The Local Government Pension Scheme (Management and Investment of Funds) (Consolidation and Amendment) (Scotland) Regulations 2010

Proposed changes

Regulation 3 - Definition of "investment"

Paragraph (4)

The existing regulation provides that if an administering authority uses fund money for any purpose for which it may borrow money, that use counts as an investment. This regulation has been amended so that it will apply only to fund money used prior to 1 April 2010. Thereafter, such use of money will no longer count as an "investment". A consequential amendment has been made to former regulation 12 (now regulation 16 (Use of fund money by an administering authority) so as to make it clear that the requirement to pay interest on any fund money used by them under regulation 3(4) still applies.

Paragraph (8)

These changes update references to the relevant Financial Services Authority Sourcebook, now called COLL. They adapt COLL chapter 5.4 to the LGPS context, by making the administering authority responsible for compliance with the rules and guidance specified. The full contents of COLL 5.4 can be seen at http://fsahandbook.info/FSA/html/handbook/COLL/5/4

Regulation 4 - Management of pension fund

Paragraph (6)

The reference to FSAVCs (Free-standing Additional Voluntary Contributions) is no longer of relevance as a result of the repeal by the Finance Act 2004 of section 591(2) of the Income and Corporation Taxes Act 1988 and has therefore been removed.

Paragraph (7) –

The definition of "member" has been amended so as to bring it into line with the definition of "member" used in the Regulations which comprise the LGPS Scheme 2008[1].

[1] Those Regulations are the Local Government Pension Scheme (Administration) (Scotland) Regulations 2008 (SSI 2008/228), the Local Government Pension Scheme (Benefits, Membership and Contributions) (Scotland) Regulations 2008 (SSI 2008/230) and the Local Government Pension Scheme (Transitional Provisions) (Scotland) Regulations 2008 (SSI 2008/229).

Regulation 5 - Power to borrow

This regulation provides administering authorities with an explicit, but limited, power to borrow for the purposes of its pension fund, with repayment being required within 90 days. Borrowing in order to invest on behalf of the fund would not be allowed.

Regulation 6 - Separate bank account

The intention of this proposal is to improve the transparency of cash transactions between pension funds and general local authority accounts. Some administering authorities may already have a separate bank account but the proposal at regulation 6 which imposes the obligation to have a separate bank account in place from 1 April 2011 allows sufficient lead-in time to enable authorities to introduce new arrangements without any detriment to their investment strategies if that would be helpful.

Paragraph (3) is a new provision which has been inserted since consultees were made aware of the proposal on separate bank accounts in the consultation in July. It makes it clear that the separate bank account established under paragraph (1) is not subject to any right of set-off which the deposit-taker may have in relation to any other accounts which the administering authority (or any party connected to the administering authority) may hold with them.

Regulation 11 – Investment of pension fund money

This amendment makes it clear that the administering authority must invest in accordance with its investment policy.

Regulation 12 - Statement of Investment Principles

Paragraph (2)

The changes to paragraph (2)(c) and (h) extend the existing regulation to require an authority's statement of investment principles (SIP) to include information about how risk is measured and managed and its policy on the lending of stocks or other securities from its LGPS pension fund.

Paragraph (3)

This requires that the statement must also state the extent to which the administering authority complies with guidance given by the Scottish Ministers (previously this was the CIPFA guidance) and, to the extent that it does not so comply, the reasons for not complying.

Paragraph (4)

This requires that the first such statement (i.e., one which takes into account guidance given by the Scottish Ministers) must be published no later than 1st July 2010.

Paragraph (5)

The existing regulation required the SIP to be revised. This proposed amendment requires that the statement must be reviewed and, if necessary, revised, by the authority from time to time and, in the case of any material change in the authority's policy, before the end of a period of six months beginning with the date of that change.

Regulation 14 - Restrictions on investments

Regulation 14 is amended to include a footnote referring to the Occupational Pension Scheme (Investment) Regulations 2005 (SI 2005 / 3378). Whilst these Regulations will not apply in all cases, there may be cases where these Regulations create further restrictions and therefore the footnote serves as a signpost for users of the legislation.

Schedule 1 - item 13 - column 1

In relation to item 13 in the table in Schedule 1, this was increased from "25%" to "35%" by virtue of the Local Government Pension Scheme (Scotland) Amendment Regulations 2007 (SSI 2007/514), regulation 21(a) . It is considered that this was an error and accordingly the opportunity has been taken to correct this in these Regulations.

SPPA
November 2009