



An tÚdarás Pinsean
The Pensions Authority

Personal retirement savings account provider code of conduct



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Legal basis

Under section 94(5) of the Pensions Act, 1990 as amended (the Act), the Pensions Authority (the Authority) must prepare and amend from time to time as it considers appropriate, a code of conduct with respect to the producing, marketing and selling of personal retirement savings account (PRSA) products by PRSA providers. The Authority may attach to any approval granted by it and Revenue (whether at the time of the grant of approval or any time thereafter) a condition requiring the relevant PRSA provider to comply, in respect of the product, with the code.

Under section 94(6) of the Act, in preparing the code, the Authority must have regard to:

- (a) the need to provide for the protection of PRSA contributors, and
- (b) the need to provide for effective supervision of the producing, marketing and selling of PRSA products.

The Authority's statutory functions include monitoring and supervising the operation of the Act and pension developments generally, including the activities of PRSA providers as such providers, the provision of PRSA products and the operation of personal retirement savings accounts. On foot of carrying out this statutory function the Authority has determined that the existing code of conduct issued under section 94(5) of the Act is required to be amended.

This code sets out the amended terms of the code of conduct issued under section 94(5) of the Act.

References in this document to 'this code' are references to the code of conduct issued under section 94(5) of the Act, amended as set out in this document.

Application

This code applies to all PRSA providers in respect of whom compliance with the code of conduct issued under section 94(5) of the Act has been attached as a condition of approval of a PRSA product.

PRSA providers must comply with this code from [DD MONTH YEAR]. The provisions of this code apply to all PRSA providers except where otherwise specified below.

PRSA providers must ensure that arrangements with any person who is selling or marketing the PRSA provider's PRSA product reflect the letter and spirit of this code.

Definitions

Terms which are not otherwise defined in this document have the meanings given to them under the Act.

Consumer Protection Code means the Central Bank of Ireland's Consumer Protection Code 2012 (as amended) including any successor revised or replacement code, act or regulations as may be amended from time to time.

Unregulated investment means investment in relation to which the provision of advice and other services are not 'regulated activities' as defined in the Central Bank of Ireland's Consumer Protection Code.

Section 1: Co-operation

PRSA providers must be open and co-operative in their dealings with the Authority in respect of the producing, marketing and selling of their approved PRSA product.

PRSA providers must participate in such meetings as the Authority considers necessary to review its operations in respect of the producing, marketing and selling of their approved PRSA product.

PRSA providers must adhere and must procure that their PRSA actuaries adhere, where so required by the Act and any regulations made under it, to the guidance of the Society of Actuaries in Ireland in relation to the preparation of any and all documents required to be produced in respect of their PRSA product pursuant to the Act and regulations made under it.

Section 2: Conflicts of interest

PRSA providers must have in place and operate a written conflicts of interest policy. The policy must identify the circumstances that constitute or may give rise to a conflict of interest by reference to the producing, marketing and selling of a PRSA product, including (where applicable) the facilitation of unregulated investments through a PRSA product by PRSA contributors. The policy must specify how conflicts of interest are to be managed.

PRSA providers must identify and seek to avoid conflicts of interest within the PRSA provider itself and between the PRSA provider or PRSA contributors and any person, including (but not limited to):

- (i) the PRSA provider's directors, officers and employees,
- (ii) persons directly linked or indirectly linked to the PRSA provider by control; and
- (iii) the PRSA provider's intermediaries or distributors.

Where conflicts of interest arise and cannot be avoided, those conflicts of interest must be disclosed by the PRSA provider as soon as reasonably practicable to the PRSA contributor. The disclosure of the conflicts of interest must be made in clear, easily understood language with sufficient detail to allow the PRSA contributor to understand:

- the nature of the conflict of interest,
- how the conflict of interest arises,
- the risks the conflict of interest poses to the contributor, and
- how the conflict of interest will be managed.

PRSA providers must only facilitate an investment through a PRSA product by a PRSA contributor that involves a conflict of interest where the PRSA contributor has acknowledged on paper or another durable medium, that they are aware of the conflict of interest and still want to proceed with the investment.

The PRSA provider shall maintain a record of each such acknowledgement and furnish copies of such acknowledgement to the Authority upon request.

Section 3: Risk warning

Before facilitating an instruction from a PRSA contributor, or from a person acting on behalf of the PRSA contributor, to invest through a PRSA product part or all of their PRSA assets, directly or indirectly, whether through an insurance policy, a unit trust of a type referred to in section 731(5)(a) of the Taxes Consolidation Act 1997 or otherwise, in an unregulated investment product, the PRSA provider must give the PRSA contributor a risk warning.

The risk warning must be in a standardised form and include the following text or text which is substantially the same as the following text:

Estimated reading time: 1 minute

WARNING: THIS IS AN UNREGULATED INVESTMENT

This investment may not be suitable to everyone.

Ask yourself -

- 1. Am I comfortable with this being an unregulated investment and that important investor protections may not apply?**
- 2. Can I afford to lose all of the money I am investing by making this particular investment?**
- 3. Do I understand how this investment works?**

4. Do I know and understand the risks?
5. Am I putting all of the money in this PRSA into one type of investment?
6. Have I taken independent financial advice on this investment?

This may be a high-risk investment. You should check with your provider.

In the case of high-risk investment, only invest if you are prepared to lose all the money you invest.

This is an unregulated investment.

The rules designed to protect investors may not apply to this investment.

Your investment may not be protected by the Central Bank of Ireland's:

- Consumer Protection Code,
- Client Asset Requirements or Investor Money Regulations, or
- Investor Compensation Scheme.

You may not be eligible to make a complaint to the Financial Services and Pensions Ombudsman in relation to this investment.

Section 4: Product oversight and governance

Applies to: PRSA providers who are not life assurance companies.

A PRSA provider must identify the target market of groups of compatible PRSA contributors for each PRSA product it offers.

The target market for a particular PRSA product shall be identified by the PRSA provider taking into account:

- the characteristics, risk profile, complexity and nature of that PRSA product,
- the nature of the investments which the PRSA product's assets may be allowed to invest in,
- the financial literacy, needs, characteristics and objectives of the PRSA contributors belonging to the target market, and
- the distribution strategy appropriate for that PRSA product.

The PRSA provider must identify groups of potential PRSA contributors, if any, for whose needs, characteristics and objectives a PRSA product is generally not compatible.

The PRSA provider must take reasonable steps to ensure that its PRSA product is distributed to the identified target market.

The PRSA provider must review its target market for each PRSA product at least annually, taking into account any event that could materially affect the potential risks of the PRSA product to the identified target market, to assess whether the PRSA product remains consistent with the needs and objectives of its identified target market and that the PRSA provider's distribution strategy for that PRSA product remains appropriate.

A PRSA provider's target market identification and review process must be documented, kept for audit purposes and made available to the Authority upon request.

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