

**EXPLANATORY MEMORANDUM TO
THE PENSIONS REGULATOR (NOTIFIABLE EVENTS) REGULATIONS
2005**

SI 2005 No 900

- 1.0 This explanatory memorandum has been prepared by the Department for Work and Pensions and is laid before Parliament by Command of Her Majesty.
- 2.0 Description**
- 2.1 The Pensions Act 2004 (the Act) provides for a The Pensions Regulator (the Regulator) to replace the Occupational Pensions Regulatory Authority (Opra) in April 2005. The Regulator's statutory objectives and functions, set out in the Act, establish a framework for its regulatory activity. It will inherit Opra's existing powers and will, in addition, have a number of new ones.
- 2.2 Section 69 of the Act introduces a new requirement that requires trustees and sponsoring employers of certain defined benefit schemes, to report the occurrence of specified notifiable events to the Regulator as soon as reasonably practicable.
- 2.3 The events prescribed for the purposes of section 69(2)(a) of the Act (duty to notify the Regulator of certain events in respect of an eligible scheme) are relevant to either the funding position or the governance of the scheme, each of which will affect the security of members' benefits.
- 2.4 The events prescribed for the purposes of section 69(2)(b) of the Act (duty to notify the Regulator of certain events in respect of the employer in relation to an eligible scheme) are relevant to either the employer's solvency, which is critical to its ability to support the scheme, or to the strength of the employer's covenant with the scheme; that is, an employer's commitment to the scheme.
- 3.0 Matters of special interest to the Joint Committee on Statutory Instruments.**
- 3.1 These Regulations will breach the 21-day rule. In order that the Regulator is able effectively to protect pension scheme members and the Pension Protection Fund (PPF), it is vital that these Regulations are in force from 6 April, when the Regulator and the PPF come into effect.
- 3.2 It is also essential that the burdens imposed by these Regulations are proportionate to the risks they are designed to identify, and thus that the Regulations strike the correct balance between protecting members and the PPF on the one hand and increasing the costs of employers and pension schemes on the other.
- 3.3 Consideration of the high number and level of detail of the comments received in response to the informal consultation on these Regulations unfortunately delayed the final drafting of the Regulations so that it was not possible to lay the regulations 21 days before the necessary coming into force date. The

Department is aware of the importance of observing the 21 day rule wherever possible and regrets that it has not been able to do so in this instance.

4.0 Legislative Background

4.1 The Secretary of State for Work and Pensions is empowered to make regulations under the Pensions Act 2004. In this case the Secretary of State is exercising the powers conferred upon him by section 69(2) of the Pensions Act 2004. The requirement to notify specified events to the Regulator is a new power, and this is the first exercise of the power.

4.2 Section 69 of the Pensions Act 2004 introduces a new requirement for certain trustees and employers to notify the Regulator of specified notifiable events. The main purpose of notifiable events is to provide an early warning of potential claims on the Pension Protection Fund (PPF) resulting from the risk of either employer insolvency or scheme underfunding. This will provide the Regulator with the opportunity to intervene before any PPF assessment period. The requirement to notify will, therefore, only be imposed on schemes that could be eligible for PPF compensation and are liable to the PPF levies, and their sponsoring employers.

4.3 The notifiable events framework consists of three elements:

- (a) these Regulations will set out the events that trustees and employers must notify;
- (b) the Regulator will issue general directions to limit the circumstances in which notification is required; and
- (c) the Regulator is obliged to issue a code of practice to provide guidance on compliance with the framework.

4.4 Before the Secretary of State makes any regulations by virtue of the Pensions Act 2004, he may be required to consult such persons as he considers appropriate. There is no formal requirement to consult in this case because the regulations will be made within six months of the sections of the Act, by virtue of which the regulations are made, coming in to force (section 317(2) of the Act). However, to reflect our commitment to openness, a short, informal, consultation exercise has taken place with the Pensions Regulator Advisory Panel – a list of its membership is attached at Annex A. The findings of the consultation exercise are at Annex B.

5.0 Extent

5.1 This instrument applies to England, Wales and Scotland only. Corresponding provision will be made for Northern Ireland by Regulations made under Articles 64(2) and 2(5)(a) of the Pensions (Northern Ireland) Order 2005 (S.I. 2005/255 (N.I.1) – these Articles equate to sections 69(2) and 318(4)(a), respectively.

6.0 European Convention on Human Rights

6.1 Not Applicable.

7.0 Policy Background

7.1 Section 69 of the Pensions Act 2004 provides the power to make regulations to require trustees and employers to provide written notification to the Pensions Regulator of specified events. Notification is only required in respect of those schemes, and their sponsoring employers, which are eligible for Pension Protection Fund (PPF) compensation and which pay the PPF levies.

7.2 The primary purpose of notifiable events is to reduce the risk of calls on the PPF, thus protecting the PPF and members' benefits. It will provide an early warning of employer insolvency or scheme underfunding, the combination of which may lead to compensation becoming payable from the PPF, thus giving the Regulator the opportunity to intervene before such compensation is required. This is consistent with the Regulator's taking a more proactive and risk-based approach to regulation rather than intervening only after an adverse event has occurred.

7.3 Notifiable events will inform the Regulator's risk-profiling of schemes, which will be based on an analysis of information held by the Regulator about schemes and their employers. The receipt of a notifiable event will not necessarily mean that immediate regulatory action will be taken in response but may, for example, trigger further investigation and information-gathering by the Regulator before deciding whether, and what type of, regulatory action is appropriate.

7.4 Section 69 gives the Regulator the power to direct that, in certain circumstances, the duty to report particular notifiable events is waived. Within the notifiable events framework, and in keeping with the proportionate approach to regulation, we propose not to seek notification of all events in respect of all schemes and employers. Generally, the Regulator will not require notification of events by trustees and employers whose schemes do not pose a significant risk to the PPF, therefore the waiver test will primarily be based on the scheme's funding level compared with the PPF buy-out cost. Where appropriate, the Regulator will also provide waivers specific to certain of the notifiable events.

7.5 However, certain of the events will require notification by all schemes and employers. These will be identified in the directions, to be issued by the Regulator by 6 April 2005.

7.6 The Regulator will publish the associated directions alongside the relevant code of practice, so that those on whom reporting duties fall will be aware of the direction/waiver, and how to comply with the requirements more generally.

8.0 Impact

8.1 A Regulatory Impact Assessment has not been published for this instrument as it has only a negligible impact on business, charities or voluntary bodies.

9.0 Contact

9.1 The policy official responsible for these Regulations is:

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The Pensions Regulator Advisory Panel

Name	Organisation	Role
Brian Holden	Occupational Pensions Defence Union	Trustee perspective
Paul Greenwood	WM Mercer	Actuarial perspective
Adrian Boulding	Legal & General	Pension provider perspective
Ron Amy	Aon Consulting	General
Claire Whyley	National Consumer Council	Consumer perspective
Paul Hunter	Financial Services Authority	
Peter Dickinson (or nominee) Jeff Highfield	Smith & Williamson Gissings & Co	Pensions Research Accountants' Group
David Yeandle	Engineers Employers Federation	General
Ed Humpherson	National Audit Office	
Les Warner	Inland Revenue	
Laurie Edmans	Association of British Insurers	Pension provider perspective
David Astley	National Association of Pension Funds	
Tim Cox	Association of Pension Lawyers	
Brian Marks	Occupational Pensioners' Alliance	Members' perspective
Michelle Lewis	Trades Union Congress	
Fay Goddard	Association of Independent Financial Advisers	
Des Hamilton	OPAS (Pensions Advisory Service)	
Penni Coppen	KPMG	Accountancy perspective
Robert Birmingham	Society of Pension Consultants (President)	
Sue Howlett (or nominee)	Pensions Management Institute	Pensions professionals
Nicholas Hillman	Association of British Insurers	Pension provider perspective

FINDINGS OF THE CONSULTATION EXERCISE

Organisation	Draft Regulation	Comment	Response
SBJ Benefit Consultants	1	<p>“Significant reduction” – the proposed two tests against membership numbers (below 80% of the membership on the most recent return to the pensions registry and below 75% of the preceding years return):</p> <ul style="list-style-type: none"> • It would be burdensome on employers and trustees to monitor and apply two tests when checking changes in membership numbers. • The difference between the two tests does not seem material enough to justify the inclusion of both of them. • I suggest that the single test of 80% should be sufficient. • It may be appropriate to set a minimum number of members that are not considered as significant to avoid small schemes having to continually report due to relatively small numbers of leavers that equate to more than 20% of the membership. <p>This regulation should only apply to schemes over a predetermined size, say, 50 members?</p>	<p>Accepted.</p> <p>Definition of “significant reduction” and the related event have been removed from the regulations.</p>
	2(1)(d)	<p>Is this regulation intended to cover point 4 of the scheme related events identified in the code of practice that need reporting? The code of practice [consultation document] specifically refers to a decision of the trustees or their knowledge of a decision to merge the scheme with another scheme –this would imply a bulk transfer. However, regulation 2 does not specify a merger or a bulk transfer</p>	<p>Bulk transfers are not defined in legislation. The event has been amended to refer to the value of the transfer in terms of scheme assets rather than protected liabilities. This will be relevant to an assessment of risk to the PPF.</p>

Organisation	Draft Regulation	Comment	Response
		and consequently and individual transaction, even for a single scheme member, would need to be reported if it amounted to 10% or more of the protected liabilities. Was this the intention or was this regulation meant to cover bulk transactions (i.e. Involving 2 or more members)?	
	2(1)(d)(i)	It would be helpful if “protected liabilities” could be defined by referring to section 131 of the Pensions Act 2004 (I assume this is the intended definition?).	Reference to “protected liabilities” has been removed.
	2(2)(c)	The requirement to report redundancies should be based on a percentage of the workforce or a fixed number of 20 if greater. I would suggest that a figure of 20% would be appropriate, which would also tie in with the “significant reduction” requirement. If the requirement to report is based on 20 redundancies only this will result in very large employers continually having to submit reports (as they periodically restructure their businesses).	Event has been removed from the regulations.
Legal & General	2(1)(e)(ii)	“the early retirement of a director or another senior officer of the employer...” <ul style="list-style-type: none"> • What if this relates to a deferred member? • The regulations appear to focus only on active members A deferred member of a senior status could have a significant impact on the funding level if benefits (transfer or early retirement) are taken before NRD	Accepted.
Pensions	2(1)(a)	We have some concern in relation to the event which is	Accepted in part.

Organisation	Draft Regulation	Comment	Response
Management Institute		described as "any decision by the trustees to seek to compromise a debt owed to the scheme". There may be a number of circumstances in which a debt may arise, for example, an overpayment of benefit to a member may result in a debt owed by the member to the scheme. The trustees may not be able to recover the whole of the overpayment and may seek to compromise it. There may be other circumstances where a debt has arisen in the normal course of scheme administration, for example, a debt owed by a supplier of services, which may be settled in part only. It does not seem either sensible for the trustees to report such events or indeed for the regulator to receive such reports. It does occur to us that what the regulator may have an interest in is the compromise of any employer debt in the Bradstock category and we suggest that the event is more particularly described.	The Regulator's directions will limit the circumstances in which the event must be notified to those compromises identified as material. Whilst in many cases an overpayment of benefit will not be material, certain cases – such as overpayments to a number of members or over a prolonged period – may be, and we would wish those to be notifiable.
Society Of Turnaround Professionals	1	"Significant reduction": not clear what (b) of this definition adds to it – is it necessary? Not clear why it is needed.	Definition of "significant reduction" and the related event have been removed from the regulations.
	1	There are a couple of definitions used in the regs which it might be useful to define (accepted that they are defined elsewhere in the legislation, but for ease of reference). These are: <ul style="list-style-type: none"> • Eligible scheme and • Protected liabilities. 	Accepted. References to "eligible scheme" and "protected liabilities" have been removed.
	2(1)(a)	These regulations give the trustees and employer a requirement to notify if any decision is taken by the	Rejected.

Organisation	Draft Regulation	Comment	Response
		trustees or employer to take action which will result in any debt which is owed to the scheme not being repaid in full. Would it help to make it clear that a deal which gives more time to pay the same level of debt would not be a notifiable event?	As drafted, the regulation makes clear that no obligation to notify arises if the debt is paid in full.
	2(1)(d)(ii)	This seems very harsh, as it requires the trustees to notify in the event that they become aware of <ul style="list-style-type: none"> • A proposal to merge two schemes, or • Make a transfer out of one scheme to a another, • Even before the proposal is made. Surely this obligation should only bite if the transfer proposal is actually made to the trustees?	Accepted.
	2(2)(a)	As for 2(1)(a).	As for 2(1)(a).
	2(2)(e) and (f)	These apply to make the employer notify where there is a breach of banking covenants, or where there is a change in the employer's credit rating. Would these tests benefit from a materiality requirement – i.e. only a material breach in banking covenants etc would be notifiable?	Accepted in part. The reference to “banking covenants” has been further limited, effectively to material breaches. The change in credit rating will be limited by the regulator’s directions issued under section 69(1) of the Pensions Act 2004, effectively to material changes.
	2(2)(f)	There is a reference to a change in an employer's credit rating being a notifiable event, including an employer beginning to have a credit rating. Why does beginning to	Accepted.

Organisation	Draft Regulation	Comment	Response
		<p>have a credit rating need to be notified?</p> <p>Also, I think you will need to define more closely what you mean by credit rating as there are lots of different ones – monitoring all credit ratings for the employer will be a big job!</p>	<p>Further interpretation will be provided in the Regulator’s directions and code of practice.</p>
	2(2)(i)	<p>The conviction of a senior officer of the employer for an offence involving dishonesty is a notifiable event – is that intended to be</p> <ul style="list-style-type: none"> • Always, or • Only if he also had a connection with the scheme (i.e. Was a trustee aware of it)? 	<p>All such convictions will be notifiable.</p>
The Actuarial Profession	2(1)(c)	<p>The consultation document states that the rationale for two or more changes to the relevant scheme advisers being a notifiable event is that they indicate difficulties which could adversely impact on scheme funding.</p> <p>If it is assumed that all the relevant advisers would act properly, we consider it extremely unlikely that any such changes would indicate a risk to scheme funding, and suggest that the test is too tightly drawn.</p> <p>For example, in our experience a common trigger for a review of the scheme actuary appointment would be the retirement of a scheme actuary.</p> <p>In such circumstances, it would be usual for the trustees to appoint a new scheme actuary from the retiring actuary’s firm but possibly to then appoint a new actuary following a more formal review.</p> <p>We suggest that the test, if retained, should be “more than</p>	<p>Rejected.</p> <p>The regulation is drafted intentionally to capture two or more changes in one post, and one change in each of two posts. The drafting has been amended to clarify this point.</p> <p>Two or more changes in one key scheme post, or a change in each of the scheme posts could be indicative of governance problems, although we accept that there will sometimes be good reasons for the changes.</p>

Organisation	Draft Regulation	Comment	Response
		<p>two”.</p> <p>In addition, we would suggest that the test should relate to ‘changes in the holder of one of the key scheme posts within any twelve month period’ e.g. If the test were to remain as ‘two changes’ it should be possible to change each of the auditor and legal adviser once (for example as part of an overall review of scheme advisers) without having to notify the regulator.</p>	
	2(1)(d)	<p>The definition of a 'notifiable merger' may be fraught with problems/ambiguities, including:</p> <ul style="list-style-type: none"> • This appears to require the protected liabilities of the whole scheme to be valued when the decision to make or accept a transfer is taken (or the date the trustees become aware of a proposal) - this does not seem to fit in with the consultation document on the code of practice which suggests that the selected events are designed to be easy to discern and would not incur significant costs. • We suggest the reference in (i) should be to “the relevant time being the date of the most recent formal assessment of these liabilities”. • In (ii), reference should also be made to the MFR value of the liabilities being as at the date of the most recent formal assessment of the MFR position • We are not clear whether the policy intention is for 	<p>Accepted in part.</p> <p>References to “protected liabilities” and “MFR liabilities” have been removed.</p> <p>Reference to “a proposal” has been removed.</p> <p>The regulation has been redrafted in terms of the value of scheme assets being transferred.</p>

Organisation	Draft Regulation	Comment	Response
		<p>notifications where the amount paid is more than 10% of the value of the protected liabilities or whether the intention is to test the value of the protected (or MFR) liabilities transferred.</p> <ul style="list-style-type: none"> • Your drafting suggests the transfer amount but, either way, we think greater clarity is required in the drafting. • Also, should the definition of value in (i) be tightened? • There may be a significant difference between the amount transferred and the value of the liabilities transferred (and indeed this difference might be magnified in relation to the value of the protected liabilities transferred). • This difference may be of greater relevance than the actual amount of the transfer value, when considering whether there is likely to be a significant detrimental impact on the scheme. • For example, a transferring scheme might pay out an amount equal to twice the value of the protected liabilities being transferred, or a receiving scheme may accept a transfer of only 50% of the value the protected liabilities being transferred. • In both cases these transfers might have a material impact on the funding cover for the protected liabilities but would not be notified to the regulator if the 10% 	

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		<p>requirement was not met.</p> <ul style="list-style-type: none"> • If possible either here, or in the code, greater clarity should be sought on when a 'proposal' becomes notifiable. • For example, is it the first occasion a possibility is mooted to the trustees (even if it is one of several options under discussion), or as soon as they here about a sale that might involve a bulk transfer. <p>Or is it at a later stage, for example when a formal proposal is made or members are being offered a bulk transfer?</p>	
	2(1)(e)	<p>We have a number of concerns with this part of the regulations:</p> <ul style="list-style-type: none"> • It presupposes that the actuary will be involved in providing such advice which, while it would be the norm, may not necessarily be the case under all trust documents. • This does not pick up circumstances where retirement is in line with a scheme's rules but where additional funding is advised. • An example would be an entitlement to more generous terms that apply in certain circumstances (e.g. Redundancy) which might not normally be pre-funded but which could have a material financial impact. • What is meant by "redundancy exercise" in this context 	Accepted.

Organisation	Draft Regulation	Comment	Response
		<p>(e.g. How many members need to be affected for it to count as an ‘exercise)? Will using this terminology always lead to events which the regulator might consider to be of concern being notified – for example in some circumstances enhanced benefits might be available as an alternative to redundancy?</p> <ul style="list-style-type: none"> • Should (ii) be restricted to directors or other senior officers or should it be more widely drawn? • Why are other enhanced benefits (e.g. Normal retirement pensions, incapacity benefits, transfer values or death benefits) that could also have a significant impact not included within (ii)? 	
		<ul style="list-style-type: none"> • There appears some overlap here between the notifiable events framework and the reporting framework under Section 70. • For example, in the draft Reporting Breaches Code of Practice, under examples of amber breach situations, an example is given of benefit augmentations granted at the employer’s request to certain senior staff where the scheme is not well funded and either the trustees have not consulted the scheme actuary or have consulted him and received advice that the employer needs to provide additional funding for the augmentation but act contrary to that advice. • It is stated that it is probable that a breach of trust has taken place and that the Regulator would expect to receive a report. 	<p>Rejected.</p> <p>Whilst there may be some overlap between the requirements of sections 69 and 70, as identified by this respondent, section 69 and the associated regulations would require such an event to be notified to the Regulator. Once such a notification is made, the event would no longer be in the “amber” category for reporting breaches because the Regulator will already have been notified by the trustees. It will therefore not need to be reported</p>

Organisation	Draft Regulation	Comment	Response
		<ul style="list-style-type: none"> If the regulator would expect to receive a report on such events under section 70 it does not appear necessary for them to be included also as notifiable events under section 69. 	under section 70.
	2(1)(e)	<ul style="list-style-type: none"> This part of the regulations also makes reference to 'scheme actuary'. We have not had the opportunity to check that this term is defined in legislation and suggest this is reviewed. Elsewhere, typically the legislation just refers to actuary. 	Accepted.
	2(2)(i) and definition of "senior officer"	Why the definition needs to extend to someone who has been a director or partner within the previous twelve months, since reg 2(2)(i) is clear that notifiable events must relate to an offence committed while a senior officer. "within the previous twelve months" therefore appears to be redundant in the definition and can be deleted.	Accepted.
Society Of Pension Consultants	1 & 2(1)(b)	<p>Significant reduction in scheme membership:</p> <p>Need to cater for hybrid schemes. For example, there could be a significant switch of actives from db to dc provision within the same scheme, for future service provision, without the overall active membership changing. As drafted, this would not be a notifiable event, but should it be?</p> <p>The definition of "significant reduction" in reg 1 means, for example, that a scheme which most recently reported 96 active members and on the previous occasion scheme</p>	Definition of "significant reduction" and the related event have now been removed from the regulations.

Organisation	Draft Regulation	Comment	Response
		registrable information was provided had say, 120 active members, will find a notifiable event is triggered if the number of actives drops by a mere 7 (7.3%) in the period before the next occasion scheme registrable information is provided. That does not seem to me to accord with the usual construction put upon the word "significant".	
	2(1)(c)	<p>Changes in actuary, auditor or legal adviser:</p> <p>Presumably meant to cover, for example, situation of 2 changes in the scheme actuary within 12 months. However, draft regulation 2(1)(c) could be read as implying notification also required if there were 1 change in actuary and 1 change in auditor - that is if 2 or more changes in any key posts.</p> <p>In draft regulation 1(2), the definition of "key scheme posts" should include an explicit reference to section 47 of the pensions act 1995. As an ancillary point, this definition includes the term "actuary", but draft regulation 2(1)(e) refers to "scheme actuary".</p>	<p>Accepted.</p> <p>The drafting has been amended for clarification.</p>
	2(1)(d)	<p>The apparent alteration of the condoc proposal to make a scheme merger a notifiable event into any transfer of 10% of the liabilities as defined in draft reg 2 (1) (d) substantially increases the scope of reporting.</p> <p>In many smaller schemes, it could be triggered by the</p>	<p>Scheme mergers have no legal definition.</p> <p>Reference to "liabilities" has been changes to "assets".</p>

Organisation	Draft Regulation	Comment	Response
		<p>transfer of a single member's benefits - and not necessarily even those of a director or partner.</p> <p>What is now felt to be inadequate about the proposal concerning scheme mergers in the condoc?</p>	
	2(2)(f)	<ul style="list-style-type: none"> • Does "credit rating" need to be defined? • The requirement to notify "any change" in the employer's credit rating [draft reg 2 (2) (f)], even an upward change or a change of a single step, seems excessively cautious, and likely to trigger a large number of reports which turn out to present no significant risk at all. • The consultation document referred to a "significant change". However, draft regulation 2(2)(f) omits "significant". (i would also add to the list of "serious events" a (significant) downward change in credit rating.) 	<p>Accepted in part.</p> <p>Credit rating does not need to be defined.</p> <p>The change in credit rating will be limited by the Regulator's directions issued under section 69(1) of the Pensions Act 2004, such that only material downward changes are notifiable.</p>
	2(2)(h)	As in the case of the key scheme posts, not clear whether 1 change of chief executive plus 1 change of, say, finance director would trigger a notifiable event - draft regulation 2(2)(h) refers.	<p>Accepted.</p> <p>The drafting has been amended for clarification.</p>
	2(2)(i)	Because of the way "senior officer" is defined in draft reg 1, this catches events which might occur up to a year after the individual has ceased to be a director or partner and has also left the employer. Is it fair to assume that the	<p>Accepted.</p> <p>Definition of "senior officer" has been removed and regulation</p>

Organisation	Draft Regulation	Comment	Response
		<p>employer necessarily knows about his former employee or partner's activities, in such a case? Is that indeed the intention of the draft regs? Would it not be better either to say "... if the offence occurred while the individual was a director or partner", or to modify the definition of "senior officer" to remove the time extension?</p>	<p>redrafted to improve clarity.</p>
	N/A	<p>Other suggested notifiable events:</p> <p>Early retirement of a director or other senior officer:</p> <p>The SPC's response to the consultation document referred generally to early retirement under scheme rules, without any augmentation, possibly having a significant effect. This has still not been picked up in the draft regulations. The area of greatest danger here is, i believe, in relation to the early retirement of a director or senior officer. I suggest we take the opportunity of suggesting that draft regulation 2(1)(e) is appropriately amended so that any early retirement of a director or other senior officer is a notifiable event, i.e. Without the "augmentation" caveat.</p> <p>I would also suggest this is added to the list of "serious events".</p>	<p>Accepted in part.</p> <p>A further notifiable event has been added to the regulations relating to any granting of benefits of a value of more than 10% of the scheme assets.</p>
National Association Of Pension	2(1)(a)	<p>Does this make allowance for any agreement to settle a debt over a period of time?</p>	<p>Only compromises that will result in the debt not be paid in full are notifiable.</p>

Organisation	Draft Regulation	Comment	Response
Funds		Perhaps the reference to debt should be more specific, either s75 or schedule of contributions.	Rejected. The compromise of any debt owed to the scheme will reduce scheme assets and thus may increase risk to the members and the PPF.
	2(1)(b)	We do not see how a reduction in the active membership of the scheme by itself affects security.	Accepted in part. Event removed from regulations.
		We would prefer to replace this paragraph by a requirement to notify a decision to close the scheme to future accruals of benefit.	Rejected. Decision to close the scheme to future accruals must be reported to the regulator under the scheme register provisions.
	2(1)(d)	We believe that existing safeguards and duties on trustees and their advisers concerning scheme mergers and transfers are adequate in protecting security, particularly when taken with the rest of the regulator's powers. We would prefer to see scheme reconstructions such as demergers and <u>major</u> bulk transfers as notifiable events.	Rejected. A transfer of assets to or from a scheme could increase risk on members or PPF, particularly where one or both schemes is underfunded, and should therefore be notifiable.
A 10% trigger seems to us to be low. We would not support (d) (ii). We would also query the requirement to notify proposals rather than decisions as proposals are often not implemented. We would ask for a more streamlined procedure rather than have every scheme notify every proposal – perhaps notification before a decision is executed.		Accepted.	

Organisation	Draft Regulation	Comment	Response
	2(2)(a)	We have the same comment as in 2(1)(a)	See response to comments at 2(1)(a).
	2(2)(b)	We are not certain how a decision to leave the UK will affect scheme security and why it has to be notified.	This is identified as being indicative of a risk of a weakening of the employer's covenant.
	2(2)(c)	<p>We would not accept that reporting redundancies whether as a percentage or <i>de minimis</i> number should be a notifiable event as it is difficult to see how this by itself would affect the security of the scheme or the employer covenant.</p> <p>It may make more sense when taken with another event and even then a percentage trigger rather than a comparatively small number would be preferable.</p>	Event has been removed from the regulations.
	2(2)(f)	We would query why an improvement in the employer's credit rating or its acquisition should be notifiable.	<p>Accepted.</p> <p>The change in credit rating regulation has been amended to refer only to downward changes.</p>
	2(2)(g)	This is a very wide requirement and is potentially fraught with issues of commercial sensitivity. The anti-avoidance powers of the regulator ought to be sufficient. Bearing in mind the issues of market sensitivity, we would prefer that such an event only be notifiable if it is taken with other evidence.	<p>Rejected. The anti-avoidance powers are powers of restitution; the notifiable events framework is intended to provide some early warning of potential risk.</p> <p>Any information provided to the</p>

Organisation	Draft Regulation	Comment	Response
			regulator is given in complete confidence and any unauthorised disclosure is an offence.
	3	The definition of employer in (a) & (b) is very wide and it would be helpful to know if employers are meant to be responsible for notifying events relating to another employer if they are aware of them or solely relating to itself.	Regulation has been removed.
PricewaterhouseCoopers		<ul style="list-style-type: none"> • Notifiable events need to be consistent with information requirements for clearance procedures (a) for efficiency and (b) because otherwise it would raise questions on different rationale for which we see no real answer. • In this respect, notifiable events need to include the transaction type events being considered in clearance procedures. • To the extent transaction type events are to be brought in at a later stage, DWP should state this intention when issuing the approved notifiable events regulations in order to manage the processes and expectations of British industry and provide better protection against avoidance in the short-term. 	Accepted in part. DWP is considering how the “transaction type” events may be included in Regulations.