

Chapter 10

Guidance on activities related to pension schemes

10.1 Background

Q1. What is the purpose of these questions and answers ("Q&As") and who should be reading them?

These Q&As are aimed at *persons* involved in the establishment or running of a pension scheme or in providing services to such persons and should be read, in particular, by:

- pension scheme trustees;
- those who provide services to pension schemes or their trustees; and
- employers or affinity groups who provide pension schemes for their employees or members.

They are intended to help such persons understand:

- whether they will be carrying on a *regulated activity* and so need to be an *authorised or exempt person* under section 19 of the Financial Services and Markets Act 2000; and
- whether their communications are *financial promotions* and, if so, whether they will be exempt from the restriction in section 21 of that Act.

The Q&As are primarily concerned with identifying the regulated activities (such as dealing or arranging deals in investments, managing investments or advising on investments) that may be carried on by persons (including trustees) who are involved with *occupational pension schemes, personal pension schemes* or any pension scheme that provides *safeguarded benefits*. They are also concerned, but only in relation to *personal pension schemes* and *stakeholder pension schemes*, with identifying when the regulated activity of operating such a scheme will be carried on (see Q26).

The Q&As complement the general *guidance* on regulated activities in Chapter 2 of our Perimeter Guidance Manual ("PERG"), the general guidance on insurance distribution activities in Chapter 5 of *PERG* (■ PERG 5), the guidance about the scope of the *Markets in Financial Instruments Directive* in Chapter 13 of *PERG* (■ PERG 13) and the relevant legislation. In addition, Chapter 12 of *PERG* (■ PERG 12) has further guidance about the regulated activities relating to the operation and sale of personal pension schemes that came into force on 6 April 2007.

The Q&As that follow are set out in sections:

- general issues (■ PERG 10.2);
- issues for pension scheme trustees (■ PERG 10.3);
- issues for pension scheme service providers other than trustees (■ PERG 10.4);
- the application of EU Directives (■ PERG 10.4A); and
- issues for employers or affinity groups (■ PERG 10.5);

and are complemented by:

- Annex 1 : Flow chart showing the steps to be considered in deciding whether authorisation is needed;
- Annex 2: Flow chart showing the additional steps to be considered by trustees of occupational pension schemes and other persons in deciding whether authorisation is needed for managing the assets of such a scheme;
- Annex 3: Table summarising the regulatory position of pension scheme trustees and service providers;
- Annex 4: Table summarising the regulatory position of employers and affinity groups; and
- Annex 5: Table summarising the regulatory position concerning financial promotions by trustees, employers and affinity groups.