

# The Irish Association of Pension Funds



**Trustee Network**  
'Funding Proposals'

# Funding Proposals – Legal Perspective



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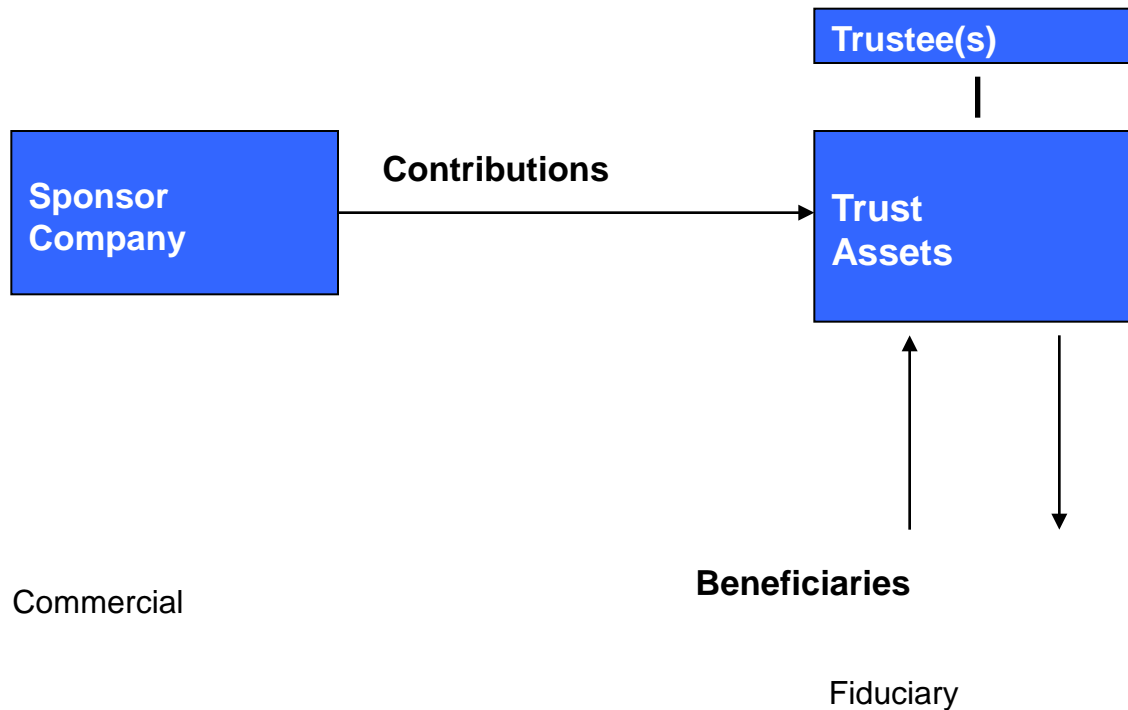
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# Where do you stand as Trustees?

- Statutory duty to submit a funding proposal by 31 December 2010 (or earlier)
  - Check your date
- Funding Proposal must
  - In opinion of actuary, be reasonably expected to satisfy funding standard at next AFC date/extended date
  - Be signed by employer (principal employer) signifying agreement
- Two people to satisfy
  - Actuary
  - Employer
- Failure to satisfy => Breach of Pensions Act



# Two Key Relationships





# Understand your bargaining position with employer

## 1. Trust Deed and Rules

### What does contribution rule say?

- Do you control the determination of the rate?
- Is employer consent/consultation required?
- What is the actuary's role?
- What is the basis of the calculation?



# Bargaining Position – other issues

## **What are the employer's termination powers?**

- Can he terminate without notice?
- What level of notice, if not?
- Can you terminate?

## **Are you indemnified?**

- Indemnity from employer?
- Indemnity from fund?
- Must employer pay expenses separately?



# Understand your bargaining position

## 2. Financial Position of Employer

- Can he afford to pay, even if you can demand?
- What is his long term commitment to the scheme?
  - Will he confirm it?
- What protections do you have during any extended funding period?
  - Notice period to terminate
  - Accelerated payment rights
  - Contingent assets



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# Who is leading the process?

Are Scheme amendments required?

- Employer proposing and negotiating this?
- Employee consent/collective agreement?
- Consultation process at a minimum?



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# Position of Beneficiaries

3 main categories

- Actives
- Deferreds
- Pensioners

Have equal regard to the interests of each

Generally, future accrual v accrued rights is the issue



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# Position of Beneficiaries

- Remember ranking of each class of beneficiaries in a wind up
  - AVCs
  - Pensioners – current benefits
  - Actives and deferreds
  - Pension increases
- What is solvency position of scheme and employer ability to pay?



# Position of Beneficiaries

- Pensions Board may direct the Trustees of a scheme to reduce the benefits payable to current employees *or* deferred members *and* to reduce future increases to pension benefits
  
- Effectively triggered on application by Trustees where:
  - fail to submit AFC
  - submit negative AFC (with/without funding proposal)
  - Pensions Board consents to Section 50A amendment
  
- Benefit reduction must in opinion of actuary return scheme to MFS immediately or over period of the funding proposal – to be confirmed by actuary in S.50 application form



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# Section 50 – How does it work?

## The Benefits

- Achieves solvency by reduction in accrued benefits
- Reduction is pursuant to statutory direction
- The procedure is demanding (but that protects you)

## The Difficulties

- You must apply for it
- In practice, employer best placed to initiate
- Investment assumption restrictions may eliminate gains

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