



STATUTORY INSTRUMENTS.

S.I. No. 643 of 2016



EUROPEAN UNION (OCCUPATIONAL PENSION SCHEMES
INVESTMENT) (AMENDMENT) REGULATIONS 2016

EUROPEAN UNION (OCCUPATIONAL PENSION SCHEMES INVESTMENT) (AMENDMENT) REGULATIONS 2016

I, LEO VARADKAR, Minister for Social Protection, in exercise of the powers conferred on me by section 3 of the European Communities Act 1972 (No. 27 of 1972), and for the purpose of giving further effect to Directive 2003/41/EC of the European Parliament and of the Council of 3 June 2003¹ and Article 18 of that Directive (as amended by Article 1 of Directive 2013/14/EU of the European Parliament and of the Council of 21 May 2013²), hereby make the following regulations:

1. These Regulations may be cited as the European Union (Occupational Pension Schemes Investment) (Amendment) Regulations 2016.

2. The Occupational Pension Schemes (Investment) Regulations 2006 (S.I. No. 294 of 2006) are amended—

(a) in Regulation 2 by—

(i) inserting before the definition of “the Act” the following:

“ ‘Act of 1997’ means the Taxes Consolidation Act 1997 (No. 39 of 1997);”,

(ii) substituting for the definition of “collective investment undertaking” the following:

“ ‘collective investment undertaking’ means—

(a) an investment undertaking within the meaning assigned to it by section 739B of the Act of 1997,

(b) a unit trust which neither is, nor is deemed to be, an authorised unit trust scheme within the meaning of the Unit Trust Act 1990 (No. 37 of 1990),

(c) an undertaking for collective investment in transferable securities within the meaning assigned to it by Directive 2009/65/EC of the European Parliament and of the Council of 13 July 2009³, situate in any Member State,

¹ OJ No. L 235, 23.09.2003, p. 10

² OJ No. L 145, 31.05.2013, p. 1

³ OJ No. L 302, 17.11.2009, p. 32

Notice of the making of this Statutory Instrument was published in “Iris Oifigiúil” of 3rd January, 2017.

- (d) a common contractual fund within the meaning of section 739I(1)(a)(i) of the Act of 1997,
 - (e) an alternative investment fund within the meaning assigned to it by Directive 2011/61/EU of the European Parliament and of the Council of 8 June 2011⁴, situated in any Member State; ”,
- (iii) inserting after the definition of “collective investment undertaking” the following:

“ ‘credit rating’ and ‘credit rating agency’ have the same meaning, respectively, as they have in Article 3(1)(a) and (b) of Regulation (EC) No. 1060/2009 of the European Parliament and of the Council of 16 September 2009⁵ on credit rating agencies;”,

and

- (iv) substituting for the definition of “insurance policy” the following:

“ ‘insurance policy’ means an insurance policy or contract of assurance issued by any person who is the holder of an authorisation—

- (a) granted by the Minister for Enterprise, Trade and Employment under the European Union (Insurance and Reinsurance) Regulations 2015 (S.I. No. 485 of 2015), or
- (b) granted by the authority charged with the duty of supervising the activities of insurance undertakings in a Member State other than the State in accordance with Directive 2009/138/EC of the European Parliament and of the Council of 25 November 2009⁶; ”,

and

- (b) by inserting after Regulation 8 the following:

“9. The Pensions Authority is designated as the competent authority in the State in respect of its functions and duties under these Regulations and under Article 1 of Directive 2013/14/EU in relation to a scheme.

10. (1) Taking into account the nature, scale and complexity of the activities of schemes, the competent authority shall monitor the adequacy of credit assessment processes of schemes, assess the use of references to credit ratings issued by credit rating agencies in the

⁴ OJ No. L 174, 1.07.2011, p. 11

⁵ OJ No. L 302, 17.11.2009, p. 1

⁶ OJ No. L 335, 17.12.2009, p. 1

investment policies of schemes and, where appropriate, encourage mitigation of the impact of such references with a view to reducing sole and mechanistic reliance on such credit ratings.

(2) Without prejudice to the generality of the foregoing, the trustees of a scheme, other than a small scheme, shall notify the competent authority, in such form as may be prescribed by the authority, where all or part of the resources of the scheme are directly invested in debt instruments, excluding investments in collective investment undertakings and investments in an insurance policy.

(3) Trustees shall, on request, furnish the competent authority with all relevant information on the credit assessment process applied by a scheme.”.



GIVEN under my Official Seal,
20 December 2016.

LEO VARADKAR,
Minister for Social Protection.

EXPLANATORY NOTE

(This note is not part of the Instrument and does not purport to be a legal interpretation.)

These Regulations transpose the obligations imposed by Article 1 of Directive 2013/14/EU (the Credit Ratings Agencies Directive) which amends Article 18 of Directive 2003/41/EC (the IORP Directive). Directive 2013/14/EU requires pension schemes to avoid relying solely or mechanistically on credit ratings when assessing the risk involved in investments.

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