

PRAG

Making the annual declaration

A guide for trustees and managers of stakeholder pension schemes

This guidance has been prepared by a working party set up by the Pensions Research Accountants Group (PRAG) and endorsed by the Association of British Insurers (ABI) and the Occupational Pensions Regulatory Authority (Opra).

Its purpose is to provide guidance to the trustees or manager of a stakeholder pension scheme on the requirement to make an annual declaration about the scheme. It covers the statements which the trustees or manager are required to make, the processes undertaken in order to be able to make those statements, and the documentation and evidence they should provide to their reporting accountant. Examples of the types of processes the trustees or manager should undertake are provided, along with the types of documentation which might be used as evidence and an example declaration. The guidance assumes that stakeholder pension scheme trustees and managers are aware of related documentation on such schemes which is listed in Appendix 7.

It is likely that the working party will review the guidance following experiences from the first reporting year. Accordingly, any feedback would be welcome and may be addressed either to the chairman of the working party, Paul Brown, c/o Deloitte & Touche, Stonecutter Court, Stonecutter Street, London EC4A 4TR, or directly to PRAG via its website, www.prag.org.uk.

Neither PRAG, the ABI, Opra nor the members of the working party nor any committee thereof, can accept any responsibility or liability whatsoever (whether in respect of negligence or otherwise) to any stakeholder pension scheme trustee or manager or member or third party, wherever situate, as a result of anything contained in or omitted from this guidance nor the consequences of reliance or otherwise on the content of this publication. Neither should this guidance be taken as restricting Opra's discretion in dealing with specific cases.

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The regulatory requirements

- 1 The Stakeholder Pension Schemes Regulations 2000 (S.I. 2000 No.1403), as amended by The Stakeholder Pension Schemes (Amendment No2) Regulations (S.I. 2002 No 2098), www.legislation.hmso.gov.uk/si/si2002/20022098.htm, require the trustees or managers of a stakeholder pension scheme to make statements in accordance with regulation 12¹. These are to be made in the form of a declaration and may be summarised as set out below.

Content of the declaration

- 2 The content of the declaration set out in regulation 12 is as follows.
 - A statement that, in the opinion of the trustees or managers, there are systems and controls in place which provide reasonable assurance (regulation 12(5)(a)) that:-
 - i. regulations 13 and 14 have been complied with (these regulations impose limits on the amount of charges and deductions which may be made, with particular reference to the 1/365th of 1% per day charge cap)²;
 - ii. all asset transactions have occurred at fair market value;
 - iii. the value of members' rights has been determined in accordance with the instruments establishing the scheme; and
 - iv. adequate records have been maintained for the purpose of providing the members' annual statements as required under regulation 18(2).
 - A statement describing the process that the trustees or manager have undertaken to arrive at the opinion expressed above (regulation 12(5)(b)).
 - A statement that, in the opinion of the trustees or manager, there are systems and controls in place which provide reasonable assurance that the scheme has complied with the other conditions of section 1(1) of the Welfare Reform and Pensions Act 1999³ (regulation 12(5)(c)).
 - A statement which explains that:-
 - regulations 13 and 14 impose limits on the amount of charges and deductions which may be made by a stakeholder pension scheme and on the manner in which charges may be made by such a scheme;
 - regulation 18(2) requires such a scheme to provide an annual benefit statement to each member (regulation 12(5)(d)).
- 3 Regulation 18(5) lists the information to be included in the annual benefit statement.
- 4 An example of a trustees' or manager's declaration is included at Appendix 3.

¹ Reproduced as part of Appendix 1 to this guide

² See Opra draft Note 11 'Welfare Reform and Pensions Act 1999 Stakeholder pension scheme charges'

³ Appendix 2

Reporting periods

- 5 The first reporting period covered by the declaration must be no more than 12 months from the scheme's date of registration. The second and subsequent reports must cover a period of no more than 12 months from the end of the last reporting period. There are transitional arrangements for the first year's declaration – see paragraph 6 below.
- 6 Where a scheme is registered on or before 6th April 2001, the first reporting period is 6th April 2001 to 5th April 2002, i.e. the trustees' or manager's declaration is required to cover one year. For the first year only, transitional provisions have extended the time limit for the production of the annual declaration and the reporting accountant's report thereon until 31st December 2002. Where the reporting period ends on or before 30th September 2002, the trustees or manager and the reporting accountant must report on or before 31st December 2002 or by the end of 6 months beginning with the reporting date, whichever is the later.
- 7 Reporting periods may not be longer than one year. The trustees or manager may chose a shorter reporting period.

Responsibilities and signing of the declaration

- 8 The declaration must be made by the trustees or manager of the scheme.

Trust schemes

- 9 Where the scheme is established under trust the trustees are responsible for making and signing the declaration. PRAG recommends that the trustees acknowledge their responsibility by agreeing it in a trustees' meeting and by at least two of the trustees signing the declaration on behalf of all the trustees. In the case of a corporate trustee, at least two directors of the corporate trustee would sign.

Contract schemes

- 10 Under Regulation 2, the manager of a scheme established under contract is a person (usually a limited company), who is mentioned in section 632 (1) of the Income and Corporation Taxes Act or the authorised director of an open-ended investment company. The manager is responsible for making and signing the annual declaration. PRAG recommends that the annual declaration should be agreed in a meeting of the manager's board and signed by at least two directors on behalf of the board.

The reporting accountants' requirements

- 11 Regulation 12(2)(b) requires the trustees or manager to obtain from the scheme's reporting accountant a statement as follows:-
 - the reporting accountant has been provided with documentation to demonstrate that the process described by the trustees or manager in their statement required under regulation 12 (5)(b) has taken place (regulation 12(7)(a)); and
 - nothing has come to the attention of the reporting accountant that is inconsistent with the statements described above in paragraph 2 (regulation 12(7)(b)).
- 12 If the reporting accountant is unable to make the statement in paragraph 11 above, then he is required to explain why he cannot do so (regulation 12(2)(b)).

- 13 Guidance for reporting accountants is set out in the Auditing Practice Board's (APB) Bulletin 2002/3, 'Guidance for reporting accountants of stakeholder pension schemes in the United Kingdom'. The Bulletin sets out the statutory requirements and reporting accountants' procedures and gives guidance on the preparation and content of their statements. It also covers reporting to regulators and letters of comment. The appendices provide an example of a reporting accountant's report, including the statement, and guidance on matters to be included in the engagement letter.
- 14 A copy of the guidance is available on the publications and reports section of the APB website, www.accountancyfoundation.com.

Appointment and resignation of reporting accountant

- 15 Reporting accountants must be eligible to act as a company auditor and satisfy themselves under the ethical guidance of their professional bodies that they are independent.
- 16 The regulatory requirements for the appointment and resignation of reporting accountants are set out in regulation 11. Example letters of appointment, acceptance and resignation are set out as Appendices 4 and 5 of this guidance. Reporting accountants and their clients have an engagement letter separate from the appointment letter to deal with the contractual terms of the engagement, including the work to be carried out and the fees. Suggested terms relating to work on stakeholder schemes are set out in the APB Bulletin mentioned in paragraphs 13 and 14 above.

Use of the declaration

- 17 It is a condition of registration that the scheme should comply with section 1 of The Welfare Reform and Pensions Act 1999. Opra will expect sight of documentation it may require to satisfy itself that the scheme is being properly run. In particular, Opra expects to receive from scheme trustees and managers:-

- a copy of the annual declaration made by the trustees or manager, together with the reporting accountant's statement;
- a copy of the reporting accountant's letter of comment, or written confirmation that no letter is to be issued, which has been submitted to the scheme trustees or manager; and
- a list of the documentation provided to the reporting accountant by the trustees or manager in accordance with regulation 12(6).

This information is to assist Opra in meeting its regulatory responsibilities. It has indicated that it is likely to pay particular attention to a scheme where the declaration or statement is qualified, or where material weaknesses in internal controls come to its attention. Paragraphs 42-45 cover such circumstances.

- 18 The trustees or manager must provide the declaration and the reporting accountant's statement to all members and beneficiaries of the scheme on request in accordance with regulation 12(8).

Dormant schemes and schemes winding up

- 19 There are no exemptions for dormant schemes and those winding up. If a scheme has been registered but no contributions have been received, if the scheme is closed to new business, or if the scheme is in the process of winding up, the legislation still requires the trustees or manager to provide their declaration. Opra expects the trustees or manager of

such schemes to make the annual declaration within the usual time frames (see paragraphs 5 to 7). Schemes which have been removed from the register of stakeholder pension schemes will also have to produce an annual declaration covering any period when the scheme was registered during the reporting period.

The preparation of the declaration and statements

- 20 The declaration and the statements themselves are straightforward; underpinning them, however, is the process the trustees or manager have undertaken to give the opinion expressed in their statement made under regulation 12(5)(a). Furthermore, a description of this process needs to be provided in accordance with regulation 12(5)(b). Documents to demonstrate the process undertaken will also need to be provided to the reporting accountant under regulation 12(6). The statement required under regulation 12(5)(b) should include a description from the trustees or manager of the processes undertaken, which should cover each of the four components of the statement that they have to make under regulation 12 (5)(a). It should be noted that the description to be given is reflective of the process undertaken and not the underlying controls.
- 21 The process undertaken is likely to comprise a number of aspects and the following matters should be considered by trustees or managers when determining the process itself and the description thereof.

Background to the requirements

- 22 In preparing their statutory declaration, trustees and managers should bear in mind that the legislation was framed to take account of the Turnbull approach required of directors of listed companies. The Turnbull guidance published by the Institute of Chartered Accountants in England & Wales (ICAEW), *Internal Control: Guidance for Directors on the Combined Code*, www.icaew.co.uk/viewer/index.cfm?AUB=TB21_6342 states that reviewing the effectiveness of internal control is an essential part of the board's responsibilities. It needs to form its own view on effectiveness after due and careful enquiry based on the information and assurances provided to it. Management is accountable to the board for monitoring the system of internal control and for providing assurance that it has done so.
- 23 The guidance makes it clear that the board should regularly receive and review reports on internal control and it should define the process to be adopted for its review, which should include the scope and frequency of the reports it receives and the process for the annual assessment, such that it will be provided with sound, appropriately documented support for its statement on internal control in the annual report and accounts.
- 24 In making their annual declaration, the trustees or manager should therefore adopt a similar approach in the manner described in the following paragraphs.

Identifying the risks and controls

- 25 The process undertaken by the trustees or manager will be a three-step one, comprising :-
- identification of the significant risks underlying each of the four specific areas of the legislation required to be covered in the stakeholder provider's declaration (i.e. in relation to charges, transactions at fair market value, the value of members' rights and the maintenance of adequate records (see paragraph 2));
 - consideration of and implementation of controls to address those risks; and

- monitoring of the operational processes to obtain evidence that the controls are operating effectively.
- 26 In identifying significant risks and controls, the trustees or manager may wish to consider the PRAG checklist⁴ as reference material.
- 27 Reports from management to the trustees or manager's board on the stakeholder pension scheme's systems and controls should provide a balanced assessment of the significant risks (as identified above) and the effectiveness of the internal controls in managing those risks. This also entails having effective channels of internal communication, with clearly defined responsibilities, so that trustees and managers are kept properly informed.
- 28 Effective, regular monitoring of the controls should be embedded in the operations of the scheme. However, the declaration has to be made annually, so there must be an annual assessment of the scheme's specific systems and controls. Year on year, the trustees or manager should address:-
- the changes since the previous year in the nature and extent of the major risks;
 - the scope and quality of management's ongoing monitoring of risks and the internal control systems and the work of internal audit and the other providers of assurance; and
 - the extent and frequency of the communication of the results of the monitoring to the trustees or manager's board which enables them to build up a cumulative assessment of the state of control in the organisation and the effectiveness with which the risk is being managed.

Review processes

- 29 Examples of the types of review processes that the trustees or manager may rely on in order to monitor their control objectives and controls include:-
- formalised reporting of the effectiveness of controls from management to the trustees or manager;
 - internal audit reviews; these may, for example, be a general audit of the company, an audit of the IT controls (see below); or specific stakeholder audit, such as a tailored internal audit review of the stakeholder scheme;
 - internal and external actuarial assessments and reviews of unitisation and pricing;
 - compliance department reviews and periodic checks;
 - regular review of IT controls; and
 - discussions with and obtaining reports from third parties eg FRAG 21/94 reports (see paragraph 37 below) and review of contractual arrangements with third parties.
- 30 The trustees or manager will need to establish that all aspects of the scheme relevant to their declaration have been considered before being able to come to their opinion on the scheme's systems and controls. For example, if several business units carry out a function

⁴ PRAG guidance on the internal controls 'Stakeholder pension schemes – a controls checklist' is available on the PRAG website, www.prag.org.uk.

for different members of the scheme, they will wish to see that the functions used by each business unit have been considered.

Procedures common to other products

31 Some established providers have introduced stakeholder schemes to augment an existing large range of financial products. Such providers may use the same systems and controls for stakeholder schemes as they do for other pension products, but with specific control processes for the features of stakeholder pension schemes, in particular the cap on charges. The fact that the processes may well cover other products in addition to the stakeholder scheme does not invalidate them in respect of the stakeholder trustees' or manager's declaration.

Examples of the types of documentation to support the statement

32 Trustees and managers have to produce a comprehensive package of documentation specific and relevant to the objectives of the four statements they are required to make to support their declaration, including the documentation of their overall approach as to how they managed the process of the annual assessment.

33 The examination of the systems and controls for a stakeholder scheme produces a variety of documentation which the trustees or manager can use to underpin their statement and make available to the reporting accountant. The reporting accountant will expect to see appropriate documentation evidencing the process. This may include:-

- documentation of the process established by the trustees or manager;
- internal audit reports;
- relevant minutes of the meetings of the trustees or manager, and of other committees (for example audit and risk management committees) together with supporting papers presented at those meetings;
- management information reports which monitor business processing, including complaints and exception reports, against objectives;
- service level agreements and contracts with third parties and evidence from those third parties of compliance, including internal control reports from investment managers and custodians ('FRAG 21/94 reports' – see paragraph 37 below);
- reports commissioned from independent third parties which relate specifically to the trustees' or manager's declaration ;
- specific and relevant compliance department reports ;
- relevant correspondence with regulators, particularly Opra and the FSA.

34 As schemes vary considerably in structure and organisation, there will inevitably be differences in the types of documentation presented. It is important that the documentation and evidence show that senior management regularly review their systems and controls and that they direct remedial action as appropriate.

35 Finally, a very important part of the process will be access to the relevant staff and to supporting documentation. The reporting accountant will wish to discuss the processes and the evidence as part of their work.

Outsourcing

36 A number of trustees and managers have contracts with third parties to provide administration and/or investment services to their scheme. The trustees or manager remain responsible for their compliance statement, notwithstanding such delegation. Therefore they will need to consider their process for obtaining and considering the documentation and information they require from the third party about the third party's systems and controls. They will need this documentation and information in order to arrive at their opinion and describe the process as required. The trustees or manager will need to consider these requirements when setting up their outsourced arrangements and ensure that the quality of documentation to support their process is appropriate.

Control reports from the third parties

37 It is common for investment managers and custodians to provide 'FRAG 21/94' reports on the control environment to their third party clients. FRAG 21/94 was originally issued in 1994 by the ICAEW to provide a framework for firms to respond to requests from auditors seeking comfort on internal controls in place at custodians. Although primarily intended for the reporting accountants of custodians, the FRAG (updated in 1997 as FRAG 21/94 revised) states that the framework may be appropriate for reporting on related activities, such as investment management.

38 Such reports generally cover the control environment and include some testing by the auditors on controls. These may be used by stakeholder managers where they are using third party investment managers. However, it must be stressed that these reports apply to the organisation as a whole and not just to the stakeholder funds under management. It may be difficult to relate the FRAG 21/94 work to the statements required by 12(5)(a). Trustees or managers may need the FRAG 21/94 reports to be tailored to their specific needs. *Specific requests for documentation*

39 Schemes may wish to make specific requests of their third party providers to elicit particular facts and to obtain relevant documentation. Since stakeholder schemes vary considerably in the way they employ third parties, such requests will need to be designed to reflect the particular circumstances of the scheme. Clearly the topics to be covered would be those relevant to the statements which the trustees or manager have to make in their declaration, though for contractual reasons these may be extended. Some trustees and managers may require representations in the form of a letter, or periodic confirmations.

With profits arrangements

40 Regulation 15 requires insurers of with-profits funds to provide to the trustees or manager any certificates from the actuary to the company that are necessary to allow the trustee or manager to make their declaration. Regulation 15 (4) requires the appointed actuary to the insurer to provide a certificate to the trustees or manager which includes statements in respect of regulations 13 and 14 and compliance with the terms of the contract.

41 Where the appointed actuary provides such certificates, they provide appropriate documentation for the purposes of the trustees' or manager's declaration. An example certificate is given at Appendix 6.

Dealing with non-compliance

42 It is possible that the trustees or manager may become aware of breaches of the regulations during the course of the year. Opra expects that the trustees or manager to voluntarily inform them if they experience problems in running their scheme and they have reasonable cause to believe that those problems are of material significance in the exercise by Opra of its functions under the legislation., such breaches being notified as they occur.

43 The issue then arises of whether the trustees or manager are able to make the statements required in the declaration or whether they need to qualify them in some way. In considering whether to qualify their declaration, trustees or managers may consider the significance of the breach in the light of, for example:-

- whether their internal systems identified it or whether it was notified by a third party,
- whether or not it was corrected ;
- whether it was indicative of a systemic problem; and
- whether any member has suffered loss as a result.

The materiality of the breach in monetary terms would not be relevant to a consideration of its significance. Where breaches have occurred which were identified by the scheme's own control systems, which were not indicative of a systemic problem, and which were corrected subsequently such that there was no monetary impact on any member or beneficiary of the scheme, then they are unlikely to be significant.

44 Any breaches need to be discussed with the reporting accountant because if there are matters requiring qualification it is important that they are included in the declaration rather than in the report issued by the reporting accountant. If the trustees or manager were to issue an unqualified declaration and the reporting accountant were to disagree, the reporting accountant would make clear his judgment in his own statement.

45 Reporting accountants would qualify their statement if :-

- they have not been provided with the documentation that supports the trustees' or manager's description of the process;
- they are aware of matters that are inconsistent with the trustees' or manager's description of the process, made in accordance with Regulation 12(5)(b); or
- they are aware of matters which call into question the credibility of the statement made by the trustees or managers in accordance with regulation 12(5)(a). These matters are likely to be connected with significant internal control weaknesses, or with breaches of the legislation referred to in regulation 12(5)(a).

Appendices

Appendix 1

Regulation 12 of the Stakeholder Pension Scheme Regulations 2000, as amended

12 Requirement for declaration by trustees or manager

(1) For the purposes of section 1(1)(b), it shall be a condition of a scheme being a stakeholder pension scheme that the requirements of this regulation are complied with.

(2) Subject to paragraph (11), the trustees or manager of the scheme shall, no later than the end of 6 months beginning with each reporting date

(a) make a declaration in writing signed by the trustees or manager containing the statements set out in paragraph (5) in relation to the reporting period or, in so far as they are unable to make those statements, containing a statement explaining why they are unable to do so; and

(b) obtain from the reporting accountant appointed by virtue of regulation 11 the statement specified in paragraph (7) or, in so far as the reporting accountant is unable to make that statement, a statement from the reporting accountant explaining why he is unable to do so.

(3) Subject to paragraph (10), in this regulation "reporting date" means

(a) in the case of the first reporting date, a date chosen by the trustees or manager that is no later than the last day of the period of 12 months beginning with the date on which the scheme is registered under section 2 of the Act; and

(b) in the case of each subsequent reporting date, a date chosen by the trustees or manager that is no later than the last day of the period of 12 months beginning with the date immediately following the previous reporting date.

(4) Subject to paragraph (10), in this regulation "reporting period" means

(a) in the case of the first reporting period, the period beginning on the date of registration of the scheme under section 2 of the Act and ending on and including the first reporting date;

(b) in the case of subsequent reporting periods, the period beginning on the date immediately following the previous reporting date and ending on and including the reporting date.

(5) The statements specified in paragraph (2)(a) shall be

(a) a statement that in the opinion of the trustees or manager there are systems and controls in place which provide reasonable assurance that

(i) regulations 13 and 14 have been complied with in relation to the scheme;

(ii) transactions for the purposes of the scheme in securities, property or other assets have occurred at a fair market value;

(iii) the value of members' rights has been determined in accordance with the provisions in the instruments establishing the scheme; and

(iv) adequate records have been maintained for the purposes of providing to members the statement required by regulation 18(2);

(b) a statement describing the process that the trustees or manager have or has undertaken in order to arrive at the opinion expressed in the statement described in paragraph (5)(a);

(c) a statement that in the opinion of the trustees or manager there are systems and controls in place which provide reasonable assurance that the scheme has complied with the conditions in section 1(1) of the Act, apart from those conditions that are covered by the statement in paragraph (5)(a); and

(d) a statement which explains that

(i) regulations 13 and 14 impose limits on the amount of charges and deductions which may be made by a stakeholder pension scheme and on the manner in which charges may be made by such a scheme; and

(ii) regulation 18(2) requires a stakeholder pension scheme to provide an annual benefit statement to each member.

(6) The trustees or manager shall provide the reporting accountant with documentation to demonstrate that the process described in the statement in paragraph (5)(b) has taken place.

(7) The statement specified in paragraph (2)(b) shall be a statement that

(a) the reporting accountant has been provided with documentation as required by paragraph (6); and

(b) nothing has come to the attention of the reporting accountant that is inconsistent with the statement made in paragraph (5)(b).

(8) The trustees or manager shall make available to members and beneficiaries of the scheme on request the declaration made by the trustees or manager and the statement obtained from the reporting accountant in accordance with paragraph (2).

(9) If the statement to be obtained by the trustees or manager under paragraph (2)(b) is obtained from the reporting accountant acting as such while ineligible in contravention of regulation 11(7A)(a)

(a) the trustees or manager shall not be regarded as having complied with paragraph (2)(b); and

(b) for the purposes of paragraph (8), the statement from the reporting accountant shall not be regarded as obtained in accordance with paragraph (2)(b).

(10) Where a scheme is registered under section 2 of the Act on or before 6th April 2001

(a) the first reporting date shall be 5th April 2002; and

(b) the first reporting period shall be the period beginning on and including 6th April 2001 and ending on and including 5th April 2002.

(11) Where the reporting date is on or before 30th September 2002 the trustees or manager of the scheme shall make the declaration specified in paragraph (2)(a) and obtain the statement specified in paragraph (2)(b) from the reporting accountant

(a) on or before 31st December 2002; or

(b) by the end of 6 months beginning with the reporting date,

whichever is later.

Appendix 2

Section 1 of the Welfare Reform and Pensions Act 1999

1 Meaning of "stakeholder pension scheme"

(1) A pension scheme is a stakeholder pension scheme for the purposes of this Part if it is registered as such a scheme under section 2 and each of the following is fulfilled, namely

- (a) the conditions set out in subsections (2) to (9); and
- (b) such other conditions as may be prescribed.

(2) The first condition is that the scheme is established under a trust or in such other way as may be prescribed.

(3) The second condition is that the provisions made by the instruments establishing the scheme comply with such requirements as may be prescribed.

(4) The third condition is that, subject to such exceptions as may be prescribed, the benefits provided by the scheme are money purchase benefits within the meaning given by section 181 of the Pension Schemes Act 1993 ("the 1993 Act").

(5) The fourth condition is that the scheme complies with such requirements as may be prescribed as regards the extent to which, and the circumstances in which

- (a) any payment made to the scheme by or on behalf of a member of the scheme,
- (b) any income or capital gain arising from the investment of such a payment, or
- (c) the value of rights under the scheme,

may be used to defray the administrative expenses of the scheme, to pay commission or in any other way which does not result in the provision of benefits for or in respect of members.

(6) The fifth condition is that the scheme complies with such of the requirements of regulations under section 113 of the 1993 Act (disclosure of information about schemes to members etc) as are applicable to it.

(7) The sixth condition is that, subject to such minimum contribution levels and other restrictions as may be prescribed, members of the scheme may make such contributions to the scheme as they think appropriate.

(8) The seventh condition is that, except in so far as is necessary to ensure that the scheme has tax-exemption or tax-approval (within the meaning of the 1993 Act), the scheme accepts transfer payments in respect of members' rights under

- (a) other pension schemes;
- (b) contracts and schemes approved under Chapter III of Part XIV of the Income and Corporation Taxes Act 1988 (retirement annuity contracts);
- (c) annuities and insurance policies purchased or transferred for the purpose of giving effect to rights under pension schemes; and

(d) annuities purchased or entered into for the purpose of discharging liability in respect of pension credits under section 29(1)(b) or under corresponding Northern Ireland legislation.

(9)The eighth condition is that the scheme has such exemption or approval as is mentioned in subsection (8).

Appendix 3

Example declaration

ABC Limited Stakeholder Pension Scheme

Statutory Declaration made under Regulation 12 of The Stakeholder Pension Schemes Regulations 2000 (as amended) for the year ended 5 April 2002

Responsibilities of the Trustees/Manager, [insert trustees/manager's name(s)]

We are responsible for the design, implementation and maintenance of systems and controls of the ABC Limited Stakeholder Pension Scheme (“the Scheme”) such that they provide us with reasonable assurance that the following declaration can be made. We are also responsible for the preparation of this declaration including the statement required under regulation 12(5)(b) describing the process which we have undertaken to arrive at our opinion.

Declaration of the Trustees/Manager

1. In relation to the statements required under regulation 12 (5)(a), in our opinion, during year ended 5 April 2002, [except as set out below in paragraph 6⁵] systems and controls were in place which provide reasonable assurance that:-

- i. Regulations 13 and 14 have been complied with in relation to the scheme;
- ii. transactions for the purpose of the Scheme in securities, property and other assets have occurred at fair market value;
- iii. the value of member's rights has been determined in accordance with the provisions of the instruments establishing the scheme; and
- iv. adequate records have been maintained for the purpose of providing member's annual statements in accordance with Regulation 18(2).

2. In accordance with regulation 12 (5)(b) a statement has been provided on page [x] which describes the process we have undertaken to support the statements above made under regulation 12 (5)(a). The statement forms part of this declaration.

3. In our opinion, there are systems and controls in place which provide reasonable assurance that the scheme has complied with the other conditions in section 1(1) of the Welfare Reform and Pensions Act 1999.

4. Regulations 13 and 14 of the Stakeholder Pension Scheme Regulations impose limits on the amount of charges and deductions which may be made by a stakeholder pension scheme and on the manner in which charges may be made by such a scheme. This means that, apart from certain permitted costs, we are not allowed by law to charge members more than 1/365th of 1% of their fund for each day that they hold assets in the scheme for the expenses of running the scheme.

5. Regulation 18(2) requires a stakeholder pension scheme to provide a comprehensive annual benefit statement to each member. Each year we send the members a statement which shows them, among other details, the amounts of their own and their employer's

⁵ Insert here the reference to any qualification.

contributions and other payments into the fund, including the dates on which they were received, and the value of their fund as at the last day of the statement year.

6. *[This paragraph should be inserted where a matter is of sufficient significance.]*

[Example of wording where the statement is qualified, see paragraphs 42-44]

From 6 April 2001 to 30 June 2001, the agreed charges to members set out in the contract with the investment manager in respect of the UK Equities Pooled Fund were exceeded, the amount charged being 0.75% instead of the 0.5% agreed. As a result, certain scheme members who invested in that pooled fund were for that period, taking into account the general administration charges levied by us as managers, charged more than the 1% permitted by the legislation. This was a breach of regulation 14 and also meant that for that period, the value of those member's rights was not determined in accordance with the provisions of the instruments establishing the scheme.

As a result of the identification of this error, the members concerned have been appropriately compensated and procedures introduced to prevent a recurrence.

Signed on behalf of the trustees/manager of the ABC Ltd Stakeholder Pension Scheme

Director..... Director.....

Date.....

The process undertaken to arrive at the opinion expressed in (1) above

Note that the process undertaken will vary from scheme to scheme depending on the process the trustees or managers have undertaken .

We are responsible for the general framework of control within our business and receive regular reports covering the computerised processes across the organisation, the compliance activities and all operational aspects. To ensure that the particular requirements of the Stakeholder Pension Schemes Regulations are met, we have identified the significant risks in the specific areas of the legislation required to be covered in our declaration, implemented controls to address those risks and received and reviewed reports on the operation of those controls, taking actions where appropriate. The specific steps in the process we undertook during the year to give our opinion are described below.

Compliance with regulations 13 and 14

As noted above, these regulations apply restrictions on the amounts we are allowed to charge scheme members. Over the year, we have undertaken the following.

- At the inception of the scheme we reviewed the charging arrangements of our internally managed funds and reviewed our contracts with the scheme's external investment managers to limit the level of management charges to be levied.
- We set up the controls we considered to be necessary to achieve compliance and monitored those controls, receiving regular reports from the managers and where necessary, introducing additional controls.

- We instructed internal audit to review the controls. Internal audit did not detect any material weaknesses in the systems.
- We commissioned an independent firm of actuaries to confirm that the charges were calculated in accordance with the investment management agreements and with the legislation.

Processes to provide reasonable assurance that the scheme's transactions occurred at fair market value

Our process was directed to considering the risks of investment transactions, the pricing of unitised funds and the security of the assets.

- In respect of the investments managed by ABC plc, we reviewed and monitored the controls over investment transactions, the safeguarding of assets, the receipt of investment income and the pricing of unitised funds.
- The independent firm of actuaries referred to above reviewed the pricing of unitised funds to confirm that the procedures and controls were operating such that transactions reflected fair market value.
- Internal audit undertook a specific review of the pricing and security of the underlying investments in the unitised funds in which stakeholder monies had been invested and confirmed that the data used was independent, reliable and accurate.
- We obtained and reviewed the external investment managers' and the custodian's reports on their internal control systems and obtained representations from the investment managers in relation to the pooled funds in which our scheme members invest on their process of valuation of underlying securities, unitisation and abstraction of charges.

Processes to provide reasonable assurance that the members' rights have been determined in accordance with the provision of the instruments establishing the scheme

Members' rights are set out in the rules of the scheme and cover matters such as timely investment of contributions, choices of investment funds and charges.

- We received and reviewed monthly cash flow reports to confirm that the controls over timely investment of monies were operating effectively.
- As part of their work, internal audit reviewed the system of allocation of members' contributions and investments to their personal records and detected no material weaknesses in the system.
- As noted above, we undertook a number of steps to give reasonable assurance that charges did not exceed the rate of 0.85% as set out in the scheme rules.

Process to give reasonable assurance that the scheme has maintained adequate records for the purpose of providing annual benefit statements to members

The Stakeholder Pension Scheme Regulations require extensive details in the annual benefit statements. In this first year of operation, we have undertaken a number of steps to maintain the required records.

- We reviewed the requirements, liaising with our compliance department, to structure the information and the procedures we considered necessary to maintain the level of details required for each scheme member. We implemented controls to achieve compliance.
- We instructed internal audit to review the controls and they confirmed that member records were set up promptly and that the data being recorded was complete and accurate and would meet regulatory requirements in respect of the annual statement.

Appendix 4

Example letters of appointment and acceptance for the reporting accountant

Appointment letter, reporting accountant

To be typed on the stakeholder pension scheme trustees/manager's headed notepaper and addressed to the firm of reporting accountants

Notice of Appointment of Reporting Accountant to the [insert name] Stakeholder Pension Scheme

In accordance with The Stakeholder Pension Schemes Regulations 2000 (as amended), we hereby give you written notice of your appointment as reporting accountant of the [insert full name] Stakeholder Pension Scheme with effect from [date]. Your appointment is initially in respect of the scheme year ending [date].

In connection with your appointment as reporting accountant, you should take instructions from [name and position] and you should report to [name and position].

We confirm that the trustees/manager of the scheme are not aware of any circumstances which would render [name of reporting accountant] ineligible from acting as reporting accountant to the scheme.

We should be grateful if you would write to acknowledge receipt of this notice of appointment and your acceptance of this appointment as reporting accountant within one month of the date of this letter.

Yours faithfully

For and on behalf of the Trustees/Manager of the [insert name] Stakeholder Pension Scheme

Stakeholder reporting accountant acceptance letter

To be typed on the reporting accountant firm's headed notepaper and addressed to the scheme trustees/manager

Dear Sirs

Appointment as reporting accountant to the [insert name] Stakeholder Pension Scheme

We write to acknowledge receipt of your notice of appointment dated [date] [and hereby accept the appointment] as reporting accountants in accordance with the Stakeholder Pension Schemes Regulations 2000 (as amended).

Immediately we become aware of any potential conflict of interest to which we are subject in relation to the scheme, we undertake to notify you by informing [name and title], the nominated person to whom we are required to report under the notice of appointment.

Yours faithfully

Appendix 5

Example resignation letters of reporting accountants

To be typed on the reporting accountant firm's headed notepaper and addressed to the scheme trustees/manager

XYZ Stakeholder Pension Scheme

We hereby give notice of our resignation as auditors/reporting accountants of the [XYZ Stakeholder Pension Scheme] with effect from [date]. As required by the Stakeholder Pensions Schemes Regulations 2000 (as amended), we confirm that we know of no circumstances connected with our resignation which, in our opinion, significantly affect the interests of the members or prospective members of, or beneficiaries under, the scheme.

Appendix 6

Certificate from the appointed actuary

ABC Limited Stakeholder Pension Scheme

Certificate from the Appointed Actuary to the XYZ Insurance Company

Purpose of the certificate

Where a stakeholder pension scheme invests any assets in a with profits fund the Stakeholder Pension Schemes Regulations 2000 require the Appointed Actuary to the insurance company to provide a certificate to the trustee or manager of the stakeholder pension scheme.

Certificate from the Appointed Actuary

For the year 6 April 2001 to 5 April 2002, I certify that XYZ Assurance Company had, in relation to its Stakeholder With Profits Fund, systems and controls which are of a design such that, and used such that:

- proper accounting records were maintained for all income and expenditure relevant to regulations 13 and 14 of the Stakeholder Pension Schemes Regulations 2000 and the terms of the contract between the XYZ Insurance Company and the trustee/manager of the ABC Limited Stakeholder Pension Scheme;
- the accounting records referred to in paragraph 1 above will be provided at least annually to the reporting accountant or auditor of the scheme;
- no expenditure was charged to the fund which was contrary to the requirements of regulations 13 and 14 of the Stakeholder Pension Schemes Regulations; and
- the terms of the contract between the XYZ Insurance Company and the trustee/manager of the ABC Limited Stakeholder Pension Scheme have been complied with.

Joe Bloggs
Appointed Actuary
XYZ Assurance Company

Appendix 7

Recommended reading

SI 2000 No 1403 as amended, The Stakeholder Pension Schemes Regulations 2000

These are the regulations which deal with the administration of stakeholder schemes, including the requirement for the annual declaration.

Opra Note 6, Pensions Act 1995 The right to report problems to Opra

This note is for the use of trustees and professional advisers and deals with the right to report to Opra.

Opra Note 8 Pension Schemes Act 1993, Direct payment arrangements

Opra Note 8 addresses the duty of stakeholder pension scheme managers to report late and/or incorrect contributions to Opra.

Opra Note 11 Welfare Reform and Pensions Act 1999 Stakeholder pension scheme charges

This is Opra's guidance on what is included and what is excluded in the amounts of charges and deductions which may be made in respect of each member's assets.

Auditing Practices Board Bulletin 2002/3, Guidance for reporting accountants of stakeholder pension schemes in the United Kingdom

The bulletin comprises the guidance for reporting accountants, setting out suggested procedures and giving guidance on the preparation and the content of their statements.

Stakeholder pension schemes – a controls checklist

Available from the PRAG website, the paper outlines the three main areas of the operation of stakeholder schemes and provides a detailed controls checklist covering all aspects of stakeholder scheme administration and investment.