent with these.
Q5	Should Part X distinguish between unvested and vested PRSAs in its application to PRSA charges? If so, how could this be done?
A5	We don't see any reason to make such a distinction in respect of charges but would highlight that disclosure in respect of vested PRSAs is not adequately addressed under existing legislation/regulations as discussed previously with the Pensions Authority.
Q6	Should Part X distinguish between PRSA Provider charges and expenses in its application to PRSA charges? If so, how could this be done?
A6	Section 91(1) of Part X of the Pensions Act currently defines charges (including PRSA Provider charges) and also some expenses that are excluded from the definition (e.g. stamp duty and transaction fees incurred on an arm's length basis). A further distinction between PRSA Provider charges and expenses and all other

	charges could be useful. We would interpret other charges as charges taken from the PRSA assets which are not determined directly by the PRSA Provider. For example, 1. Investment expenses would include the costs incurred in vehicles which: - are widely available to a range of investors; and - are managed by a firm which is not connected to the PRSA Provider; and - have charges which are not in excess of those that would be incurred on a competitive arm's length basis. 2. Other specific charges (e.g. cost of guarantees) would not need to meet the restrictions on charges under Section 104 (1) and (2). We would welcome the opportunity to discuss this proposal further with the Pensions Authority.
Q7	Is there merit in the definition of PRSA charges being incorporated in guidance issued by the Pensions Authority instead of being defined in legislation? Would guidance give rise to more or less inconsistent interpretation of PRSA charges between different PRSA Providers than under the current legislation based definition of charges?
A7	Yes – this should allow for a more flexible approach to deal with charges in the types of investment vehicles being used for PRSAs. However we would stress the importance of dialogue between the Pensions Authority and other stakeholders, including PRSA Providers and the Society of Actuaries in Ireland, so that these stakeholders have notice of any proposed changes and an opportunity to give feedback. The consultation approach used for defined benefit pension schemes may be a useful model.
Q8	Should there be consistency in the definition of and disclosure of charges to consumers as between PRSAs, Buy-Out Bonds, RACs, ARFs and AMRFs given that a PRSA contract, in certain circumstances, is a viable alternative to these products for some consumers? For example, a transfer value from an occupational pension scheme may be paid for a member, in certain circumstances, to a PRSA or to a Buy-Out Bond, while a vested PRSA and an

	ARF can fulfil similar needs for retirees.
A8	Yes – we would see this as essential. Otherwise consumers may be misled by different definitions of charges being used. While PRSAs, life policies and Defined Contribution pensions are governed under different legislation, the Society of Actuaries in Ireland tries to take a consistent approach to Actuarial Standards of Practice covering disclosure for these products.