

**SUMMARY OF INDUSTRY COMMENTS RE: PENSION POLICY PROPOSAL DOCUMENT (OCTOBER 2011)
AND RESPONSES FROM THE CENTRAL BANK**

Abbreviations

MC – Management Committee

IT – Individual Trustee

CT – Corporate Trustee

IM – Investment Manager

TD&R – Trust Deed and Rules

BIR – Board of Inland Revenue

TTSEC – Trinidad and Tobago Securities and Exchange Commission

Central Bank – Central Bank of Trinidad and Tobago

PPD – Policy Proposal Document

OPPB – Occupational Pension Plan Bill

OPPA – Occupational Pension Plan Act

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
Executive Summary			
Executive Summary Proposals related to members and	Strengthen communication between pension plan sponsors, trustees and members, so that members are informed of their benefits and are provided with other information on the pension	Include “management committees” after “trustees” and before “and members”.	Agreed. The PPD was amended as follows: “Strengthen communication between pension plan sponsors, trustees, management committees and members, so that members are informed of their benefits and are provided with other information on the pension plan in a

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
beneficiaries	plan in a timely manner.		timely manner.”
Executive Summary Proposals related to supervised entity	Require the submission of regulatory returns, actuarial valuation reports, and other information within specified timeframes	Include “audited financial statements”.	Agreed. The PPD was amended as follows: “Require the submission of regulatory returns, annual audited financials, actuarial valuation reports, and other information within specified timeframes.”
Rights of Plan members and beneficiaries			
2. Rights of Plan members and beneficiaries	Entire Section	There should be a requirement for the production of an annual report to members and beneficiaries including financial statements.	Agreed. Please see section 2.6(f) which states: “Plan members and beneficiaries must have access to an annual report which provides: <ul style="list-style-type: none"> i) a summary of the latest financial statements and actuarial valuation report; ii) details of any changes since the last report was issued; and iii) details any changes in the composition of the management committee and individual trustees.” It should be noted that the trustee is responsible for preparing the report but the sponsor is responsible for

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
			dissemination (on request).
2. Rights of Plan members and beneficiaries	Entire Section	<p>This section of the Revised PPD contains a number of references to the Inland Revenue's 1969 Draft Regulations. It seems to us that these references do not accurately reflect the true nature of these Draft Regulations, e.g. the Draft Regulations do not reflect "certain social policies" (foot of page 6 of the Revised PPD) nor do they include "issues with respect to members' rights" (foot of page 7). It is important to understand the nature of these Draft Regulations, i.e.:</p> <p>They are "permissive" in that they set out the limits of what a pension plan can do if it is to be tax-approved, e.g. the pension provided may not exceed two-thirds of final salary;</p> <p>They are not "prescriptive" in that they do not specify minimum levels of benefits, i.e. an approved pension plan can provide any level of pension it wants as long as this does not exceed the prescribed maximum.</p>	We acknowledge your comment.
2. Rights of Plan members and beneficiaries	Entire Section	We are pleased to see that the Central Bank has accepted that its role as regulator is concerned with how pension plans are operated and not with what particular benefits they provide. As described at the end of the	Noted. The revisions to the PPD are intended to clarify the Central Bank's objectives with respect to the supervision of pension plans. Please see the preamble to section which states the following: " Under the new

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
		<p>Revised PPD's Introduction, the Central Bank's mandate covers:</p> <ul style="list-style-type: none"> • The safety and soundness of pension plans; • The manner in which benefits are delivered; and • Protection of members and beneficiaries from undue loss. • It is therefore not part of Central Bank's remit to impose minimum benefit standards on pension plans and the Revised PPD largely reflects this. • Both in the extract from the Introduction quoted above and in section 2 of the Revised PPD the Central Bank talks of protecting pension plan members from "undue" loss. It is not clear what is meant by this. We doubt that Central Bank is suggesting that some level of loss of benefits is acceptable and only when losses cross a particular threshold do they become unacceptable, but this appears to be the implication of the proposals as drafted. 	<p>legislation, the Central Bank's objectives as Regulator would include:</p> <ul style="list-style-type: none"> (i) Establishing and maintain an appropriate legislative, regulatory and supervisory framework to govern operations of occupational pension plans registered under the OPPA; and (ii) Promoting good governance and proper administration of occupational pension plans"
2. Rights of Plan members and beneficiaries	Entire Section	The OPPB should address indexation of benefits and contributions and the treatment of pension plans surpluses and deficits.	This issue has been deferred. In the meantime, pension plans may make amendments to their TD&Rs in this regard.

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
2. Introduction Rights of Plan members and beneficiaries	<p>This Policy Document incorporates some social policy issues that have already been established by the Government. However, some issues have not been incorporated in the document as they have not yet been fully developed by the Government. These latter issues include:</p> <p>a)Indexation of benefits and contributions;</p> <p>b)Minimum income replacement ratios;</p> <p>c)Minimum guaranteed levels of income maintenance in retirement; and</p> <p>d)Treatment of pension plans surpluses and deficits.</p>	<p>The PPD states that it shall not treat with several specific issues, identified as social issues, reason being, that said issues are directly related to government policy and have not been fully developed by the Government. In our view, these issues, identified on p.7 and which include <i>indexation</i> and <i>treatment of surpluses and deficits</i> are critical aspects of occupational pension plans and legislation which is to treat with pension plans must address these issues.</p> <p>For the record, we wish to articulate our support of indexation, with respect to pensions. It must be noted that this has been negotiated as part of a number of pension plans. Additionally, in our view, surpluses belong solely to plan members and plan rules are to be amended from time to time through Collective Bargaining to improve pensions in payment and enhance members' benefits. It must be further noted that it is also our position that Contribution Holidays are not to be encouraged.</p>	See previous response.

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
2. Introduction Rights of Plan members and beneficiaries	<p>The Policy Document addresses some of the current issues with respect to members' rights, which are also included in the 1969 Draft Regulations. For example:</p> <ul style="list-style-type: none"> • Spousal benefits; • Hardship refunds; • Married females refunds regardless of service; 	<p>Include "Maximum pension" as this item should also be considered as it is included in the 1969 Draft Regulations which will be replaced by the OPPB. Based on paragraph 11 (g) of the Regulations the maximum pension payable at retirement should not exceed 2/3 of the member's highest salary earned by him during any 12 consecutive months of membership of the plan.</p>	<p>The OPPA will codify some of the provisions of the Draft BIR Regulations, however, all tax related issues will remain under the BIR's purview.</p>
2.1 Rationale Access to plan participation	<p>Pension plan sponsors have the right to define the eligibility criteria for pension plan membership; however these should be established in the TD&R to ensure that there is no discrimination between classes of employees and to ensure that</p>	<p>The rationale indicates that the pension plans should have the right to waive eligibility criteria as stipulated in the TD&R. The objective of this is unclear. If the TD&R are clear as to eligibility criteria, why is there a proposal for a right to be granted to waive this eligibility criteria? Further who will exercise this right?</p>	<p>In practice stipulation of eligibility criteria rests with the plan sponsor, who may consult with the union. It is proposed that the TD&R stipulate under which circumstances the eligibility criteria can be waived, as well as the process for affecting such a waiver. This is to mitigate against the potential risk for abuse by the plan sponsor. It should be noted, however, that the rationale was amended as follows: "Pension plan sponsors have the</p>

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
	employees fully understand the criteria. It is also important that these criteria are clearly articulated and objectively and consistently applied in practice. However, pension plans also have the right to waive eligibility criteria as stipulated in their TD&R.		<p>right to define the eligibility criteria for pension plan membership. These criteria should be documented in the pension plan's TD&R to ensure that employees are aware of the criteria and also to avoid discriminatory practices for example, between employees in the same class. It is also important that these criteria are objectively and consistently applied.</p> <p>It should be noted, however, that the PPD requires the TD&R of pension plans to contain a provision allowing eligibility criteria to be waived and the criteria and process to affect such a waiver."</p>
2.1 Rationale Access to plan participation	Pension plan sponsors have the right to define the eligibility criteria for pension plan membership; however these should be established in the TD&R to ensure that there is no discrimination between classes of employees and to ensure that employees fully understand the criteria. It is also important that these criteria are clearly articulated and objectively and	<p>The final paragraph on page 8 of the Revised PPD confirms that pension plan sponsors have the right to determine eligibility criteria for pension plan membership and we believe this is right and proper. However, the Revised PPD immediately contradicts itself by saying these criteria should be set out in the TD&R:</p> <p>"...to ensure there is no discrimination between classes of employees..."</p> <p>The whole point of allowing the sponsor to set eligibility criteria is that there may be discrimination between classes, e.g. pension plan membership will be open to</p>	<p>The rationale was amended as follows: "Pension plan sponsors have the right to define the eligibility criteria for pension plan membership. These criteria should be documented in the pension plan's TD&R to ensure that employees are aware of the criteria and also to avoid discriminatory practices for example, between employees in the same class. It is also important that these criteria are objectively and consistently applied.</p> <p>It should be noted, however, that the PPD requires the TD&R of pension plans to contain a provision allowing eligibility criteria to be waived and the criteria and</p>

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
	consistently applied in practice. However, pension plans also have the right to waive eligibility criteria as stipulated in their TD&R.	full-time employees but not to part timers or to daily-rated employees but not to monthly paid staff. Presumably this is a drafting error in the Revised PPD and the Central Bank intended to refer to the avoidance of discrimination between employees in the same class of employee rather than between different classes. If the latter is to be the case, then we believe that it would be best for the issue to be addressed under the equal opportunities legislation and/or by the Industrial Court. Appropriate precedents could then be set to provide guidance to employers.	process to affect such a waiver.” We disagree that the matter should not be addressed in the OPPA. The provision provides employers with appropriate parameters in which they must operate.
2.1 Rationale Access to plan participation	However, pension plans also have the right to waive eligibility criteria as stipulated in their TD&R.	The final sentence of the rationale is poorly phrased. The right to waive eligibility criteria cannot be vested in the pension plan as the pension plan is not a decision making entity. This needs to be vested in one of the stakeholders, i.e. trustee, management committee or plan sponsor – this same error of drafting is repeated throughout the Revised PPD. In this case what the Revised PPD needs to say is that the pension plan's rules may contain a provision allowing eligibility criteria to be waived in individual cases. You should note that such a waiver has cost implications in that it results in pension being provided to an employee who would not otherwise have received one, and to the extent that this additional cost falls on the plan sponsor we would expect	The rationale was amended as follows: “It should be noted, however, that the PPD requires the TD&R of pension plans to contain a provision allowing eligibility criteria to be waived and the criteria and process to affect such a waiver.”

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
		the sponsor to have the final say in this matter.	
2.2 Vesting Rights and Vested Periods	The treatment of the vesting of pension benefits must be outlined in the pension plan's TD&R. This treatment must be consistent with any applicable laws, including the Income Tax Act and Finance Act	While it is noted that Government has indicated in a budget statement its intention to reduce the vesting period to two years, the current vesting period of five years could provide an opportunity for the provision of pension benefits to temporary workers. While temporary workers constitute a relatively significant part of the workforce, mechanisms are not in place to allow for these workers to contribute to a pension plan, and therefore accrue, and subsequently receive pension benefits. Efforts ought to be made to provide these workers with this social security benefit. The existing provision for a five year vesting period could therefore be utilized in such cases. As a result, the five year vesting period should be maintained, as a means to provide pension benefits for temporary workers.	Noted. The provision of pension benefits to temporary workers is a wider social policy issue that is not addressed in the PPD. With respect to the vesting period the Central Bank will not propose a vesting period which is contrary to the vesting period established by the Government in the Finance and Income Tax Acts.
2.2 Vesting Rights and Vested Periods	The treatment of the vesting of pension benefits must be outlined in the pension plan's TD&R. This treatment must be consistent with any applicable laws, including the Income Tax Act and	We are in support of the portability of pensions. However, with respect to the issue of vesting we are of the respectful view that the two year period suggested by the Government is too short.	Noted. However, the Central Bank will not propose a vesting period which is contrary to the vesting period established by the Government in the Finance and Income tax Acts. Consequently, the proposal requires that the vesting period be consistent with any applicable laws. Please see section 2.2 (b) which states: " The maximum

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
	Finance Act	Vesting is the process by which employees accrue non-forfeitable rights over employer contributions that are made to the employee's qualified retirement plan account. If an employee becomes entitled to move with his contribution as well as the employer's contribution to the pension plan this will change the rate of accumulation and the surplus will be affected significantly.	vesting period shall be five (5) years or such other time period that may be prescribed by the Government of Trinidad and Tobago in the Income Tax Act, the Finance Act or other written law."
2.3 Portability Rights	The treatment of portability of pension benefits must be detailed in the pension plan's TD&R. This treatment must be consistent with any applicable laws, including the Income Tax Act and Finance Act. However, the trustee of a pension plan receiving a transfer value on behalf of a former member of another pension plan must consider the qualifying service of the transferring member's previous employment in determining the transferring member's vesting rights and eligibility for benefits.	No definition was provided in Appendix II for "qualifying service". This will affect accumulation of surplus and contribution rates.	Noted. The following definition for qualifying service has been included in Appendix II- Interpretation: "qualifying service is employment (or combined periods of employment) that is unbroken by resignation, termination or retirement except for a temporary absence."

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
2.3 Portability Rights	The treatment of portability of pension benefits must be detailed in the pension plan's TD&R. This treatment must be consistent with any applicable laws, including the Income Tax Act and Finance Act. However, the trustee of a pension plan receiving a transfer value on behalf of a former member of another pension plan must consider the qualifying service of the transferring member's previous employment in determining the transferring member's vesting rights and eligibility for benefits.	The concept of "qualifying service" is not explained and needs to be (and notwithstanding the footnote against this item in the Revised PPD it is not defined in Appendix II). We assume that the intent here is that in determining whether or not a departing pension plan member has crossed a 5-year vesting threshold then this should be done by reference to the aggregate of service as a member of that pension plan plus prior service in a previous pension plan from which a transfer payment has been received. This item would sit more naturally in the "Vesting Rights and Vesting Periods" sub-section.	See previous response re: definition of qualifying service. In addition, we disagree that in this context the issue of qualifying service should be addressed in the vesting rights section of the PPD. This issue has a direct impact on the portability of benefits.
2.3 Portability Rights	The treatment of portability of pension benefits must be detailed in the pension plan's TD&R. This treatment must be consistent with any applicable laws, including the Income Tax Act and Finance Act. However, the trustee of a pension plan	Other than the foregoing we are surprised that the Revised PPD has nothing substantive to say on portability and, in particular, that the requirement for a pension plan trustee to pay a transfer value on request in respect of a former active member that appeared in the Original PPD has been removed entirely rather than being retained with the deficiencies it contained.	The PPD has been amended. Please see section 2.3 (a) which states: "The treatment of portability of pension benefits must be detailed in the pension plan's TD&R. This treatment must be consistent with any applicable laws, including the Income Tax Act, Finance Act and the OPPA. However, at a minimum the TD&R must stipulate that:

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
	receiving a transfer value on behalf of a former member of another pension plan must consider the qualifying service of the transferring member's previous employment in determining the transferring member's vesting rights and eligibility for benefits.		<p>I. the trustees, upon request, must transfer the value of benefits accrued by the member to another approved pension plan or deferred annuity plan;</p> <p>II. the trustees may accept (in relation to a former member of another pension plan or deferred annuity plan) a transfer value. If the transfer value is accepted the qualifying service of the transferring member's previous employment must be considered in determining the transferring member's vesting rights and eligibility for benefits.</p>
2.3 Portability Rights	The treatment of portability of pension benefits must be detailed in the pension plan's TD&R. This treatment must be consistent with any applicable laws, including the Income Tax Act and Finance Act. However, the trustee of a pension plan receiving a transfer value on behalf of a former member of another pension plan must consider the qualifying service of	The proposal calls for plans receiving a transfer value on behalf of a former member of another pension plan to consider the qualifying service of the transferring member's previous employment in determining that person's vesting rights and eligibility for benefits. This appears to impose an economic cost on the receiving plan that may not match the person's contribution to his new employer especially if the person does not remain in the new job for a reasonable period (say two years for argument's sake). Moreover, plans that construct their benefit or employee contribution formulae in terms of service or age-plus-service would appear to be	Noted. However, the person who is porting their benefits can also be disadvantaged if his/her qualifying service is not considered.

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
	the transferring member's previous employment in determining the transferring member's vesting rights and eligibility for benefits.	unreasonably burdened.	
2.3 Portability Rights	The treatment of portability of pension benefits must be detailed in the pension plan's TD&R. This treatment must be consistent with any applicable laws, including the Income Tax Act and Finance Act. However, the trustee of a pension plan receiving a transfer value on behalf of a former member of another pension plan must consider the qualifying service of the transferring member's previous employment in determining the transferring member's vesting rights and eligibility for benefits.	It is respectfully suggested that portability should be applicable to employees that are working with the Company for over 5 years. In addition the employees should be allowed to move only with what they have contributed to the fund and not with both theirs and the employers' contributions. The employee should only be entitled to Company's contribution if they are still employed with the Company at the date of retirement or death.	<p>We disagree, members should be allowed to port their benefits even if they have not been in the plan for five years.</p> <p>In addition, an amendment to the Section 28 of the Income Tax Ordinance as amended by the Finance Act 2012 stipulates that inter alia the employee should be entitled to port all his contributions and may include the contributions of the employer.</p>

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
2.3 Portability Rights	The treatment of portability of pension benefits must be detailed in the pension plan's TD&R. This treatment must be consistent with any applicable laws, including the Income Tax Act and Finance Act. However, the trustee of a pension plan receiving a transfer value on behalf of a former member of another pension plan must consider the qualifying service of the transferring member's previous employment in determining the transferring member's vesting rights and eligibility for benefits.	<p>While the Bill gives clear consideration to the issue of portability, with which we are in agreement, we advise that the Bill does not adequately address the issue of the administration and management of portable pensions.</p> <p>We also respectfully submit that sums due to be paid to the portable pension plans should be paid to the new employers for inclusion into the new plan and not to the individual.</p>	<p><u>1st comment</u></p> <p>We refer to sections 2.3 (a)(i) and (ii) which addresses the issue of administration and management of portable pensions. We also propose that the details surrounding the treatment of portability be included in the pension plan's TD&R.</p> <p><u>2nd comment</u></p> <p>The sums will not be paid to the individual, but rather, transferred from one pension plan to another</p>
2.3 Portability Rights	The treatment of portability of pension benefits must be detailed in the pension plan's TD&R. This treatment must be consistent with any applicable laws, including the Income Tax Act and Finance Act. However, the trustee of a pension plan	A definition of qualifying service should be included in Appendix II	Agreed. The following definition for qualifying service has been included in Appendix II- Interpretation: "qualifying service- is employment (or combined periods of employment) that is unbroken by resignation, termination or retirement except for a temporary absence."

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
	receiving a transfer value on behalf of a former member of another pension plan must consider the qualifying service of the transferring member's previous employment in determining the transferring member's vesting rights and eligibility for benefits.		
2.3 Portability Rights	The treatment of portability of pension benefits must be detailed in the pension plan's TD&R. This treatment must be consistent with any applicable laws, including the Income Tax Act and Finance Act. However, the trustee of a pension plan receiving a transfer value on behalf of a former member of another pension plan must consider the qualifying service of the transferring member's previous employment in determining the transferring member's vesting rights and	The definition of "qualifying service" has not been included in Appendix II, as indicated. This definition is important in determining which and how much of a member service under another plan can qualifies in determining that member's vesting rights and eligibility for benefits when transferring to a new pension plan.	See previous response.

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
	eligibility for benefits.		
2.3 Portability Rights	The treatment of portability of pension benefits must be detailed in the pension plan's TD&R. This treatment must be consistent with any applicable laws, including the Income Tax Act and Finance Act. However, the trustee of a pension plan receiving a transfer value on behalf of a former member of another pension plan must consider the qualifying service of the transferring member's previous employment in determining the transferring member's vesting rights and eligibility for benefits.	<ul style="list-style-type: none"> • The requirements are not clear as the definition of 'qualifying service' was missing. It is therefore not clear how this would affect either vesting rights or eligibility of benefits. It should be noted that someone with very little service is supposed to be able to transfer his benefits to another pension plan. Presumably the qualifying service would limit the ability of a transferee being able to cash out his withdrawal benefits if he subsequently leaves his new plan? • While the ability to transfer benefits exists in all pension plans, it is a little used benefit because of the differences in benefits provided by two different plans for the same transfer value. • In order to assist the process, the wording of the transfer provisions should specifically allow the transfer of benefits to an individual deferred annuity that would also allow the person to continue contributions through this vehicle and also provide benefits independently of a past employer. This would allow the independent accumulation of the transfer value and allow the potential increase of the 	<p><u>1st Bullet</u></p> <p>A definition of "qualifying service" has been included.</p> <p><u>2nd Bullet</u></p> <p>We note that transfers of benefits are seldom used by pension plan members. However, in the cases in which they are used the proposals are necessary.</p> <p><u>3rd Bullet</u></p> <p>The PPD was amended as follows:</p> <p>"The treatment of portability of pension benefits must be detailed in the pension plan's TD&R. This treatment must be consistent with any applicable laws, including the Income Tax Act, Finance Act and the OPPA. However, at a minimum the TD&R must stipulate that:</p> <ol style="list-style-type: none"> I. the trustees, upon request, must transfer the value of benefits accrued by the member to another approved pension plan or deferred annuity plan;"

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
		deferred benefits.	
2.4.1 Retirement Benefits	Entire Section	It is noted that this section has been significantly amended in the revised draft and the provisions here now serve as a set of overarching guidelines for the treatment of retirement benefits by individual pension plans, as outlined in the Trust Deed and Rules (TD&R). It is recommended that not only should the legislation stipulate that issues (a) to (e), as identified in sub-section 2.4.1, be addressed in the TD&R, but it should also be stated clearly that the entities responsible for overseeing the particular pension plan must abide by the provisions included in the TD&R around this issue.	We disagree that this section of the PPD should stipulate that the entities responsible for overseeing the pension plan must abide by the TD&R. Section 5.5 (g) requires that the pension plan's trustees be responsible for: "Ensuring the pension plan is being administered in accordance with the pension plan provisions and legal requirements."
2.4.1 (a) Retirement Benefits	For defined benefit (DB) pension plans, legislation should specify that with respect to retirement benefits, the TD&R of every pension plan must: (a) stipulate a treatment for ill-health and an early retirement age	Include a minimum vesting period of 5 years for either ill-health or early retirement.	Please see section 2.4.4 (b) which states: "The treatment of ill health/ disability benefits in the TD&R must be consistent with the Income Tax Act, Finance Act and the OPPA. However, at a minimum the pension plan's TD&R must stipulate that a member must be vested in order to be eligible for ill health/ disability benefits."

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
2.4.1 (b) Retirement Benefits	For defined benefit (DB) pension plans, legislation should specify that with respect to retirement benefits, the TD&R of every pension plan must: (b) stipulate a mechanism for determining early reduction factors	Stipulate a mechanism for determining early reduction factors. The intention is unclear especially when considered in light of the foot note. Is it the intention that an actuarial valuation be undertaken to determine the commuted value of the early retirement? Currently the reduction factor is normally a fixed % depending on the period before the normal retirement. In so far as the TD&R is clear on the reduction factor for early retirement such provisions should be allowed to be continued	The PPD was amended as follows (please see section 2.4.1 (d)): For defined benefit (DB) pension plans, legislation should specify that with respect to retirement benefits, the TD&R of every pension plan must: (b) stipulate how early reduction factors are determined”
2.4.1 (c) Retirement Benefits	For defined benefit (DB) pension plans, legislation should specify that with respect to retirement benefits, the TD&R of every pension plan must: (c) address late retirement and specify the conditions under which it is used	Will late retirement be permitted by Board of Inland Revenue?	The Central Bank has not received any feedback from the Board of Inland Revenue indicating that late retirement would not be permitted.
2.4.1 (c) Retirement Benefits	For defined benefit (DB) pension plans, legislation should specify that with respect to retirement benefits, the TD&R of every pension plan must:	The inclusion of late retirement should be determined by the sponsor company and not the Central Bank.	The Central Bank is not prescribing a late retirement age. Rather, our view is that with an aging population it should be addressed in the TD&R even if the company is not permitting late retirement. Where it is permitted, the conditions under which it is allowed should be stipulated

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
	(c) address late retirement and specify the conditions under which it is used		in the TD&R (please see section 2.4.1 (b)).
2.4.1 (e) Retirement Benefits	For defined benefit (DB) pension plans, legislation should specify that with respect to retirement benefits, the TD&R of every pension plan must: (e) Permit pension plan trustees to purchase an immediate or deferred annuity from the pension plan assets in respect of an immediate or a deferred pension entitlement. The purchase of this annuity should not represent a full discharge of a member's pension benefit entitlement, where the rules of the pension plan specify the benefit to which the member is entitled.	The annuity should represent full discharge if its payment for a specific pension entitlement.	Agreed. The PPD was amended as follows (please see section 2.4.1 (e)): "Permit pension plan trustees to purchase an immediate or deferred annuity from the pension plan assets in respect of an immediate or a deferred pension entitlement."
2.4.1 (e) Retirement	Permit pension plan trustees to purchase an immediate or deferred annuity from the	It is now proposed that the purchase of an annuity from a plan's assets in respect of pension entitlement should <u>not</u> represent a full discharge of that member's benefit	See previous response.

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
Benefits	pension plan assets in respect of an immediate or a deferred pension entitlement. The purchase of this annuity should not represent a full discharge of a member's pension benefit entitlement, where the rules of the pension plan specify the benefit to which the member is entitled.	<p>entitlement where the rules of the plan specify the benefit to which the member is entitled.</p> <p>We do not see that a blanket statement to this effect can be fair. The full monetary entitlement of the member will be calculated and used to purchase this annuity, so the member will have no further monetary claim on the plan. It is only where the plan's rules may provide additional benefits such as spousal or maintenance benefits for children, that an annuity in the name of the member only may not fully discharge the plan of its total obligations to that member.</p>	
2.4.1 (e) Retirement Benefits	Permit pension plan trustees to purchase an immediate or deferred annuity from the pension plan assets in respect of an immediate or a deferred pension entitlement. The purchase of this annuity should not represent a full discharge of a member's pension benefit entitlement, where the rules of the pension plan specify the benefit to which the member is entitled.	The objective of provision is unclear. Is it mandatory for the plan to purchase annuities for pensioners and deferred pensioners? Is the intention to prohibit the practice of pensions being paid by the trustee of the plan? Further, is it being suggested that even though the plan purchases an annuity the plan will continue to be liable for the benefit? The plan continues to carry the risk even though an annuity with an external agency is purchased? We are of the view that the option of the plan trustee continuing to manage pension payments be permitted	See previous response.

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
2.4.1 (e) Retirement Benefits	Permit pension plan trustees to purchase an immediate or deferred annuity from the pension plan assets in respect of an immediate or a deferred pension entitlement. The purchase of this annuity should not represent a full discharge of a member's pension benefit entitlement, where the rules of the pension plan specify the benefit to which the member is entitled.	I take it that this proposal relates to the purchase of accrued benefits while the future service benefits remain in the plan as this is the only way I can envisage that this purchase will not be a full discharge. If, however, benefits are purchased when someone left the plan because of retirement or withdrawal and the benefit was purchased, then this should be a full discharge of the member's benefits. This may be the method used by the plan to reduce its risk. This section should be clarified.	See previous response.
2.4.1 (e) Retirement Benefits	Permit pension plan trustees to purchase an immediate or deferred annuity from the pension plan assets in respect of an immediate or a deferred pension entitlement. The purchase of this annuity should not represent a full discharge of a member's pension benefit entitlement, where the rules of the pension plan specify the benefit to which the member is	Item (e) is confused – what is the intent here? There are two possible situations where annuity purchase might take place in an ongoing pension plan. The first is where the plan's rules say the retiring member is entitled to a pension of, say, \$5,000 per month and the trustee decides to buy an annuity of this amount on the life of the retiree to insure the longevity risk. However, if the insurer fails and stops paying the annuity then the liability to pay the pension reverts to the pension plan. In this situation the benefit is defined by the plan's rules and the annuity is little more than an	See previous response

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
	entitled.	<p>investment.</p> <p>The second is where the plan's rules say that the benefit is an annuity of a specified amount, say \$5,000 per month, and require the purchase of that annuity. Typically this would be in a defined contribution plan but it could apply in the case of a defined benefit plan too. In this situation the benefit is the annuity and if the insurer fails and stops paying the annuity then there is no reversion of liability to the pension plan and the pension ceases.</p> <p>Is the intent of the Revised PPD to distinguish between these two situations?</p>	
2.4.1 rationale Retirement Benefits	<p>Recent evidence shows that the ageing of the world's population presents a challenge for the sustainability of pension arrangements. To assist with the ageing issue, the Central Bank will legislate that pension plans must allow for late retirement.</p> <p>Where the TD&R specify that an individual is entitled to a specific</p>	<p>In the rationale following Section 2.4.1, it is stated that CBTT will legislate that pension plans must allow for late retirement. The ability to retire late exists in most, if not all, pension plans and is allowed at the employer's option. Is it that this will be legislated to force the employer to allow persons to stay in employment beyond the normal retirement age even if this is not in the company's best interests?</p>	<p>The PPD states that the TD&R must state the conditions under which late retirement would be allowed. The corresponding footnote explains that the provision is not intended to require pension plans to permit late retirement. However, the TD&R must state whether or not it is allowed, and if permitted the TD&R must detail the treatment.</p> <p>It should be noted that the rationale was also amended as follows:</p> <p>"Recent evidence shows that the ageing of the world's</p>

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
	pension then the trustee can buy an annuity to secure the payments provided that the annuity is a permissible investment in terms of the OPPB and the TD&R.		population presents a challenge for the sustainability of pension arrangements. Consequently, it is important that pension plans consider allowing for late retirement.”
2.4.2 Spousal Benefits	The TD&R of a pension plan must allow for the payment of a spousal benefit where an automatic spousal benefit is not provided. Further, the TD&R should contain a no cost option so as to afford the retiring member the right to surrender part of his /her pension to secure a reduced spousal benefit.	<p>Again, the drafting is confused. As we understand it, the intent is that:</p> <p>There is no requirement for a pension plan to provide an automatic spouse pension as part of the package of benefits provided; but</p> <p>Where there is no automatic spouse pension the plan's rules must allow the retiree the option to surrender part of his or her pension to secure a pension for the spouse payable after the death of the pensioner with this being done on cost-neutral terms.</p> <p>This needs to be clarified.</p>	Agreed. The PPD was amended as follows (please see section 2.4.2(b)): “Where an automatic spousal benefit is not included as part of a member's benefit the TD&R of the pension plan must allow the retiring member the right to surrender part of his /her pension to secure a reduced spousal benefit or where there is no spouse a dependent's benefit at no additional cost to the member.”
2.4.2 Spousal Benefits	The TD&R of a pension plan must allow for the payment of a spousal benefit where an automatic spousal benefit is not provided. Further, the TD&R	This impute of this provision is unclear. How will this work in the context of plans that already provide for spousal pension with no cost to the retiring member? Will they be required to include provision for spousal pensions to be at the discretion of members conditional	No. Pension plans will not be required to include a provision for spousal pensions to be at the discretion of members conditional on the surrender of part of the member's pension. The PPD only requires that if the TD&R

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
	should contain a no cost option so as to afford the retiring member the right to surrender part of his /her pension to secure a reduced spousal benefit.	on the surrender of part of the member's pension to secure a spousal pension?	does not provide for an automatic spousal benefit that the option of a spousal benefit be provided. It should be noted that the PPD was amended. See response above.
2.4.2 Spousal Benefits	The TD&R of a pension plan must allow for the payment of a spousal benefit where an automatic spousal benefit is not provided. Further, the TD&R should contain a no cost option so as to afford the retiring member the right to surrender part of his /her pension to secure a reduced spousal benefit.	Inclusion of a Dependant's, Child's or Children's pensions should be considered especially as it relates to a Disabled Child.	Agreed. The PPD was amended to require the provision of a spousal benefit in the absence of a spouse. Please see section 2.4.2 (a) which states: "A pension plan must allow for the payment of a spousal benefit or a dependents' benefit where there is no spouse."
2.4.3 (a) Withdrawal benefits	The TD&R of pension plans must stipulate withdrawal benefits. Where there is a refund of members' contributions the TD&R must outline the interest rate to be applied.	In item (a), it should be noted that the rate of interest used to accumulate contribution refunds may not be fixed but rather may vary from time to time (e.g. in DC plans but also in some DB plans). The requirement should be to specify either the rate used or the mechanism by which the rate of interest is determined.	Agreed. The PPD was amended as follows: "Where there is a refund of members' contributions the member must receive documentation stating the rate used and the mechanism by which the rate of interest is determined. The rate of interest must be consistently applied among all classes of employee."

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
2.4.3 (a) Withdrawal benefits	The TD&R of pension plans must stipulate withdrawal benefits. Where there is a refund of members' contributions the TD&R must outline the interest rate to be applied.	<p>The Revised Proposals provide that where there is a refund of members' contributions, the TD&R must outline the interest rate to be applied.</p> <p>This will not be practical given that the rate of return on each plan varies over time, due to factors such as the level of contributions, level of withdrawals and economic factors affecting the returns realized by the plan. Therefore, to stipulate an interest rate in the TD&R, at the time same is drafted, may not be beneficial to either the member or the plan, as that stipulated rate may be above or below the actual rate of return realized over the period in question.</p>	See previous response.
2.4.3 (b) Withdrawal benefits	Members whose service have exceeded the vesting period have a right to a deferred pension.	There is no need for item (b) – that's what vesting means.	Agreed. This provision has been deleted.
2.4.3 (b) Withdrawal	Members whose service have exceeded the vesting period have a right to a deferred pension.	We further note that the Bill did not take into consideration persons who retire later than the age of retirement. The growing trend in present times is that	The Central Bank acknowledges that many people are now working past normal retirement age. Please see section 2.4.1 (b) which states that the TD&R must state

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
benefits		many persons are now working past the age of retirement and we respectfully suggest that the Bill should make provision to reflect these changing times. We further advise that currently the National Insurance Act Chap. 32:01 allows for deferred retirement and as such the Bill should contain similar provisions.	the conditions under which late retirement would be allowed. In addition, the corresponding footnote explains that the provision is not intended to require pension plans to permit late retirement. However, the TD&R must state whether or not it is allowed, and if permitted the TD&R must detail the treatment.
2.4.3 (c) Withdrawal benefits	The Central Bank proposes that a refund of contributions to female members leaving the pension plan on the grounds of marriage not be allowed. The Central Bank has made a recommendation to the BIR to discontinue this practice as this provision is out-dated and can be considered discriminatory.	In item (c) will contribution refunds to married women be prohibited in all future cases or will this only apply to women who join a pension plan after the OPPB passes in to Law? i.e. will existing married females' right to take a refund be "grandmothered" in respect of existing pension plan membership?	This provision has been deleted. It should also be noted that refunds of contributions will only be permitted for cases of critical illness. Please see section 2.4.3 (a) which states: "Refunds of contributions will only be allowed for cases of critical illness. The Central Bank (after consultation with industry stakeholders) will issue guidelines on the criteria for the determination of critical illness."
2.4.3 (c) Hardship refunds Withdrawal benefits	(c)The Central Bank proposes that a refund of contributions to female members leaving the pension plan on the grounds of marriage not be allowed. The Central Bank has made a recommendation to the BIR to	Currently a member may opt to apply for a refund of his contributions with interest on the grounds of hardship, migration or to start a new business while a married female member or a female member who becomes married within on (1) month of leaving the Plan shall be entitled to a refund of her contributions with interest hence this amendment reduces the right of members of	Please see previous response.

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
	discontinue this practice as this provision is out-dated and can be considered discriminatory.	the Plan, in particular, female members. Consequently we recommend that the existing rule remains unchanged.	
2.4.3 (d) Hardship refunds Withdrawal benefits	The TD&R of the pension plan should outline the conditions and criteria under which it would allow a refund of members' contributions on the grounds of hardship, e.g. extreme ill-health.	In item (d), surely the criteria establishing hardship need to be specified in legislation or in finalised Income Tax Regulations? If you leave it to individual pension plans to establish their own criteria there will be no consistency from one to the next. Item (d) should also say that there is no requirement for a pension plan to pay hardship refunds if the sponsor does not want to include this benefit.	This provision has been deleted. However, refunds of contributions will only be allowed for cases of critical illness. The Central Bank (after consultation with industry stakeholders) will issue guidelines on the criteria for determining what qualifies as critical illness. (please see section 2.4.3 (a))
2.4.3 (d) Hardship refunds Withdrawal benefits	The TD&R of the pension plan should outline the conditions and criteria under which it would allow a refund of members' contributions on the grounds of hardship, e.g. extreme ill-health.	The intention of this provision is unclear. Currently the prior approval of the Board of Inland Revenue is required for any refund. In so far as refunds are subject to tax this practice may need to be continued. Further, why is this being left to pension plans to determine? This is a policy which should be guided by the proposed legislation as in the case of the married woman's refund which the Bank is proposing to discontinue.	This provision has been deleted. Please see previous response.
2.4.3 (d) Hardship refunds	The TD&R of the pension plan should outline the conditions and criteria under which it would	Is it compulsory to define hardship criteria for withdrawal of vested member contributions? Can the Trust Deed and Rules say that there are no such hardship	Please see previous response.

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
Withdrawal benefits	allow a refund of members' contributions on the grounds of hardship, e.g. extreme ill-health.	grounds? In our view, imposing such discretion on the Trustees potentially exposes them to claims of bias or preferential treatment.	
2.4.4 Disability benefits	The TD&R of a pension plan must stipulate disability benefits. The treatment of disability benefits in the TD&R must be consistent with the Income Tax Act, the Finance Act or other applicable laws.	Include a minimum vesting period of 5 years for ill-health retirement.	We disagree with stipulating a 5 year vesting period. However, the member must be vested in order to be eligible for ill health retirement. Please see section 2.4.4 (b) which states: "The treatment of ill health/disability benefits in the TD&R must be consistent with the Income Tax Act, the Finance Act and the OPPA. However, at a minimum the pension plan's TD&R must stipulate that a member must be vested in order to be eligible for ill health/disability benefits."
2.4.4 Disability benefits	The TD&R of a pension plan must stipulate disability benefits. The treatment of disability benefits in the TD&R must be consistent with the Income Tax Act, the Finance Act or other applicable laws.	It needs to be made clear that there is no requirement for a pension plan to provide disability benefits over and above the normal withdrawal benefits.	Treatment of ill health/disability benefits have been removed from the withdrawal section of the PPD. Please see section 2.4.4
2.4.4	The TD&R of a pension plan must	Please clarify whether this is the same as benefits upon	Yes, disability benefits include ` ill-health benefits.

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
Disability benefits	stipulate disability benefits. The treatment of disability benefits in the TD&R must be consistent with the Income Tax Act, the Finance Act or other applicable laws.	ill-health retirement.	
2.5 (a) Contributions	The employer's contributions should not normally be less than the employees' compulsory contributions during any year of income, except on the advice of an actuary and approval of the BIR.	<p>This proposal seems to be an import from existing legislation or regulations but my years of experience with occupational pension plans informs me that in all cases where the actuary has made such a recommendation for plans that are in surplus, the then office of the Supervisor of Insurance has refused approval for its implementation.</p> <p>In what circumstances does the new regulator, the Central Bank, anticipate that an approval would be given for employer's contributions to be less than employees' contributions? If it will not be allowed in any circumstances, I suggest that this proposal be deleted since its inclusion creates an expectation that it will be allowed on the actuary's recommendation.</p>	Agreed. This provision has been deleted.
2.5 (a) Contributions	The employer's contributions should not normally be less than the employees' compulsory contributions during any year of income, except on the advice of	It is stipulated here that the employer's contribution should not be less than that of the employees' compulsory contributions. We endorse this provision. However, said provision is currently worded as follows,	This provision has been deleted.

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
	an actuary and approval of the BIR.	<p>in the revised draft:</p> <p><i>'...employer's contributions should not normally be less than the employees' contributions...'</i></p> <p>The word 'normally' should be deleted so as to avoid the creation of opportunities for the employer to make contributions which are lower than those of the employee. Additionally, and for the same reason, the phrase <i>'...except on the advice of an actuary and approval of the BIR...'</i> should also be deleted. These proposed amendments would serve to ensure that the stipulation for employer contributions to be higher than that of the employee is upheld in all cases. It is noted that this word/phrase may have been included with reference to the case of additional voluntary contributions (AVCs). For maximum clarity, we propose that in addition to deleting the sections identified above, the following could also be included in pt. (a) <i>Except in the case of Additional Voluntary Contributions.</i></p>	
2.5 (a) Contributions	The employer's contributions should not normally be less than the employees' compulsory contributions during any year of income, except on the advice of an actuary and approval of the	To clarify or identify situation/case which on the advice of actuary and approval of BIR which may lead to lower contribution by employer.	This provision has been deleted.

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
	BIR.		
2.5 (a) Contributions	The employer's contributions should not normally be less than the employees' compulsory contributions during any year of income, except on the advice of an actuary and approval of the BIR.	Item (a) still needs to be made clear that the requirement to match member contributions relates only to the ordinary contributions paid by members and not to any AVCs – this is implied later in the section but should be stated explicitly at the outset.	This provision has been deleted.
2.5 (b)(i) Contributions	An employer is required to submit to the trustee or his agent, all contributions to the pension plan (members and the employer) within thirty days of the: <ul style="list-style-type: none"> deduction of earnings related, or other regular deductions 	In item (b) (i), measuring the 30-day period for paying contributions from the date member contributions are deducted is clear but the same is not so for employer contributions as these are not a payroll deduction. Presumably the Central Bank's intent is that the 30-day period for employer contribution payment runs from the date the corresponding employee contributions are deducted from their pay, but this will be undefined in plans where employees do not contribute. A more practical solution would be require contributions to be paid within 30 days of the end of the pay period to which they relate, although you will have to include wording that deals with the situation where salary increases are agreed with retroactive effect and the relevant pay period is long passed by the time the contribution arrears are paid. Perhaps separate time limits are	Agreed. The PPD was amended as follows (please see section 2.5 (b)): "These contributions must be submitted within twenty (20) days of the end of the month in which the contribution for current earnings and forty (40) days of the date that salary increases are agreed upon with retroactive effect if the relevant pay period has passed."

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
		<p>needed in respect of:</p> <ul style="list-style-type: none"> Contributions based on current earnings; and Arrears of contributions due on retroactive earnings increases. 	
2.5 (b)(ii) Contributions	<p>An employer is required to submit to the trustee or his agent, all contributions to the pension plan (members and the employer) within thirty days of the:</p> <p>ii) receipt of any special contributions. Contributions remitted to the trustee can be net of benefits but must also be accompanied by a schedule. The schedule must show gross contributions, benefits being paid and the resulting net amount.</p>	<p>Item (b)(ii) appears to be meaningless as drafted.</p> <p>What is the intended timetable for payment of special contributions by plan sponsors? It should be noted that these won't always be earnings related and could, for example, be defined as a specified dollar amount per annum for a specified number of years. One solution would be to require trustee and plan sponsor to agree a payment schedule when the special contributions are established, eg as part of a Recovery Plan.</p> <p>Is the second part of item (b)(ii) in the right place? It appears to be saying that the sponsor has to send a schedule of contributions to the trustee along with the payment. Presumably this will provide person-by-person details of the contributions making up the aggregate amount paid. Central Bank will need to specify the minimum content of this Schedule in Regulations.</p>	This provision has been deleted. Please see sections 2.5 (a) and (b).
2.5 (b)(ii) Contributions	An employer is required to submit to the trustee or his agent, all contributions to the pension plan	The intention of this provision is unclear. What are Special Contributions? Are they AVC's? if yes what is	Please see previous response.

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
	(members and the employer) within thirty days of the: iii) receipt of any special contributions. Contributions remitted to the trustee can be net of benefits but must also be accompanied by a schedule. The schedule must show gross contributions, benefits being paid and the resulting net amount.	meant by contributions can be net of benefits?	
2.5 (c) Contributions	Pension plans may permit members to make additional voluntary contributions which can vary from year to year at the discretion of the member and should not construe any obligation on the employer to match same.	We view the provision for arbitrary variation of the amounts of additional voluntary contributions by members as having the potential to pose an unnecessary administrative burden on the pension plan.	The proposal states that pension plans may permit additional voluntary contributions. This is a voluntary not mandatory requirement.
2.5 (c) Contributions	Pension plans may permit members to make additional voluntary contributions which can vary from year to year at the discretion of the member and	With respect to additional voluntary contributions (AVCs), it should be required, as per the legislation that the Management Committee (MC) is involved when such a decision is to be made.	We disagree. The Central Bank does not want to be prescriptive in this regard.

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
	should not construe any obligation on the employer to match same.		
2.5 (d) Contributions	Contributions should be permitted to continue after the normal retirement date if benefits on late retirement are calculated based on salary and service to the late retirement date. However, contributions should cease when the maximum pension is attained.	<ul style="list-style-type: none"> There is no definition for "maximum pension" hence include a definition for "maximum pension" as no mention is made of this item in the OPPB and which should be defined as the 1969 Draft Regulations will be replaced by the OPPB, as stated on page 4 of the OPPB. We do not recommend that contributions should cease when the maximum is reached as a member's maximum pension increases once his salary increases hence he needs to continue to contribute in order to receive the greater maximum pension. We suggest that the contribution rate may be reduced after he has reached the maximum pension so that his maximum pension benefits will be increased based on his higher salary at retirement. 	<p><u>1st Bullet</u></p> <p>The definition of maximum pension will be consistent with all applicable laws.</p> <p><u>2nd Bullet</u></p> <p>This sentence has been deleted.</p>
2.5 (d) Contributions	Contributions should be permitted to continue after the normal retirement date if benefits on late retirement are	The last sentence here constitutes a restriction on the contributions of pension plan members. Such a restriction should not be allowed and plan members should rather be allowed to make additional	The following sentence has been deleted "However, contributions should cease when the maximum pension is attained."

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
	calculated based on salary and service to the late retirement date. However, contributions should cease when the maximum pension is attained.	contributions if they have the capacity to do same, and have decided so to do. Additionally, the 'maximum pension' identified, refers to the two-thirds limit which is imposed by the Board of Inland Revenue. In our view, this limit must be removed and members be allowed to receive the maximum benefits possible as agreed to within the particular pension plan. The issue of this limit has not been addressed within the PPD, but such a critical issue must be treated with. In 2010 we articulated this position, and we wish to re-state same in 2011.	The issue of the two-thirds limit is a tax issue which would have to be addressed by the BIR.
2.5 (d) Contributions	Contributions should be permitted to continue after the normal retirement date if benefits on late retirement are calculated based on salary and service to the late retirement date. However, contributions should cease when the maximum pension is attained.	The first sentence of item (d) is welcome, although the second half of it should be re-phrased in terms of benefits continuing to accrue after normal retirement age as in some plans benefits are not related to final salary and/or service (e.g. DC plans). However the second sentence should either be deleted or specify that the accrual of benefits stops when contributions stop. We note that there are no similar provisions required when the maximum pension is accrued before normal retirement date and see no reason why the situation should be any different after that date.	Noted. The PPD was amended as follows (please see section 2.5 (d): "Pension plans may permit contributions to continue after normal retirement age."

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
2.5 (e) Contributions	In DC plans the contribution arrears of both the employer and the employee should attract interest at either the interest rate that would have been earned if contributions were remitted on time or the 'repo' rate (averaged over a reasonable time frame), whichever rate is higher.	<ul style="list-style-type: none"> The "repo rate" may not be the best rate to use possibly the interest rate credited on refunds of contributions with interest or the actual rate of return earned by the plan during the period it is not paid. Why is an interest penalty applied only for contributions to DC plans? What about lost investment income in a DB plan due to late payment? 	<p><u>1st Bullet</u></p> <p>The repo rate is both objective and observable.</p> <p>Please note the PPD was amended as follows: "In DC plans the contribution arrears of both the employer and the employee should attract interest at either the interest rate that would have been earned if contributions were remitted on time or the 'repo' rate (averaged over a five year period), whichever rate is higher.</p> <p><u>2nd Bullet</u></p> <p>Calculating loss income in a DB plan would not be practical.</p>
2.5 (e) Contributions	In DC plans the contribution arrears of both the employer and the employee should attract interest at either the interest rate that would have been earned if contributions were remitted on time or the 'repo' rate (averaged over a reasonable time frame), whichever rate is higher.	Please specify the period rather than leaving to discretion of plans.	Agreed. The PPD was amended as follows: "In DC plans the contribution arrears of both the employer and the employee should attract interest at either the interest rate that would have been earned if contributions were remitted on time or the 'repo' rate (averaged over a five year period), whichever rate is higher.
2.5 (e)	In DC plans the contribution arrears of both the employer and	Late payment/failure to remit employee contributions attracts penalty interest at the greater of the CBTT Repo	The penalty is to compensate the member who may have been disadvantaged by the late remittance of his/her

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
Contributions	the employee should attract interest at either the interest rate that would have been earned if contributions were remitted on time or the 'repo' rate (averaged over a reasonable time frame), whichever rate is higher.	rate and the rate earned by the plan, as well as an administrative fine of \$75,000. Thus a sponsor is exposed to double jeopardy.	contributions. The administrative fine is required because it is a breach of law.
2.5 (e) Contributions	In DC plans the contribution arrears of both the employer and the employee should attract interest at either the interest rate that would have been earned if contributions were remitted on time or the 'repo' rate (averaged over a reasonable time frame), whichever rate is higher.	It is unclear how CBTT will enforce the failure to remit on time since there appears to be no requirement for the Trustee to report the same to CBTT.	We disagree. Please see section 5.5 (k) which states: "The corporate trustee shall be the legal owner of the assets with responsibility for:- Monitoring the monthly remittance of members' and plan sponsor's contribution within twenty (20) days of the end of the month to which the contributions relate and reporting to the Central Bank any material negative variances or missed contributions in the previous quarter within twenty (20) days of the end of each quarter."
Contributions - Rationale	The cost of providing pension benefits should be shared proportionately between the members and the sponsor. In DB pension plans, the employer promises to fund the balance of the cost of providing the benefits.	In the Rationale: Neither of the first two sentences is universally true and we suggest their deletion.	Agreed. These sentences have been deleted.

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
Contributions - Rationale	To discourage the late remittance of contributions by the employer, legislation would provide for interest to be charged on arrears of contributions, to compensate for the missed investment opportunities due to the late receipt of contributions. The rate of interest should be objective and observable and not left to the discretion of any one stakeholder. The rate of interest can either be the interest rate that would have been earned if contributions were remitted on time or the 'repo' rate, whichever rate is higher. The 'repo' rate is both objective and observable and should be averaged over a reasonable period to avoid any volatility arising from market conditions.	The final paragraph related solely to DC plans and this needs to be made clear.	Agreed. The PPD will be amended as follows: "To discourage the late remittance of contributions by the employer, in the case of DC plans, legislation would provide for interest to be charged on arrears of contributions, to compensate for the missed investment opportunities due to the late receipt of contributions. The rate of interest should be objective and observable and not left to the discretion of any one stakeholder. The rate of interest can either be the interest rate that would have been earned if contributions were remitted on time or the 'repo' rate, whichever rate is higher. The 'repo' rate is both objective and observable and should be averaged over a reasonable period to avoid any volatility arising from market conditions."
2.6 Communication with members	Entire Section	The requirement to provide pensioner statements when pensions are changed that was in the Original PPD has vanished from the Revised PPD and should be reinstated. Central Bank should note that pension plans frequently	Agreed. Please see section 2.6 (e) which states: "Deferred pensioners and pensioners will only receive benefit statements if there is a change in the pension

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
		contain mechanisms in their rules that allow pension increases to be granted without a rule amendment being needed and thus a different deadline for pensioner statements would be needed from the one proposed for active member and deferred pensioner statements produced when benefits change.	entitlement. This statement must be produced within sixty (60) days of the changes receiving regulatory approval."
2.6 Communication with members	Entire Section	Collaborative effort of Sponsor and MC required. The generation of an Annual Pension report and an Annual meeting should be specified	<p>The Central Bank will not require an annual meeting between the plan sponsor and the MC. The requirement for an annual meeting may be included in the plan's TD&R but will not be stipulated in the PPD.</p> <p>The sponsor is responsible for communication with members. While the function can be delegated the sponsor remains responsible and accountable.</p> <p>The plan sponsor has also been given the responsibility for making available (on request) an annual report to plan members and beneficiaries (prepared by the trustees) stipulating (please see section 2.6 (f)):</p> <ul style="list-style-type: none"> i) a summary of the latest financial statements and actuarial valuation report; ii) details of any changes since the last report was issued; and iii) details of any changes in the composition of the management committee and individual trustees.

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
			It should be noted that the pension plan is also required to produce annual audited financial statements which would be made available to plan members and beneficiaries.
2.6 Communication with members	Entire Section	In general we think that the communication proposals are reasonable for larger pension plans although some consideration needs to be given to the burden that would be placed on smaller plans and whether all of the requirements should apply.	The provisions under communication with members are very important and should be applicable to all pension plans.
2.6 Communication with members	Entire section	<p>We also observe that the Revised PPD contains proposals to fine sponsors who do not “communicate adequately” with pension plan members. This is only workable if “adequately” is tightly and objectively defined and we would submit that this can only be done in terms of:</p> <p>Requiring specified minimum content; and</p> <p>Requiring communication within specified deadlines.</p> <p>The actual drafting of such Regulations should be straightforward – the UK has had similar provisions in place for many years which should provide a suitable template.</p>	The proposals in Appendix III with respect to communication were amended to provide greater detail with respect to the type of failures in communication which would attract a penalty.

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
2.6 Communication with members	Entire Section	<p>The aim of the communication proposals as described by Central Bank is to allow members to monitor both their own benefits and the financial soundness of their pension plan. The items proposed in the Revised PPD will meet the first objective but not the second one. What is needed for the latter is a requirement for a pension plan annual report including:</p> <p>Summary of the latest financial statements;</p> <p>Summary of the latest actuarial valuation report;</p> <p>Details of any changes to the plan since the last report;</p> <p>Details of changes in management committee members or trustee;</p> <p>Where to get more information.</p>	<p>The plan sponsor has been given the responsibility for making an annual report (prepared by the trustees) available to plan members and beneficiaries stipulating:</p> <ul style="list-style-type: none"> i) a summary of the latest financial statements and actuarial valuation report; ii) details of any changes since the last report was issued; and iii) details of any changes in the composition of the management committee and individual trustees. <p>It should be noted that the pension plan is also required to produce annual audited financial statements which would be made available to plan members and beneficiaries.</p>
2.6 Communication with members	Entire Section	<p>With respect to the communications process, recognizing that this is an integral process, we proposed two specific communications mechanisms in 2010. These were not included in the revised draft; however, given the importance of this process we maintain that the following recommendations be seriously considered. Their implementation would undoubtedly contribute to a more efficient communications process and members would be able to be better appraised of their pension's</p>	<p>The Central Bank will not require an annual meeting between the trustees, actuaries and management committee. The requirement for an annual meeting may be included in the plan's TD&R but will not be stipulated in the PPD.</p> <p>However, the plan sponsor has been given the responsibility for making an annual report (prepared by the trustees) available to plan members and beneficiaries stipulating:</p>

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
		<p>investments.</p> <p>1. Annual meetings should be held with the Trustees and Actuaries, to be chaired by the Management Committees, so as to update members systematically and continuously as to the performance of the pension plans.</p> <p>2. The preparation of Pension Plan Annual Reports should be stipulated in the legislation. These reports should be provided to all plan members one month prior to the annual meetings.</p> <p>Through these mechanisms plan members would be able to receive information on their pension investments. However, the consistent provision of information on pension plans would also serve to promote transparency and is also likely to reduce the possibility of corrupt practices with these funds.</p>	<p>i) a summary of the latest financial statements and actuarial valuation report;</p> <p>ii) details of any changes since the last report was issued; and</p> <p>iii) any changes in the composition of the management committee and individual trustees.</p>
2.6 Communication with members	Entire Section	<p>The following should be included in this section:</p> <p>(i) advice to members including pensioners when there is a benefit change</p> <p>(ii) an annual trustees' report to members commenting inter alia on the financial health of the plan, should be</p>	<p>Section 2.6 (d) requires that benefit statements be provided at least every three (3) years or when there is a material change. There is no need to stipulate giving advice to members. Further, the absence of this stipulation in law does not preclude the trustees from offering their services.</p>

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
		included in the required communications.	
2.6 Preamble Communication with members Introduction	The sponsor is responsible for communication to pension plan members. Where communication obligations have been delegated, the sponsor remains accountable for the communication function. This section contains proposals on the type, form and timing of the different forms of communication that a member should receive from the date on which they join the pension plan to their date of exit.	We agree that the sponsor should, in general, be responsible for communication with plan members. However, there will be occasions where there is no sponsor (e.g. where the sponsor has gone out of business and the pension plan is either being wound up or run off as a closed plan). In these circumstances we would suggest that the responsibility to communicate should pass to the trustee.	Agreed. The PPD was amended (please see section 2.6 (b)) as follows: " In cases where the plan sponsor is no longer operating and the plan is being wound up, the trustee shall be responsible for communication."
2.6 Communication with members Introduction	The sponsor is responsible for communication to pension plan members. Where communication obligations have been delegated, the sponsor remains accountable for the communication function. This section contains proposals on the type, form and timing of the different forms of communication that a member should receive	The sponsor is identified as being responsible for communication to pension plan members. It is our position that the MC should have this responsibility. The rationale for this is partly due to the composition of the MC, with both employee and employee representatives. It is considered that since this group consists of different stakeholders it is best placed to most effectively carry out the function of communicating to plan members.	We disagree. The sponsor is in the best position to effectively provide communication to plan members. The management committee does not have the resources and will be forced to rely on the sponsor to fulfill this function. It should be noted, however, that the PPD does not prevent the sponsor from delegating some or all of its communication functions. However, the sponsor will retain responsibility.

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
	from the date on which they join the pension plan to their date of exit.		
2.6 Communication with members Introduction	This section contains proposals on the type, form and timing of the different forms of communication that a member should receive from the date on which they join the pension plan to their date of exit.	The communication requirements should continue up to the date benefits cease to be paid rather than the earlier date of leaving service (see final sentence).	Agreed. The PPD was amended as follows: "This section contains proposals on the type, form and timing of the different forms of communication that a member should receive from the date on which they join the pension plan to their date benefits cease to be paid."
2.6 (a) Communication with members	<p>The trustee will be responsible for indicating the following:</p> <ul style="list-style-type: none"> the value of a member's deferred pension benefit; a member's transfer in/out from/to another approved pension plan or annuity product. 	<p>Item (a) could be taken to imply that a transfer value quote should be provided automatically to every pension plan leaver. We do not believe this is appropriate – calculation of transfer values requires actuarial input and thus comes at a cost. We would suggest that the requirement should be:</p> <p>For the right to have a transfer value paid to be brought to the leaver's attention in the exit statement;</p> <p>To include details of how to go about requesting a transfer value; and</p> <p>To require the trustee to provide a transfer value quote</p>	We disagree. The transfer value should be calculated for all deferred pensioners (please see section 2.6(i) (vii). The value of the benefits may influence the members' decision to transfer to another pension plan.

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
		on request within a specified time.	
2.6 (c) Communication with members	Benefit statements must be provided at least every three (3) years or when there is a material change to benefits as determined by the actuary. These benefit statements must be provided for all active members and deferred pensioners within six (6) months of pension plan year-end. Deferred pensioners should be notified, within thirty days, only in cases where pensions have been increased. The Central Bank will prescribe the nature of the information to be provided in benefit statements in Regulations.	<p>Recommend that benefit statements should be provided to active members and deferred pensioners within "12" months rather "6" months of the pension plan "triennial" year-end as the statutory deadline for submitting the triennial actuarial valuation report to the Central Bank is 9 months hence this will give the sponsor company 3 months to submit these benefit statements to the parties after completion of the actuarial valuation.</p> <p>We look forward to obtaining details on "the nature of the information to be provided in the benefit statements in Regulations".</p>	<p>Agreed. The PPD was amended as follows:</p> <p>2.6 (d) "Benefit statements for active members of a DB pension plan must be provided at least every three (3) years. These benefit statements must be provided within twelve (12) months of pension plan's valuation date. If the pension entitlements change benefit statement must be produced within sixty (60) days of the changes receiving regulatory approval. The Central Bank will prescribe the nature of the information to be provided in benefit statements in regulations. For DC plans, benefit statements should be provided to active members at least once a year."</p> <p>2.6(e) "Deferred pensioners and pensioners will only receive benefit statements if there is a change in the pension entitlement. This statement must be produced within sixty (60) days of the changes receiving regulatory approval."</p>

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
2.6 (c) Communication with members	Benefit statements must be provided at least every three (3) years or when there is a material change to benefits as determined by the actuary. These benefit statements must be provided for all active members and deferred pensioners within six (6) months of pension plan year-end. Deferred pensioners should be notified, within thirty days, only in cases where pensions have been increased. The Central Bank will prescribe the nature of the information to be provided in benefit statements in Regulations.	Benefit statements should be provided to active members and deferred pensioners annually, and not at three year intervals. While it is noted that the provision of annual benefit statements may be costly, the importance of same merits this expenditure, so as to ensure that plan members are fully appraised, at regular intervals with respect to the status of their investments. It is further proposed that this cost be borne by the sponsoring company. Pensions are offered as part of a worker's compensation package, and the provision of annual statements to plan members should therefore be seen as a cost related the administration of pension plans, and as such a cost to be covered by the employing company. Innovative means to issue these statements that would be cost effective could be explored, such as issuing electronic statements, for example.	We disagree. Actuarial valuations are done every three years which is in keeping with industry standards and international precedent. Consequently, at present the requirement for triennial benefit statements will be maintained.
2.6 (c) Communication with members	Benefit statements must be provided at least every three (3) years or when there is a material change to benefits as determined by the actuary. These benefit statements must be provided for	We consider it vital that Regulations specify the minimum content of all of the communication items whether these are the summary description of the benefits, in service benefit statements, exit statements, etc. There appears to be some confusion in this area, ie: Item (c) says that Central Bank will prescribe the	The minimum content of the benefit statements will be detailed in Regulations.

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
	all active members and deferred pensioners within six (6) months of pension plan year-end. Deferred pensioners should be notified, within thirty days, only in cases where pensions have been increased. The Central Bank will prescribe the nature of the information to be provided in benefit statements in Regulations.	<p>information to be provided in Regulations; however</p> <p>In the first industry consultation meeting on 6 December the Inspector of Financial Institutions said that Central Bank would not be prescribing the information to be provided (this was in answer to a question about DC plan benefit statements, but we assume it was a general answer).</p> <p>In our opinion any legislative requirements on communication with pension plan members will be worthless unless minimum content is set out in Regulations.</p>	
2.6 (c) Communication with members	Benefit statements must be provided at least every three (3) years or when there is a material change to benefits as determined by the actuary. These benefit statements must be provided for all active members and deferred pensioners within six (6) months of pension plan year-end. Deferred pensioners should be notified, within thirty days, only in cases where pensions have been increased. The Central Bank	<p>Item (c) deals with the production of benefit statements. We would suggest re-drafting this part of the proposals with different sub-sections relating to active members, deferred pensioners and pensioners as different provisions relate to each group and the current drafting is confused. Dealing first with active member statements.</p> <p>The original intent was to require annual benefit statements for active members. This is not practical unless pension plans have modern administrative systems in place that produce statements more or less automatically and this is currently not the case for most</p>	<p>The PPD was amended to differentiate between active members, pensioners and deferred pensioners. Please see below:</p> <p>2.6 (d) "Benefit statements for active members must be provided at least every three (3) years. These benefit statements must be provided within twelve (12) months of pension plan's valuation date. If the pension entitlements change benefit statement must be produced within sixty (60) days of the changes receiving regulatory approval. The Central Bank will prescribe the nature of the information to be provided in benefit statements in regulations."</p>

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
	<p>will prescribe the nature of the information to be provided in benefit statements in Regulations.</p>	<p>pension plans. It was thus decided on an initial requirement of three-yearly statements so that these could be produced as an adjunct to (DB plan) actuarial valuations. This would give time for pension plans to put systems in place to produce annual statements in the future. We believe that the Revised PPD should explain this rationale and make it clear that annual statements will be required at some future date.</p> <p>The due date for issuing statements should thus be measured from the relevant valuation date, not from each plan year-end.</p> <p>The deadline for producing the active member benefit statements is 6-months from the valuation date. However, later in the Revised PPD the deadline for the sponsor producing valuation data is also 6-months from the valuation date. Thus the combined effect of these is that the actuary may not get the data needed to produce the statements until the deadline day for their issue. This needs to be rethought. We suggest that the deadline for the sponsor producing valuation data should be 3-months from the valuation date and we return to this later.</p> <p>If benefits are changed the simple solution is to require new benefit statements to be produced reflecting this in every case. The "material changes as determined by the</p>	<p>2.6(e) "Deferred pensioners and pensioners will only receive benefit statements if there is a change in the pension entitlement. This statement must be produced within sixty (60) days of the changes receiving regulatory approval."</p>

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
		actuary" proviso is impractical unless Central Bank is going to give definitive guidance on what constitutes "material". The deadline for producing such statements should be the same as specified in item (e) for providing a description of the benefit changes, i.e. 3 months after the completion of regulatory approvals of the changes.	
2.6 (c) Communication with members	Benefit statements must be provided at least every three (3) years or when there is a material change to benefits as determined by the actuary. These benefit statements must be provided for all active members and deferred pensioners within six (6) months of pension plan year-end. Deferred pensioners should be notified, within thirty days, only in cases where pensions have been increased. The Central Bank will prescribe the nature of the information to be provided in benefit statements in Regulations.	Turning now to deferred pensioner statements: We understand that these are to be produced only when benefits are changed but this could be more clearly stated in the draft proposals; Surely the deadline for producing deferred pensioner statements should be the same as for active member statements when benefits change, i.e. 3 months from the completion of regulatory approvals, and not 30 days as specified in item (c)?	Agreed. Please see section 2.6(e) which states: "Deferred pensioners and pensioners will only receive benefit statements if there is a change in the pension entitlement. This statement must be produced within sixty (60) days of the changes receiving regulatory approval."
2.6 (c)	Benefit statements must be	We trust that this will be done is subsidiary legislation.	The minimum content of the benefit statements will be

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
Communication with members	provided at least every three (3) years or when there is a material change to benefits as determined by the actuary. These benefit statements must be provided for all active members and deferred pensioners within six (6) months of pension plan year-end. Deferred pensioners should be notified, within thirty days, only in cases where pensions have been increased. The Central Bank will prescribe the nature of the information to be provided in benefit statements in Regulations.	Please clarify	detailed in Regulations.
2.6 (c) Communication with members	Benefit statements must be provided at least every three (3) years or when there is a material change to benefits as determined by the actuary. These benefit statements must be provided for all active members and deferred pensioners within six (6) months of pension plan year-end.	There should be a requirement for pensioners to receive benefit statements when benefits change.	Please see section 2.6(e) which states: "Deferred pensioners and pensioners will only receive benefit statements if there is a change in the pension entitlement. This statement must be produced within sixty (60) days of the changes receiving regulatory approval."

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
	Deferred pensioners should be notified, within thirty days, only in cases where pensions have been increased. The Central Bank will prescribe the nature of the information to be provided in benefit statements in Regulations.		
2.6 (d) Communication with members	Active members, deferred pensioners, pensioners and beneficiaries must have access to all relevant pension plan documents ¹ , including but not limited to: the TD&R and all amendments, the audited financial statements, the actuarial valuation report, the recovery plan and the statement of investment policy.	Beneficiaries should be changed to nominated beneficiary. Nominated beneficiary to be defined as a "person who is in receipt of a benefit under the plan as a result of death of a member"	We disagree. Beneficiary implies nominated beneficiary. Please see the definition assigned to beneficiary in Appendix II which states: "beneficiary- a person entitled to benefit under the pension plan or who will become entitled on the happening of a specified event."
2.6 (e) Communication with members	All members affected by amendments to the pension plan must be provided with descriptions of these	Recommend that members be provided with descriptions of amendments and information on how these amendments affect them within 3 months of "the registration" of the amendment rather than "the date of	The PPD was amended. Please see section 2.6 (h) which states: "All members affected by amendments to the pension plan must be provided with descriptions of these amendments and information on how these amendments

¹ Relevant plan documents include the TD&R, actuarial valuation report and audited financial statements.

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
	amendments and information on how these amendments affect them within three months of the date of approval of the amendment by the BIR and the Central Bank.	approval of the amendment” due to the length of time an amendment takes to be formally approved by the BIR and registered with the Central Bank (sometimes 2 to 3 years). Please confirm who will be responsible for communication of the amendments to members.	affect them within sixty (60) days of the receipt of notification of registration of the amendment by the Central Bank.” The Sponsor is responsible for communication of the amendments to members.
2.6 (e) Communication with members	All members affected by amendments to the pension plan must be provided with descriptions of these amendments and information on how these amendments affect them within three months of the date of approval of the amendment by the BIR and the Central Bank.	From a reading of the Proposals it is clear that this date will not be the same. It may be advisable to merely state that that it is from the date of the Central Bank approval as the Central Bank's consideration of all approvals is conditional on prior BIR approval?	The PPD was amended as follows: “All members affected by amendments to the pension plan must be provided with descriptions of these amendments and information on how these amendments affect them within sixty (60) days of the receipt of notification of registration of the amendment by the Central Bank.”
2.6 (f) Communication with members	Exit statements, which are a record of the benefits entitlement of a member upon leaving a pension plan, must be provided at least one month before the date in which: <ul style="list-style-type: none">• An active member retires	Item (f) sets out the requirements for exit statements. This currently says that statements must be provided 1 month before an active member leaves service or dies – to the extent that these are unpredictable events this must be a simple drafting error which will be corrected. We assume that: This item relates to retirements at normal retirement	Please see sections 2.6 (i) to (l).

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
	<p>at normal retirement age;</p> <ul style="list-style-type: none"> • an active member becomes a deferred pensioner; • an active member withdraws from the pension plan and receives a refund of his contributions with interest; • an active member becomes a pensioner • a member dies and the benefit has to be paid to the beneficiary or • a member leaves the pension plan under circumstance not mentioned in (i) to (iv) above 	<p>date only; and</p> <p>Item (g) deals with other modes of exit and specifies the production of an exit statement one month after the event. We note that this item says that such statements will be required "on request". However, we think it is important that the requirement should be to produce such a statement automatically for all leavers and not just to those who request one.</p>	
2.6 (f) Communication with members	Exit statements, which are a record of the benefits entitlement of a member upon leaving a pension plan, must be provided at least one month before the date	<p>It is proposed that Exit Statements be provided to members at least one month before certain dates, including the active member leaving the plan.</p> <p>In order for this one month timeframe to be met, certain</p>	A requirement was placed on the sponsor in the Governance section of the PPD stipulating that the sponsor must notify the trustee of the departure of the active member from the plan. Please see section 5.3(f) which states "The plan sponsor is responsible for:

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
	<p>in which:</p> <ul style="list-style-type: none"> • An active member retires at normal retirement age; • an active member becomes a deferred pensioner; • an active member withdraws from the pension plan and receives a refund of his contributions with interest; • an active member becomes a pensioner • a member dies and the benefit has to be paid to the beneficiary or • a member leaves the pension plan under circumstance not mentioned in (i) to (iv) above 	<p>conditions precedent must also exist and therefore should be stipulated in the final version of the Occupational Pension Plan Bill ("the Final Bill"), namely:</p> <ul style="list-style-type: none"> • Notification to the Trustee by the Sponsor Company of the departure of the active member from the Plan; • In the case of a DB plan, timely calculation by the Actuary of the departing member's entitlement out of the plan; • In the case of a DC plan, timely calculation by the Investment Manager of the return on the departing member's contributions to the plan. 	<p>Providing the trustee with any plan member data that it requires to carry out its functions. This includes the date of departure, if a plan member is leaving the pension plan."</p>
2.6 (f) Communication	Exit statements, which are a record of the benefits entitlement	In Section 2.6 f), the only circumstance that can be predicted is: <i>"An active member retires at normal</i>	Please see sections 2.6 (i) to (l).

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank’s response
with members	<p>of a member upon leaving a pension plan, must be provided at least one month before the date in which:</p> <ul style="list-style-type: none">• An active member retires at normal retirement age;• an active member becomes a deferred pensioner;• an active member withdraws from the pension plan and receives a refund of his contributions with interest;• an active member becomes a pensioner• a member dies and the benefit has to be paid to the beneficiary or• a member leaves the pension plan under circumstance not mentioned in (i) to (iv) above	<p>retirement age”. For all of the others, the requirement should be to provide the statement within one month of notification of the event. This would maintain the requirement to provide within one month. The first sentence of item g) then becomes redundant but g) explains the information that should be contained in the statement.</p>	

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
2.6 (f) Communication with members	<p>Exit statements, which are a record of the benefits entitlement of a member upon leaving a pension plan, must be provided at least one month before the date in which:</p> <ul style="list-style-type: none"> • An active member retires at normal retirement age; • an active member becomes a deferred pensioner; • an active member withdraws from the pension plan and receives a refund of his contributions with interest; • an active member becomes a pensioner • a member dies and the benefit has to be paid to the beneficiary or • a member leaves the pension plan under circumstance not 	Should be changed to "...must be provided at least one month after the date on which: ..." In so far as all events except that set out in (i) cannot be predicted, this may resolve any issues connected therewith.	Agreed. The PPD was amended to require the plan sponsor to provide the exit statement within twenty days following the member's termination of employment or cessation of membership in the plan.

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
	mentioned in (i) to (iv) above		
2.6 (f) Communication with members	<p>Exit statements, which are a record of the benefits entitlement of a member upon leaving a pension plan, must be provided at least one month before the date in which:</p> <ul style="list-style-type: none"> • An active member retires at normal retirement age; • an active member becomes a deferred pensioner; • an active member withdraws from the pension plan and receives a refund of his contributions with interest; • an active member becomes a pensioner • a member dies and the benefit has to be paid to the beneficiary or 	<p>The highlighted time limit can only be complied with if the Employer is given more than one month's notice of leaving, by the employee.</p> <p>In practice, what occurs is that the employee factors in whatever accumulated vacation leave is due to him/her, into the mandatory notification of exit period.</p> <p>I am of the view that 2.6(g) adequately covers the requirement for communication to the members in the above situations and consequently 2.6 (f) (ii) and (iii) should be deleted. For ease of reference I quote 2.6 (g) hereunder:-</p> <p>“ if the member leaves or retires early an exit statement should be provided after exit but within one month of the request for the exit statement.”</p>	<p>Agreed. The PPD was amended to require the plan sponsor to provide the exit statement within twenty days following the member's termination of employment or cessation of membership in the plan.</p> <p>Please see sections 2.6 (i) to (l).</p>

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
	<ul style="list-style-type: none"> a member leaves the pension plan under circumstance not mentioned in (i) to (iv) above 		
2.6 (f) Communication with members	<p>Exit statements, which are a record of the benefits entitlement of a member upon leaving a pension plan, must be provided at least one month before the date in which:</p> <ul style="list-style-type: none"> a member dies and the benefit has to be paid to the beneficiary 	Exit statements cannot be provided to a member before he dies. In addition, it may not always be possible or practical to provide a member with an exit statement before his employment is terminated.	See previous response.
2.6 (f) Communication with members	<p>Exit statements, which are a record of the benefits entitlement of a member upon leaving a pension plan, must be provided at least one month before the date in which:</p> <ul style="list-style-type: none"> a member dies and the benefit has to be paid to the beneficiary 	Impossible to implement as worded.	See previous response.

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
2.6 (f) Communication with members	<p>Exit statements, which are a record of the benefits entitlement of a member upon leaving a pension plan, must be provided at least one month before the date in which:</p> <ul style="list-style-type: none"> • An active member retires at normal retirement age; • an active member becomes a deferred pensioner; • an active member withdraws from the pension plan and receives a refund of his contributions with interest; • an active member becomes a pensioner • a member dies and the benefit has to be paid to the beneficiary or • a member leaves the pension plan under circumstance not 	<p>According to the revised draft, exit statements would be issued at least one month before a member exits the plan, for the reasons identified within the PPD. In our 2010 comments we put forward that, in the case of retirement, exit statements should be provided three months before the member's retirement date. However, if the above recommendation for the issuance of annual statements is accepted, the one month time frame for supplying members with exit statements in the case of retirement would not be opposed. In the absence of the provision of annual statements, for whatever reason, we propose that exit statements in the case of retirement be provided three months before a member's retirement.</p>	<p>We disagree that exit statements should be provided three months before the member's retirement date.</p> <p>Please see previous response.</p>

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
	mentioned in (i) to (iv) above		
2.6 (g) Communication with members	If the member leaves or retires early an exit statement should be provided after exit but within one month of the request for the exit statement. These statements should include at a minimum: data at which benefit calculations are based, date on which the member joined the pension plan, date at which benefit commences, benefit entitlement and the salary on which benefits are based (if applicable)	Unclear how the provisions of (g) differ from (f). Further clarification may be required.	See previous response.
2.6 (f) & (g) Communication with members	(f)Exit statements, which are a record of the benefits entitlement of a member upon leaving a pension plan, must be provided at least one month before the date in which: <ul style="list-style-type: none"> • An active member retires at normal retirement age; • an active member 	Recommend that exit statements should be provided "within one month after" the member's exit from the pension plan rather than "at least one month before" for "a member leaving a pension plan" as a member would normally have to give the sponsor company one (1) month notice when leaving a company. Also this does not make sense in the case of death.	Agreed. The PPD was amended to require the plan sponsor to provide the exit statement within twenty days following the member's termination of employment or cessation of membership in the plan. See previous response.

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank’s response
	<p>becomes a deferred pensioner;</p> <ul style="list-style-type: none">• an active member withdraws from the pension plan and receives a refund of his contributions with interest;• an active member becomes a pensioner• a member dies and the benefit has to be paid to the beneficiary or• a member leaves the pension plan under circumstance not mentioned in (i) to (iv) above <p>(g)If the member leaves or retires early an exit statement should be provided after exit but within one month of the request for the exit statement. These statements should include at a minimum: data at which benefit calculations</p>		

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
	are based, date on which the member joined the pension plan, date at which benefit commences, benefit entitlement and the salary on which benefits are based (if applicable)		
2.7 Entitlement Process and Right to Redress	Entire Section	Whilst we agree that a fair and documented complaints policy and procedure is important and welcomed for each plan, we would like clarification on who bears the cost of establishing and maintaining this internal dispute resolution procedure. If the costs of hiring the independent arbitrator, board or tribunal are to be borne out of the plan, this should be expressly stated in the final Bill.	Section 2.7 places a responsibility on the management committee for establishing dispute resolution procedures. The Central Bank is considering requiring that all pension plans become a member of the Office of the Financial Services Ombudsman (OFSO). If this proposal is adopted, plans will be required to bear this cost.
2.7 Entitlement Process and Right to Redress	Entire Section	We have no particular problem with what is proposed here but do note that it will be new to many management committees. It will be vital for Central Bank to issue detailed guidance on the sort of procedures it will expect to be put in place. The Revised PPD is deficient in that it does not indicate what Central Bank will expect pension plan TD&Rs to include on this subject. We would not think it practical to write the actual procedures to be adopted into the TD&R but	The PPD already places this requirement on to the management committee. Please see section 2.7 (a) which states: "The management committee or individual trustee(s) must have a documented complaints policy and procedures detailing the complaints process." The Central Bank will issue guidelines which will provide management committees with guidance re: developing and implementing complaint procedures.

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
		would have thought that a requirement in the TD&R for the management committee to put the relevant procedures in place would be sufficient.	
2.7 Entitlement Process and Right to Redress	Entire Section	As with the communication requirements, we do have some concerns on the additional costs putting these procedures in place will impose on small pension plans. It should be noted that many of these will be DC pension plans run through "one stop shop" arrangements with life insurance companies - to the extent that the resulting costs are passed onto these plans they will result in reduced benefits for members.	Noted. However, the Central Bank considers an entitlement process and rights of redress essential. Regardless of the size of the plan a member should be able to seek redress where aggrieved. It is fitting that an attempt is first made for the MC or individual trustees to address the issue before escalating to an external party.
2.7 The Proposals Entitlement Process and Right to Redress	The management committee or the individual trustee(s) is responsible for the handling and resolution of members' and beneficiaries' complaints.....	We note that "The management committee or the individual trustee(s)" only is responsible for the handling and resolution of members' complaints but no reference is made of the "Corporate Trustees".	The responsibility for this function is being placed with the management committee or individual trustees (where applicable).
2.7 The Proposals Entitlement Process and Right to Redress	The management committee or the individual trustee(s) is responsible for the handling and resolution of members' and beneficiaries' complaints.....	<i>The Proposals</i> This section reads as 'the management committee or the individual trustee(s)...' This suggests that it is possible for certain plans not to have a Management Committee. In our view, MCs should be established, as far as possible. Where this is not feasible and a Board of Trustees is in place, it must be ensured that this Board includes at least one employee	In Trinidad and Tobago it is possible to have a pension plan that does not have a management committee. By law a pension plan that has a corporate trustee must have a management committee. In terms of responsibility the individual trustees in a pension plan must fulfill the duties outlined for the corporate trustee and the management committee.

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
		representative.	
2.7 (a) Entitlement Process and Right to Redress	<p>The management committee or the individual trustee(s) is responsible for the handling and resolution of members' and beneficiaries' complaints. Consequently, the following should apply:-</p> <p>(a) The management committee or individual trustee(s) must have a documented complaints policy and procedures detailing the complaints process</p>	The Policy must clearly stipulate the nature and scope of issues that should be addressed by this process.	We agree that when developed the policy should stipulate the nature and scope of issues that should be addressed. However, this would not be stipulated.
2.7 (d) & footnote 13 Entitlement Process and Right to Redress	<p>Where the member or beneficiary is not satisfied with the response or where no response is received within a reasonable timeframe, as specified by the Central Bank, the member or beneficiary may lodge the complaint with the Central Bank or a body designated by the Central Bank.</p> <p>Footnote 13:</p>	The legislation should specify that responses must be received within three to six months and not 'within a reasonable time period' as appears in the PPD. While footnote no. 13 on p.16, which identifies that one time limit may not be appropriate in all circumstances is noted, our proposal of three to six months is not a single time period and is therefore seen to be appropriate as it covers a range rather than identifying a single specific time. Additionally, the guidelines referred to in this footnote should be made available so that all stakeholders are aware of what is required. Their	Guidelines will be issued on this matter. These guidelines will be disseminated to all the registered pension plans, as well as, posted on the Central Bank website which the public can access.

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
	Guidelines would be issued on this matter as one time limit may not be appropriate in all circumstances	inclusion as an appendix may therefore be considered appropriate.	
2.7 rationale Entitlement Process and Right to Redress	Members and beneficiaries (and individuals claiming the right to be deemed a member or beneficiary under a pension plan) must be entitled to a fair process or procedure in which their entitlements, rights and benefits under the pension plan may be claimed or asserted. A fundamental right of members and beneficiaries is the right to a fair, transparent process by which to assert claims against the pension plan. Individuals should be able to initiate and pursue their right to participate in a pension plan in the manner set forth by regulations and the TD&R.	Some pension plans do include a Rule for referring a matter to arbitration.	We acknowledge your comment.

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
	<p>There are numerous ways to establish a claims process, including the establishment of an internal dispute resolution procedure. Good practice would also ensure that the procedure makes use of an independent arbitrator, board or tribunal, which may include member representatives. Some jurisdictions have established independent Pensions Tribunal or a Pensions Ombudsman to treat with disputes and complaints.</p>		
2.7 rationale Entitlement Process and Right to Redress	<p>Members and beneficiaries (and individuals claiming the right to be deemed a member or beneficiary under a pension plan) must be entitled to a fair process or procedure in which their entitlements, rights and benefits under the pension plan may be claimed or asserted. A fundamental right of members and beneficiaries is the right to a</p>	<p>Since there will be a cost attached to the use of independent arbitrators, will the Bill address who is to pay such costs particularly in cases where the claim is without merit?</p>	<p>No. The bill will not address who should bear the cost of independent arbitrators.</p>

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank’s response
	<p>fair, transparent process by which to assert claims against the pension plan. Individuals should be able to initiate and pursue their right to participate in a pension plan in the manner set forth by regulations and the TD&R.</p> <p>There are numerous ways to establish a claims process, including the establishment of an internal dispute resolution procedure. Good practice would also ensure that the procedure makes use of an independent arbitrator, board or tribunal, which may include member representatives. Some jurisdictions have established independent Pensions Tribunal or a Pensions Ombudsman to treat with disputes and complaints.</p>		

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
The Supervisory System			
3.Supervisory System	Entire Section	In general there seems to be a considerable amount of overlap between this section of the Revised PPD and section 5 (On-Site and Off-Site Supervision). It is sometime difficult to read the one without referring to the other and we wonder whether they could be combined into a single section. Where there is overlap between the two sections we have made our comments in section 5 of this document rather than here in this section.	Noted. The Central Bank has restructured sections 3, 4 and 5 of the PPD to address the flow of the document.
3.1 Scope of the OPPA	Entire Section	<p>We are of the view that the 2 tier registration process could lead to confusion. When exactly is the plan registered in such a case? What is one authority approves and the other does not? Is the scope of each authority's approval requirement clear?</p> <p>In so far as the Central Bank is the primary regulator and BIR approval is required from a tax perspective the following may be considered:</p>	<p>Under section 4.1 of the PPD pension plans must first seek and receive tax approval from the BIR. After receiving BIR approval the pension plan has 20 days to submit all the required documents (see section 4.2) to the Central Bank for registration. Once satisfied with all the registration documentation the Central Bank will register the pension plan.</p> <p>It should be noted that under the OPPA the BIR will be approving tax related issues and the Central Bank will be assessing compliance with the Occupational Pension Plans</p>

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
		<p>(i) Establishment of a joint body (representing Central Bank and BIR) to approve pension plans.</p> <p>If the above is not palatable consideration may be given to</p> <p>(ii) Central Bank approving the plan and then submitting to BIR for granting of approval for tax exemption status.</p> <p>(iii) The scope of each entities role should be clearly demarcated with Central Bank approving in relation to the provisions of the OPP Legislation and the BIR in relation to Tax exemption status only to avoid duplication and conflict.</p>	<p>Act. This will aid in the streamlining of the registration process. In addition, the Central Bank and the BIR have committed to communicating as required to ensure that the registration process is as efficient as possible.</p>
3.1 (a) Scope of the OPPA	<p>a) The OPPB would provide for the regulation of occupational pension plans which are approved under the ITA and are either:</p> <ul style="list-style-type: none"> • already registered at the Central Bank; OR • submitted for registration at the Central Bank 	<p>The proposal does not provide protection to members of plans where the trustee and host company does not promptly apply for registration of the plan.</p> <p>Presumably the Bill will provide for it to be illegal to operate an unregistered occupational pension plan and stipulate a time frame for application of registration with attendant penalties for breaches</p>	<p>We disagree. The PPD addresses this concern. Please refer to 3.1(b) which states: "Once approved by the BIR, the pension plan shall fall under the regulatory ambit of the OPPB, whether or not they are already registered or in the process of being registered by the Central Bank."</p> <p>In addition, the PPD states that pensions plans that have received BIR approval and have not submitted an application for registration to the Central Bank within the</p>

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
			stipulated period would be in breach of the OPPA. The BIR will provide the Central Bank with a list of pension plans which it has approved. An administrative fine for failing to submit an application for registration to the Central Bank is included in Appendix III of the PPD.
3.1 (a) & (d) Scope of the OPPA	<p>(a)The OPPB would provide for the regulation of occupational pension plans which are approved under the ITA and are either:</p> <ul style="list-style-type: none"> • already registered at the Central Bank; OR • submitted for registration at the Central Bank <p>(d) An occupational pension plan for which no application was made to the Central Bank or the BIR, or for which approval has not been received from the BIR, falls outside of the scope of the OPPB.</p>	<p>Items (a) and (d) effectively say that a pension plan that has not been approved by the Inland Revenue will not be subject to the OPPA. In our view this does not reflect the current realities of the pension plan environment in Trinidad & Tobago where long delays in gaining Revenue approval are the norm. This effectively means that pension plan sponsors have a choice between:</p> <p>Putting their pension plan on hold and leaving employees without pension coverage until the Inland Revenue deals with their case; or</p> <p>Operating the plan as if the approval was in place in the hope that this will be forthcoming at some future date.</p> <p>Faced with this choice it is common for plan sponsors to opt for the second of these alternatives.</p>	<p>Only pension plans which are approved under the ITA will fall under the ambit of the Occupational Pensions Act. The BIR has also indicated in OPAC meetings that there is no provisional approval of pension plans and therefore persons who commence operating pension plans without the requisite approvals would therefore be operating outside the law.</p> <p>It should be noted that under the OPPA the BIR will be approving tax related issues and the Central Bank will be assessing compliance with the Occupational Pension Plans Act. This will aid in the streamlining of the registration process. In addition, the Central Bank and the BIR have committed to communicating as required to ensure that the registration process is as efficient as possible.</p>

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
3.1 (a) & (d) Scope of the OPPA	<p>(a)The OPPB would provide for the regulation of occupational pension plans which are approved under the ITA and are either:</p> <ul style="list-style-type: none"> • already registered at the Central Bank; OR • submitted for registration at the Central Bank <p>(d) An occupational pension plan for which no application was made to the Central Bank or the BIR, or for which approval has not been received from the BIR, falls outside of the scope of the OPPB.</p>	<p>We recognise that this is a far from adequate state of affairs but it is one that the Revised PPD must take into account. We do not believe that it is acceptable for any pension plan to be excluded from the regulatory process simply because the Inland Revenue has not processed its application for approval – for example, it should not be acceptable for the sponsor of such a pension plan to fail to pay contributions within the 30-day timetable that will be specified in the OPPA nor for the trustee to invest those contributions in investments not permitted by the OPPA. Therefore one of two things needs to happen.</p> <p>Either the Revised PPD should say that the OPPB will apply not only to approved plans but also those intending to be approved, i.e. including those where an application has been submitted but approval is pending; or</p> <p>The Inland Revenue has to be given the resources in terms of personnel, training and systems to process applications for approval expeditiously and the prohibition on operating unapproved plans then has to be enforced rigorously.</p>	See previous response.

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
		Given that the latter is unlikely to happen any time soon the Revised PPD must take the former approach.	
3.1 (e) Scope of the OPPA	All pension plans already registered under the IA Chap 84:01 will be deemed registered under the OPPB.	We note that pension plans already registered under the Insurance Act 1980 (and presumably the Insurance Bill currently before Parliament) will be deemed to be registered under the OPPA. Presumably this deemed registration will be time limited? E.g. it is proposed to give each pension plan a 3-year period after the OPPA becomes Law to submit a revised trust deed and rules that are fully compliant with the new legislation. Would the deemed registration lapse if this submission deadline is not met?	No. Registration will not be time limited. If pension plans have not adhered to the provisions at the end of the period, normal regulatory action applies. With respect to the example provided if a pension plan does not submit a revised trust deed and rules that is fully compliant with the new legislation within the three year transition period that pension plan will still fall under the ambit of the OPPA, but would be in contravention of the OPPA. The Central Bank will take the appropriate action to ensure compliance in such a case.
3.1 (f) Scope of the OPPA	A consequential amendment to the ITA which states that the Chairman of the BIR must provide the Central Bank with a list of pension plans approved by the BIR would be proposed. This list will be required to be submitted to the Central Bank every two (2) years.	If 3.1 (f) is the mechanism for discovering breaches in 3.1 (c) which deals with the time for application to the Central bank for registration, the two year interval for submission of the list by the BIR seems extremely long.	Agreed. The PPD was amended to require that the BIR submits a list to the Central Bank every quarter. In addition, the BIR indicated that it would copy the Central Bank on every approval letter. Please see section 3.1 (e) which states: " The Chairman of the BIR shall within twenty (20) days of the end of each quarter provide the Central Bank with a list of pension plans approved by the BIR, in the previous quarter. Where no pension plans have been approved during the quarter, a nil report should be

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
			submitted to the Central Bank.”
3.1 (f) Scope of the OPPA	A consequential amendment to the ITA which states that the Chairman of the BIR must provide the Central Bank with a list of pension plans approved by the BIR would be proposed. This list will be required to be submitted to the Central Bank every two (2) years.	We note the proposal in item (f) to require the Inland Revenue to provide the Central Bank with a list of approved plans. Based on our experience of dealing with the Inland Revenue we know that there are gaps in their records and it may thus not be possible for them to comply with such a requirement. Moreover, we would have thought that updating such a list only once every two years is not sufficient – wouldn't a requirement for the Revenue to inform Central Bank of all subsequent applications for approval as and when they are made make more sense? A central register of local pension plans is clearly required but it may be that the Revenue is not able to provide the necessary initial data.	See previous response.
3.1 rationale Scope of the OPPA	While the Central Bank recognizes that there are numerous types of pension arrangements, it was necessary to define a 'world' of pension plans in order to establish the scope of regulation. As a result, a decision was taken to regulate only those occupational	The 1969 Draft Regulations includes legislation on deferred annuity plans hence these investment vehicles will remain unregulated as they have not been included in the OPPB, which relates only to occupational pension fund plans that are approved by the BIR. Consequently some consideration should be given to include deferred annuity plans in the OPPB.	The Central Bank will not include deferred annuity plans in the scope of the OPPB at this time. In addition deferred annuity plans offered by insurance companies must be approved by the Central Bank.

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
	pension plans that are approved by the BIR. The Central Bank also realizes that as a result of confining the 'world' of pension plans to be regulated, there may be an uneven playing field for sponsors with respect to the administration of the various pension plans.		
3.2 (d) Components of Regulatory Framework	Entire Section	<p>The proposed regime for regulation of OPPs seems like a complex and ever changing one. While there is a need for flexibility in the regulatory regime this should be balanced with consistency.</p> <p>The priority in the case of a conflict between the various regulations and the banding nature should be made clear.</p>	The Central Bank carries out its supervision of pension plans in a manner consistent with its regulatory remit taking into consideration the parameters of the applicable legislation.
3.2 (d) Components of Regulatory	Guidelines- statements of best practice, compliance with which is recommended	Item (d) says that Guidelines will be "statements of best practices". Is this necessarily the case? There will be situations where guidance is needed on what is acceptable practice. For example, we raise the issue of	The guidelines issued by the Central Bank provide guidance to the regulated entities on international or regional best standards or practices and/or practices otherwise considered acceptable to the Central Bank.

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
Framework		what processes would be required to deal with member complaints. We think there will need to be different categories of Guidelines, e.g. "best practice" and "acceptable practice".	
3.2 (d) Components of Regulatory Framework	Guidelines- statements of best practice, compliance with which is recommended	<p>There needs to be more detail on what the consequences would be of not complying with Guidelines – it is not sufficient to just say compliance is recommended. For example, practices that are run of the mill for a large pension plan might be:</p> <p>Considered best practice for medium-sized pension plans with which some would comply but others would not; and</p> <p>Out of the question for small pension plans that would simply not have the resources to apply them.</p> <p>The Revised PPD needs to allow for these various shades of grey that exist in what is not a monochrome environment.</p>	<p>Contravention of a guideline does not automatically constitute an offence. However, non-adherence to a guideline may trigger the issuing of a compliance direction where the Central Bank has determined that as a consequence the institution is engaging in 'unsafe' and 'unsound' practices. Please see section 3.3.c (ii) which states that the Central Bank: "In exercising its responsibilities and authorities the Central Bank:- May issue guidelines to the industry. While non-compliance with a guideline would not constitute an offence, it may form the basis for the Central Bank to conduct an on-site examination into the operations of a pension plan. If the examination reveals some weakness regarding the operations of the pension plan, the Central Bank may initiate preventive or corrective measures. These measures may include the issuance of compliance directions to ensure that situations of financial weakness, inadequate controls or risk management, are</p>

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
			appropriately dealt with."
3.3.2 (c) Scope of Responsibilities and Authority	In regulating and supervising occupational pension plans the Inspector will: Obtain information (including statutorily required filings, reports and financial and other statements) in such format and at such frequency as the Central Bank may from time to time require and as permitted under the OPPB and its Regulations	The scope and limitations on information that may be sought must be clear. The information that the regulator can seek should be limited to that required for them to undertake their function as regulator and should not be for general information gathering purposes.	The Central Bank does not take its regulatory responsibility lightly and requests information to facilitate the achievement of its objectives.
3.3.2 (g) Scope of Responsibilities and Authority	In regulating and supervising occupational pension plans the Inspector will: Ensure that there is a mediation system in place	The objective of this provision is unclear. The mediation system is for whom? Players within the OPP system or between the Players and the regulator?	The PPD was amended. Please see section 3.3 (b) (v) with states: "In regulating and supervising occupational pension plans the Inspector will: Ensure that there is a mediation system in place. The mediation system will serve pension plan members and their beneficiaries."
3.3.3 (b)	In exercising its responsibilities	Please note that no follow-up action is taken by the	The Central Bank does not agree with this assertion.

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
Scope of Responsibilities and Authority	<p>and authorities the Central Bank:</p> <p>(b) May issue guidelines to the industry. While non-compliance with a guideline would not constitute an offence, it may form the basis for the Central Bank's conduct of an on-site examination into the operations of a pension plan (failure to comply with any statement of best practice may indicate that an institution is not operating in a prudent manner). If the examination reveals some weakness regarding the management of the pension plan, instructions for preventive or corrective measures such as a compliance direction may be issued to ensure that situations of financial weakness, inadequate controls or risk management, or non-compliance with the</p>	<p>Central Bank subsequent to the issuance of their on-site examination reports hence it will be difficult for the Central Bank to determine whether their instructions were carried out based on their on-site report.</p>	

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
	requirements of the OPPB or the Regulations are dealt with.		
3.3.3 (b) Scope of Responsibilities and Authority	In exercising its responsibilities and authorities the Central Bank: (b) May issue guidelines to the industry. While non-compliance with a guideline would not constitute an offence, it may form the basis for the Central Bank's conduct of an on-site examination into the operations of a pension plan (failure to comply with any statement of best practice may indicate that an institution is not operating in a prudent manner). If the examination reveals some weakness regarding the management of the pension plan, instructions for preventive or corrective measures such as a compliance direction may be issued to ensure that situations of	It appears that the Central Bank is seeking to enforce guidelines through compliance directions. Please clarify.	Guidelines are issued by the Central Bank to address inter alia certain weaknesses in the operations of regulated entities. The Central Bank generally expects its regulated entities to comply with the Guidelines and take steps to implement measures, processes, systems to ensure their safe and sound operations. Consequently, where a regulated entity does not comply with a guideline, the Central Bank must take the requisite steps to ensure that the entity is operating in a safe and sound manner. Where it is found that this is not the case, the Central Bank will initiate regulatory action which may include issuing a compliance direction.

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
	financial weakness, inadequate controls or risk management, or non-compliance with the requirements of the OPPB or the Regulations are dealt with.		
3.3.3 (c) Scope of Responsibilities and Authority	In exercising its responsibilities and authorities the Central Bank: Shall consult with trustees, management committees and other affected persons when developing or amending Regulations or Guidelines. However, if urgent action is required, the Minister may issue or amend a Regulation without formal consultation. Similarly, when circumstances so warrant the Central Bank may issue a Guideline without formal consultation.	The provision for the Minister and the CBTT to be able to issue or amend a Regulation or issue a guideline without consultation, where urgent action is required represents an increase in government control, with which we have certain reservations. While it is appreciated that urgent situations could arise which require a swift response, it is not advisable that an individual person or entity have such a high degree of power. All regulations whether of an emergency nature or otherwise must be subject to Parliamentary approval. Consistent with good law, we propose that the positive resolution of both Houses should be required. Wherever possible, consultation with stakeholders should be undertaken prior to Regulations being introduced or amended.	There will be incidents where the Central Bank or the Minister must act quickly to avert a crisis and should have the power to do so. If, the parliamentary process is not able to deal quickly with such emergency situations. Consequently, the Minister must have the power to issue regulations without consultation in emergency situations only.
3.3.4	It is further proposed that the	Mention is made here of 'investment managers not	This provision was deleted. Please note that the

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
Scope of Responsibilities and Authority	Central Bank be given the jurisdiction to examine the affairs of all local investment managers of pension plans, including those investment managers not licensed under the FIA. Foreign investment managers must be subject to a regulatory authority acceptable to the Central Bank and consequently reliance would be placed on the regulatory authority in that jurisdiction to ensure that the foreign investment manager is well regulated.	licensed under the FIA'. There should be no provision made for unlicensed investment managers; the appropriate license should be a compulsory requirement.	provisions stipulating the selection of investment managers has been relocated to the Governance section of the PPD.
3.3.4 Scope of Responsibilities and Authority	It is further proposed that the Central Bank be given the jurisdiction to examine the affairs of all local investment managers of pension plans, including those investment managers not licensed under the FIA. Foreign	The provisions of this clause are vague. We trust that the legislation of subsidiary legislation will clearly outline the jurisdictions whose regulations are acceptable to the Central Bank.	The provisions stipulating the selection of investment managers have been relocated to the Governance section of the PPD. The PPD outlines the criteria which will be used to assess whether an investment manager will be considered satisfactory by the Central Bank. Please see section 5.8 (d) and (e) which states: (d) "Criteria by which a Regulator will be considered

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
	investment managers must be subject to a regulatory authority acceptable to the Central Bank and consequently reliance would be placed on the regulatory authority in that jurisdiction to ensure that the foreign investment manager is well regulated.		<p>'satisfactory' will include whether the Regulator:</p> <ul style="list-style-type: none"> (i) adheres to international standards regarding regulation and supervision, (ii) conducts on- site supervision, (iii) imposes prudential and other reporting requirements on the entity, (iv) is not from a jurisdiction that is subject to sanctions, (v) is not from a jurisdiction that appears on a list of countries that either do not or insufficiently comply with international standards applicable to regulation and supervision and/or AML/CFT. <p>(e) The Central Bank will issue circulars as appropriate regarding (i to v) above."</p>
3.3.4 Scope of	It is further proposed that the Central Bank be given the jurisdiction to examine the affairs	Investment Managers should all be licensed	The expectation is that all investment managers will be licensed, either in the home jurisdiction or the jurisdiction

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
Responsibilities and Authority	of all local investment managers of pension plans, including those investment managers not licensed under the FIA. Foreign investment managers must be subject to a regulatory authority acceptable to the Central Bank and consequently reliance would be placed on the regulatory authority in that jurisdiction to ensure that the foreign investment manager is well regulated.		<p>where they are based.</p> <p>Please note that the provisions stipulating the selection of investment managers has been relocated to the Governance section of the PPD.</p> <p>Please see section 5.8 (d) and (e) which states:</p> <p>(d) "Criteria by which a Regulator will be considered 'satisfactory' will include whether the Regulator:</p> <p>(i) adheres to international standards regarding regulation and supervision,</p> <p>(ii) conducts on- site supervision,</p> <p>(iii) imposes prudential and other reporting requirements on the entity,</p> <p>(iv) is not from a jurisdiction that is subject to sanctions,</p> <p>(v) is not from a jurisdiction that appears on a list of countries that either do not or insufficiently comply with international standards applicable to regulation and supervision and/or AML/CFT.</p> <p>(e) The Central Bank will issue circulars as appropriate regarding (i to v) above."</p>

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
3.3.4 Scope of Responsibilities and Authority	It is further proposed that the Central Bank be given the jurisdiction to examine the affairs of all local investment managers of pension plans, including those investment managers not licensed under the FIA. Foreign investment managers must be subject to a regulatory authority acceptable to the Central Bank and consequently reliance would be placed on the regulatory authority in that jurisdiction to ensure that the foreign investment manager is well regulated.	What are the practical implications for pension plans, if any, of all local pension plan investment managers coming under the jurisdiction of Central Bank? Which local managers are currently not under this jurisdiction?	Please note that this provision was deleted. The provisions stipulating the selection of investment managers has been relocated to the Governance section of the PPD. Please see the amended proposal below: 5.8 (b) A local investment manager will be considered fit and proper if it is: (a) An institution licensed under the FIA. (b) An insurance company registered under the IA.
3.3.4 Scope of	It is further proposed that the Central Bank be given the	We note the proposal that foreign investment managers must be subject to a regulatory authority "acceptable to	The criteria which will be used to assess a foreign investment manager are detailed in the Governance

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
Responsibilities and Authority	jurisdiction to examine the affairs of all local investment managers of pension plans, including those investment managers not licensed under the FIA. Foreign investment managers must be subject to a regulatory authority acceptable to the Central Bank and consequently reliance would be placed on the regulatory authority in that jurisdiction to ensure that the foreign investment manager is well regulated.	the Central Bank". More detail is needed on how this will work in practice, for example: What criteria will be used to determine whether an overseas regulator is acceptable to the Central Bank? What resources will be needed to make this determination and does the Central Bank have them available?	section 5.8 (d) "A foreign investment manager and advisor must be licensed and regulated in its home jurisdiction. d. Criteria by which a Regulator will be considered 'satisfactory' will include whether the Regulator: i. adheres to international standards regarding regulation and supervision, ii. conducts on- site supervision, iii. imposes prudential and other reporting requirements on the entity, iv. is not subject to sanctions, v. is not on a list of countries that do not or insufficiently comply with international standards applicable to regulation and supervision and/or AML/CFT. e. The Central Bank will issue circulars as appropriate regarding (i to v) above."
3.4 Secrecy and sharing information	Entire Section	The Revised PPD should require the Central Bank to require its employees who deal with pension plan information to sign binding confidentiality agreements if this is not already the case.	This already applies.
3.4 (b) Secrecy and	Notwithstanding the above, it is proposed that the Central Bank	Where information is shared with another pension plan regulator for a regulatory rather than a law enforcement	We disagree, this is standard supervisory practice.

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
sharing information	be given the power to share: (i) prudential and other relevant information related to registration or amendment of a pension plan with the BIR and, (ii) pension plan information with other regulators or supervisors of pension plans for regulatory purposes.	purpose the Revised PPD should say that the entity whose information has been shared should be informed of this.	
3.4 (b) (ii) Secrecy and sharing information	Notwithstanding the above, it is proposed that the Central Bank be given the power to share: (iii) pension plan information with other regulators or supervisors of pension plans for regulatory purposes.	Clarification is needed. Who are the other proposed regulators of pension plans?	The ability to cooperate and share information with other regulatory authorities is a fundamental tenet of effective supervision. The proposals therefore seek to give the Central Bank the ability to share information with inter alia the BIR, TTSEC, DIC, the OFSO or other body responsible for mediation, and the FIU.
3.4 (c) & (d) Secrecy and sharing	(c)The Central Bank may also share information with law enforcement authorities as required for purposes such as	How does this work? The Bank is proposing to keep the information confidential but will be used for prosecution which is assumed to be public proceedings?	See previous response.

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank’s response
information	<p>combating money laundering and the financing of terrorism under the Proceeds of Crime Act, 2000, the Anti-Terrorism Act, 2005, or any other relevant legislation for the combating of money laundering and terrorist financing.</p> <p>(d)The Central Bank must be satisfied that the information will be treated as confidential by the agency or body to whom it is disclosed, and used strictly for the purpose for which it is disclosed. As such, the Central Bank would be required to enter into a Memorandum of Understanding with such agency or body to ensure that information sharing arrangements are codified and reflect the required level of confidentiality</p>		

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
The Supervised Entity			
4.1 Reporting to the Central Bank	Entire Section	It is not clear who is responsible for compliance and reporting. The OPP Proposal makes reference to "Pension Plan" but does not specify whom – all reporting and compliance obligations must be clearly assigned - we would suggest that the Trustee should have principal responsibility to coordinate all reporting and compliance obligations supported by the other players including the Management Committee the external auditors and the Actuary.	We disagree that it is not clear who is responsible for compliance and reporting. The PPD stipulates that the trustee is responsible for compliance and reporting. Please see section 5.5 Duties of the Corporate Trustee.
4.1 Reporting to the Central Bank	Entire Section	This section of the Revised PPD contains no reference to the recovery plan required when an actuarial valuation shows a pension plan to be in deficit and is incomplete without this.	Noted. The PPD was amended to include submission of a recovery plan under this section "Reporting to the Central Bank". Please see section 4.4 (g) which states: " A recovery plan must be submitted to the Central Bank within sixty (60) days of the due date of the actuarial valuation report when a pension plan's funding ratio is below 100%".
4.1 (a) Reporting to the Central	The Inspector will have no discretion with respect to administering the OPPB regarding	We note that the Central Bank is seeking to impose strict deadlines. We are of the view that the Inspector should be empowered to grant extensions if the party makes a	Submission of accurate information in a timely manner is necessary for effective regulation and decision making. It is also international best practice to impose deadlines for

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
Bank	deadlines that are proposed in this section except for instances where a person is unable to comply with the prescribed time limit because of circumstances beyond his control. Such circumstance include, but are not limited to, the occurrence of events such as hurricane, storm, fire, flood or any similar natural disaster or events such as industrial unrest, riot, public disorder or the like. Where such circumstances arise, the Inspector may grant an extension of time as may be reasonably sufficient to submit the required information	case for such extension of time.	<p>submission of regulatory reports.</p> <p>The Inspector will only have discretion with respect to administering proposed deadline in the OPPB in cases where a person is unable to comply with the stipulated deadline because of circumstances beyond his control. Please see section 4.4 (a) which states: "The Inspector will have no discretion with respect to the administration of the OPPA regarding deadlines that are proposed in this section except for instances where a person is unable to comply with the prescribed time limit because of circumstances beyond his control. Such circumstance include, but are not limited to, the occurrence of events such as hurricane, storm, fire, flood or any similar natural disaster or events such as industrial unrest, riot, public disorder or the like. Where such circumstances arise, the Inspector may grant an extension of time as may be reasonably sufficient to submit the required information."</p>
4.1 (a) Reporting to the Central Bank	The Inspector will have no discretion with respect to administering the OPPB regarding deadlines that are proposed in this section except for instances	We note that the Central Bank will have no discretion with respect to administering the OPPB regarding deadlines that are proposed, and recommend that the Central Bank reconsider their position especially where	Please see response above.

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
	where a person is unable to comply with the prescribed time limit because of circumstances beyond his control. Such circumstance include, but are not limited to, the occurrence of events such as hurricane, storm, fire, flood or any similar natural disaster or events such as industrial unrest, riot, public disorder or the like. Where such circumstances arise, the Inspector may grant an extension of time as may be reasonably sufficient to submit the required information	breaches of deadlines are marginal.	
4.1 (b) Reporting to the Central Bank	A pension plan may be required to furnish specified information in a particular form and within such period of time as specified by the Central Bank in Regulations or Guidelines as appropriate.	In item (b) there needs to be some sort of reasonableness requirement applied to the deadlines imposed by Guidelines which, after all, are not mandatory.	The Central Bank always applies reasonableness when carrying out its role as Regulator. It should also be noted that the requirement to provide information to the Central Bank would generally be enshrined in law even though the format or details of such information may be specified in Guidelines or

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
			Regulations.
4.1 (d) Reporting to the Central Bank	Semi- annual returns for the pension plan must be filed with the Central Bank within forty-five days after the end of each six (6) month period.	We note from item (d) that the provision of semi-annual returns is to become a statutory requirement. Central Bank has confirmed in OPAC meetings that these returns are not collected primarily for regulatory purposes and it is therefore disappointing that the Central Bank has decided to perpetuate the costs their preparation imposes on pension plans. We would have thought that, in what is meant to be a risk-based regulatory environment, the requirement to produce semi-annual (or more frequent) returns should only be applied to pension plans deemed to be “at risk”.	The information in the semi-annual returns is collected for both regulatory purposes and supervisory purposes. The Central Bank is also mandated to ensure financial stability and the information collected on the returns aids in fulfilling the Central Bank's objectives in this regard. It is important for the Central Bank to get more frequent updates on the financial condition of a pension plan. The semi-annual reports would allow the Central Bank to more stringently monitor plan performance and intervene as necessary where stipulated investment limits are not being adhered to or contribution rates recommended in actuarial valuation reports are not being paid.
4.1 (d) Reporting to the Central Bank	Semi- annual returns for the pension plan must be filed with the Central Bank within forty-five days after the end of each six (6) month period.	The requirement to provide semi-annual returns within 45 days of the end of the supervised entity's half year appears to be unreasonable and onerous. The policy document fails to provide a clear rationale for this new requirement.	See previous response.

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
4.1 (e) Reporting to the Central Bank	Actuarial valuation reports must be done at least once every three years and submitted to the Central Bank within nine months of the statutory date for the actuarial valuation, or with such greater frequency as required by the Central Bank.	<p>We would be grateful if the Central Bank could provide detailed reasons as to why it continues to believe that a 9 month deadline for the submission of actuarial valuation reports is appropriate. The question has been asked many times without cogent response. In this regard:</p> <ul style="list-style-type: none"> • Two of the four jurisdictions cited by the Central Bank as guiding the Act, i.e. South Africa and the UK, have longer deadlines; • The relevant Practice Standard issued by the Caribbean Actuarial Association specifies the submission of actuarial valuation reports within 12 months of the valuation date (see http://www.caa.com.bb/files/APS1.pdf); and • The revised PPD recognizes that 9 months is inadequate for cases where the pension plan is in deficit and effectively proposes a 12 month reporting deadline, i.e. 9 months to complete a valuation report that doesn't contain recommendations on the contributions required to fund the deficit and a further 3 months to 	This requirement to submit an actuarial valuation report within 9 months of the valuation date is an existing requirement in law which is being maintained as it is considered reasonable. Section 61 (2)(b) of the Insurance Act requires the actuarial report required under section 185 to be submitted to the Central Bank within 9 months of the valuation date.

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
		produce a recovery plan that does.	
4.1 (f) Reporting to the Central Bank	Pension plans that allow affiliated sponsors to participate must submit a deed of adherence to the Central Bank within one year of the effective date of the inclusion of another participating sponsor.	We see no need for a one-year period being allowed for the submission of a deed of adherence and we would have thought this could happen more or less simultaneously with the inclusion of the additional participating employer. A 30-day submission period should be adequate.	The PPD was amended. Section 4.4 (f) states: “Pension plans that allow affiliated sponsors to participate must submit a deed of adherence to the Central Bank within twenty (20) days of the execution of the deed which permits the inclusion of another participating plan sponsor.”
4.2 Registration of pension plans	Entire Section	<p>We are of the view that the scope of the Board of Inland Revenue and the Central Bank approval needs to be clearly defined.</p> <p>In so far as the Central Bank will be the primary regulator, we are of the view that an OPP cannot become operational until formal Central Bank approval is granted. This needs to be clearly spelt out. The OPP Proposal gives the impression that the plan can become operational on receipt of BIR approval whether Central Bank Approval is granted or not.</p>	<p>The PPD states that once a plan receives BIR approval it will fall under the ambit of the OPPB. It also states that if plans do not seek Central Bank approval within 30 days of receiving BIR approval they will be in contravention of the Act.</p> <p>Consequently, if a pension plan has been approved by the BIR but has not sought approval from the Central Bank within 30 days of receiving the BIR approval the Central Bank can initiate regulatory action. It should be noted that the BIR will be providing the Central Bank with a list of approved pension plans to facilitate the monitoring of this proposal on a quarterly basis.</p>

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
4.2 Registration of pension plans	Entire Section	<p>We are pleased that the Revised Proposals intend to address the current inefficient system for registering pension plans and in particular, the duplication of roles between the BIR and Central Bank.</p> <p>We do not find however that the Revised Proposals state or explain how the current delays and inefficiencies will be improved in the Final Bill and in particular what the separate roles and responsibilities of the BIR would be, distinct from the Central Bank. We therefore would appreciate some clarification in this regard.</p>	<p>The BIR will be approving tax related issues that fall under the Income Tax Act, Finance Act. The Central Bank is responsible for the regulation and supervision of pension plans, including enforcing compliance with the Occupational Pensions Act.</p> <p>In addition, the PPD allows for the sharing of information and co-operation between the BIR and the Central Bank which can be formalized in a MOU. It is envisioned that this process will assist in streamlining administrative inefficiencies.</p>
4.2 Registration of pension plans	Entire Section	<p>There is one important omission in this part of the Revised PPD that we really should have brought to your attention earlier, and we apologize for not having done so. This is that the proposals should formalize the existing practice of submitting a new trust deed and rules to the Central Bank in draft as a first step before it is actually executed and the Central Bank scrutinizing this and passing an opinion on whether it satisfies the requirements for registration. The reason for this is that whilst it is easy to make changes to a draft trust deed</p>	<p>Agreed. The PPD was amended to facilitate the submission of a DRAFT TD&R where the pension plan does not yet have an executed TD&R. Please see section 4.2.1 (i) which states: " A copy of the executed TD&R, bearing the BIR stamp of approval. Where a copy of an executed TD&R is not yet available, the applicant may submit a <i>draft</i> TD&R to the Central Bank along with the other registration documents. Where a draft TD&R is submitted with an application for registration, the Central Bank will provide feedback on the draft TD&R within sixty (60) days of receipt. However, approval for registration will not be granted until the applicant has submitted the final,</p>

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
		<p>and rules, once these documents have been executed it can be at best messy and expensive and at worst impossible to make changes that the Central Bank might require after the event. The Revised PPD should therefore:</p> <p>Say that the Central Bank will accept draft trust deed and rules for scrutiny as a preliminary step towards the formal application for registration;</p> <p>Specify the timeframe within which they will respond with details of what (if any) revisions are needed to meet the requirements for registration;</p> <p>Allow this to be followed by a formal application including the executed trust deed and rules in the form previously scrutinized by the Central Bank in draft; and</p> <p>Specify that the registration fee is only payable when the formal application is lodged.</p>	<p>executed TD&R containing all the required revisions to the Central Bank for review;"</p> <p>However, it should be noted that the application fee must be submitted whether or not the TD&R is draft or final.</p>
4.2 Registration of pension plans	Entire Section	We agree that the duplication of effort that currently exists between Central Bank and Inland Revenue needs to be resolved so that the processes of registration and approval can be concluded much more promptly and we would welcome any developments to facilitate this. The	<p>The suggestion is noted but at this time there are no plans or resources to establish a joint office for the approval and registration of pension plans.</p> <p>The PPD allows for the sharing of information and co-operation between the BIR and the Central Bank which</p>

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
		<p>Central Bank and Inland Revenue would do well to consider adopting the following model, ie:</p> <p>Establish a Joint Office that reports to both Central Bank and Inland Revenue;</p> <p>A single application for pension plan registration and approval is made to the Joint Office;</p> <p>The Joint Office examines the application to see if it meets criteria for registration specified to it by the Central Bank and criteria for approval specified to it by Inland Revenue;</p> <p>In straightforward cases the Joint Office confirms to both Central Bank and Inland Revenue that the application meets the specified criteria and the latter then register and approve the pension plan respectively; or</p> <p>In more difficult cases points of contention are referred to Central Bank and Inland Revenue as the case may be for adjudication before the pension plan is registered or approved.</p>	<p>can be formalized in a MOU. It is envisioned that this process will assist in streamlining administrative inefficiencies. We also refer to section 4.3 of the PPD which attempts to clearly delineate the responsibilities of the Central Bank and the BIR with respect to approval of amendments.</p>
4.2 (a) Registration of	A pension plan which has applied for and received tax approval from the Board of Inland Revenue	Is the current practice of applying for and being issued a provisional approval of the draft TD&R to be preserved	The Central Bank has discussed this with BIR who has indicated that the law does not permit the granting of

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
pension plans	must apply to the Central Bank for registration within 30 days of such approval.	and institutionalized?	provisional approvals.
4.3 Registration documentation	Entire Section	Some of the information required may not be available at the time the registration application is submitted, e.g. the auditor may not have been appointed as his services are not required until the end of the first pension plan year and management committee members may not have been appointed.	The PPD was amended to require that the names of actual and potential service providers be provided. Please see section 4.2.1 (iv).
4.3.1 Registration documentation	Entire Section and footnote 15 Footnote 15: New plans may submit documentation to the BIR and Central Bank simultaneously but the Central Bank would not register any arrangement unless approved by the BIR.	Footnote 15 suggests that applications for approval to the BIR and to the Central Bank can be made simultaneously. However in light of this clause and the documentary requirements this may not be practical. In light of this we would suggest that the procedure should be clear with the option under footnote 15 being removed.	We recognize that the pension plan may not have all the information at the point of submission. However, the Central Bank can begin the review process subject to the submission of outstanding documents. However, it is important to note that the 3 month timeline for registration is dependent on all documentation being received.
4.3.1 (e) Registration documentation	List of names and addresses of the trust corporation, individual trustees and Management Committee members if available. Annual updates of such persons	The new requirement to update information on the identity of trustees and management committee members annually is a good one but the mechanism for doing so is not specified. We would suggest that either this could be put into an annual information return to be	The pension plans' trustees will be required to submit the information in a specified format. The Central Bank will develop the format for the submission of the information in a Guideline.

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
	will be required;	submitted along with the audited financial statements or it could actually be incorporated into the audited financial statements as a note. The Revised PPD also needs to specify who is responsible for providing this annual update – as responsibility for submitting the financial statements lies with the trustees it would make sense for them to provide this update too.	
4.3.1 (f) Registration documentation	A named point of contact for the receipt of all correspondence from the Central Bank	Requiring the nomination of a single point of contact is also a positive addition that we had advocated in our response to the Original PPD. The Revised PPD also needs to specify a requirement to inform Central Bank promptly when the identity of this person changes and to say whose responsibility it is to do this.	Agreed. The PPD was amended to require the trustee to notify the Central Bank within twenty days of the change of the contact person with the identity of his/hers replacement (please see section 4.2.1 (viii)).
4.4 Amendments to the TD&R	Entire Section	As with new applications for registration, the Revised PPD needs to formalize the existing process of making an initial submission of amending documentation in draft.	Agreed. The PPD was amended to facilitate the submission of a DRAFT supplemental deed, where an executed supplemental deed affecting the amendment is not available. Please see section 4.3. (c).
4.4.2 (b) Amendments to	For registration of amendments, trustees will be required to	What is the intended purpose of the certificate from the trustee in paragraph 4.4.2(b)? Unless the Central Bank is going to take the certificate as a guarantee that the	This provision has been deleted.

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
the TD&R	submit: (b) a certificate, signed by the trustee, that the amendment does not contravene any provisions of the OPPB	amending documentation is in order and thus register it without examining the amending deed then the certificate would appear to have no value. It is for the Central Bank to determine whether an amendment is consistent with the OPPA, not the trustee. There would, however, be value in the trustee certifying that an executed amending deed submitted for formal registration is identical to a draft previously scrutinized by the Central Bank.	
4.4.2 (c) Amendments to the TD&R	For registration of amendments, trustees will be required to submit: (c) a certificate, from the actuary which states that the amendment does not diminish the accrued rights and benefits of the members in respect of past service.	We understand that the requirement for an actuarial certificate set out in paragraph 4.4.2(c) of the revised PPD was included in error and will be deleted from the final version of the PPD. This has been confirmed by correspondence between our Managing Director, Tim Kimpton and Central Bank's Anthony Roberts and Michelle Francis-Pantor.	Agreed. This provision has been deleted.
4.4.2 (c) Amendments to	For registration of amendments, trustees will be required to submit:	This required certificate will be an added cost for Pension Plans.	See previous response.

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
the TD&R	(c) a certificate, from the actuary which states that the amendment does not diminish the accrued rights and benefits of the members in respect of past service.		
4.4.2 (d) Amendments to the TD&R	A copy of the actuarial costing of the proposed amendment if it pertains to a change in member benefits or will affect the financial position of the pension plan (for defined benefit plans).	We are of the opinion that a copy of the actuarial costing of the proposed amendment is not required once a certificate is submitted by the actuary as stated in Section 4.4.2 (c) and wish to be advised on the rationale for making such a request especially in light of the actuary's certificate.	See previous response.
4.4.2 (d) Amendments to the TD&R	A copy of the actuarial costing of the proposed amendment if it pertains to a change in member benefits or will affect the financial position of the pension plan (for defined benefit plans).	We welcome the new requirement for the application for registration of a benefit amendment to be accompanied by an actuarial costing. This is consistent with the requirements for the registration of a new pension plan and is unlikely to impose additional cost on well-run plans where an actuarial costing will typically be carried out before benefit improvements are made.	See previous response.
4.4.2 (e) Amendments to	All amendments with tax implications that have been	In paragraph 4.4.2(e) who will determine whether or not an amendment has tax implications? If this is to be the	The trustee is responsible for determining whether an amendment to the TD&R has tax implications. The BIR

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
the TD&R	approved by the BIR. It should be noted that amendments without tax implications will be registered by the Central Bank without BIR approval.	Inland Revenue then this is unlikely to speed up the registration process.	has indicated that it would provide guidelines with clear examples about the types of amendments that could be automatically registered by the Central Bank and the types that need tax approval before registration. The trustee must use these guidelines and when in doubt seek advice from the BIR.
4.4.2 (e) Amendments to the TD&R	All amendments with tax implications that have been approved by the BIR. It should be noted that amendments without tax implications will be registered by the Central Bank without BIR approval.	Who will determine whether the amendment has tax implication of not?	See previous response.
4.4.2 (e) & footnote 23 Amendments to the TD&R	4.4.2 (e)All amendments with tax implications that have been approved by the BIR. It should be noted that amendments without tax implications will be registered by the Central Bank without BIR approval.	We look forward to receiving the BIR's guidelines about the types of amendments that would be automatically registered with the Central Bank and the types that need tax approval from the BIR before registration.	We acknowledge your comment.

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
	<p>Footnote 23:</p> <p>There would be duplication of efforts if both the Central Bank and the BIR have to independently approve and register such amendments. The BIR can provide clear guidelines with examples about the types of amendments that could be automatically registered by the Central Bank and the types that need tax approval before registration</p>		
4.4.2 (f) Amendments to the TD&R	The Central Bank shall approve an amendment to the TD&R within three months of receiving all required documents.	<p>The timeline seems a bit odd – Central Bank proposed to register new plans within 30 days but requires 3 months for approving amendments?</p> <p>Further when will the 3 months count from? From application? Or BIR approval?</p>	This was an error. The timeline for approval of new plans will also be increased to sixty (60) days. The three month deadline will begin from the day the Central Bank receives all required documents. Please see section 4.1 (c) which states: “ The Central Bank will register the new pension plans within sixty (60) days of receiving all the relevant documents stipulated in the legislation.”
4.4.2 (f)	The Central Bank shall approve	It is indicated here that the CBTT would approve an	The BIR approves tax amendments only. As Regulator

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
Amendments to the TD&R	an amendment to the TD&R within three months of receiving all required documents.	amendment to the TD&R of a given pension plan within a three month period, upon receiving all required documents. However, given that the role of the CBTT is that of regulator, in our view there is no need for the CBTT to approve amendments. Such a function does not seem to correspond to the regulating agency, particularly since the function of approving amendments is currently carried out by the BIR.	the Central Bank must protect the rights of members. By approving amendments the Central Bank can address a situation that may disenfranchise members.
4.4.2 (f) Amendments to the TD&R	The Central Bank shall approve an amendment to the TD&R within three months of receiving all required documents.	Why does the Central Bank need 3 months to register an amendment (paragraph 4.4.2(f)) when it proposes to register a new plan in 30 days? Surely the latter timeline should apply to the former too?	Agreed, this was an error. The timeline for the registration of new pension plans has been increased to sixty (60) days from submission of all required documents.
4.4.2 (f) & 4.2(a) Amendments to the TD&R	4.4.2 (f)The Central Bank shall approve an amendment to the TD&R within three months of receiving all required documents. 4.2(a) A pension plan which has applied for and received tax approval from the Board of	(f) It is difficult to see why the time frame for CBTT approving amendments to a plan (3 months) should be longer than that for approving new plans (30 days).	See previous response.

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
	Inland Revenue must apply to the Central Bank for registration within 30 days of such approval.		
4.5 Selection of Investment Managers	Entire Section	Can individual trustees carry out the investment management function assuming that they have the requisite experience and expertise? After all, they still retain personal liability ultimately.	Yes, an individual trustee can carry out the investment manager function.
4.5 (b) Selection of Investment Managers	Investment managers from other jurisdictions must be subject to supervision by a regulatory authority deemed satisfactory to the Central Bank. Criteria by which a Regulator will be considered 'satisfactory' will include, whether the Regulator adheres to international standards regarding regulation and supervision, conducts on-site supervision, imposes prudential and other reporting requirements on the entity	The policy states that foreign investment managers must be subject to regulatory authorities acceptable to CBTT and describes some of the criteria CBTT would use to determine which foreign regulatory authorities are acceptable to it. Would there be a published list of such authorities available to Trustees and Investment Managers?	There will not be a published list of acceptable foreign regulatory authorities. The Central Bank would stipulate clear criteria and the trustees would be required to determine whether the foreign investment manager meets the criteria stipulated by the Central Bank.

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
4.5 (c) Selection of Investment Managers	The TD&R must provide policies and procedures for the selection of fit and proper persons/companies as trustees, actuary, management committee members and investment managers as well as for their removal where necessary. The TD&R must also indicate the mechanism for the selection of such persons.	TD&Rs already include provision for appointing and removing all of the bodies listed. Is this requirement simply going to be a reference to the 'Fit and Proper' regulation or will all of the requirements in Appendix 4 need to be listed? If the latter, this complicates the TDR and will cause the need for amendment anytime the regulation changes.	Appendix IV should be used as a guide but it is not necessary to reproduce all the requirements in procedures.
4.5 (c) Selection of Investment Managers	The TD&R must provide policies and procedures for the selection of fit and proper persons/companies as trustees, actuary, management committee members and investment managers as well as for their removal where necessary. The TD&R must also indicate the mechanism for the selection of such persons.	Is it the Central Bank's intention that the trust deed and rules should specify the detailed process by which the investment manager is to be appointed (paragraph 4.5(c))? This is likely to be excessively cumbersome and impractical, e.g. detailed procedures "hard coded" into the trust deed and rules today may well turn out to be inappropriate in a couple of years' time but cannot be changed easily because an amending deed is needed to do this. Typically a trust deed and rules says that the investment manager is selected by the trustee in consultation with the sponsor and management	This proposal was intended to ensure that pension plans' properly evaluate service providers before hiring. It was not intended to require the TD&R to replicate fit and proper requirements of Appendix IV.

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
		committee but leaves the details of the process as an administrative matter to be sorted out between the stakeholders when the time comes. We hope that this is what the Central Bank has in mind in the Revised PPD but it would aid understanding if this could be clarified.	
On-Site and Off-Site Supervision			
5. On-Site and Off-Site Supervision	Entire Section	We have already noted that there seems to be a considerable amount of overlap between this section of the Revised PPD and section 3 (The Supervisory System). It is sometime difficult to read the one without referring to the other and we wonder whether they could be combined into a single section.	Noted. The Central Bank has revised sections 3, 4 and 5 to address the flow of the document.
5.1 (b) On-Site Monitoring	The OPPB should provide that: (b)The Inspector or a person authorized by the Central Bank has the power to visit the premises of, inspect any books, records, accounts, minutes or other documents and convene meetings with the trustee,	We agree that on-site monitoring is an important component of the supervisory regime. However, under the Revised PPD failure to provide Central Bank with information requested in an on-site visit would be an offence punishable by fines. The Revised PPD currently contains nothing (e.g. in paragraph 5.1(b)) that would require suitable notice to be given before an on-site visit takes place and for the visit to be arranged at a time	The Bank strives to give adequate notice before an onsite examination commences. However, when an urgent matter arises this timeframe may be shortened.

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
	management committee, investment manager and sponsoring employer to discuss issues related to regulatory compliance. These parties would be obliged to submit information requested by the Central Bank	convenient to the target of the visit. These need to be included.	
5.1 (c) On-Site Monitoring	The OPPB should provide that: (c) examinations would be conducted at the frequency, scope and interval determined by the Central Bank	There should be a requirement for the CBTT to give reasonable notice for the conduct of on-site examinations.	See previous response.
5.1 (d) On-Site Monitoring	The OPPB should provide that: (d) the Central Bank will request any information required from the auditors, actuaries, investment managers and other service providers. The Central Bank will copy the trustees of the pension plan on all such requests for information.	We agree that the Central Bank should have the right to request additional information from the actuary (and other service providers). However, we feel strongly that any requests for such information should be channelled through the pension plan's trustee rather than them merely being informed of the request. Our reasons for this are as follows. ▪ The statutory duty to submit original actuarial information (e.g. triennial valuation reports) lies	Agreed. The PPD was amended. Please see section 3.4.1 (d) which states: "The Central Bank will request any information required from the auditors, actuaries, investment managers and other service providers, through the trustees. However, the Central Bank reserves the right to contact any of the above-mentioned service providers directly, if necessary. When the Central Bank exercises this right it shall copy the trustees on the request, when appropriate. The TD&R of

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
		<p>with the trustee, not the actuary, and it is therefore appropriate that any queries concerning this information should, in the first instance, be addressed to the trustee.</p> <ul style="list-style-type: none"> ▪ The generation of actuarial information can involve considerable cost and, to the extent that this cost falls on the pension plan the trustee has a legitimate interest in the matter. In particular, there may be occasions where the trustee is of the view that the Central Bank's request for additional actuarial information is not justified and therefore that it is in the pension plan's interest to challenge it. 	<p>the pension plan must stipulate who (the Central Bank being an exception) would bear the costs incurred from the service providers furnishing the Central Bank with the requested information."</p> <p>For example, under section 4.5 "External Auditor and Actuary to Report to the Central Bank" both the actuary and the auditor have a whistle blowing requirement. In this case, the Central Bank will need to be able to contact the actuary and external auditor directly. For example, if the external auditor has notified the Central Bank on transactions or conditions which indicate that the trustee has significant weaknesses which will impact the health of the pension plan the Central Bank must be able to communicate with the external auditor directly.</p>
5.1 (d) On-Site Monitoring	The OPPB should provide that: (d) the Central Bank will request any information required from the auditors, actuaries, investment managers and other service providers. The Central	There is the related issue here, namely that the Central Bank currently has no specialised pensions actuarial expertise in house and it is therefore not clear on what basis it would form the opinion that it needed additional information for the pension plan's actuary. We are strongly of the view that the Central Bank needs to	Noted. However the Central Bank acquires the requisite expertise as is necessary to ensure that it can effectively carry out its mandate.

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
	Bank will copy the trustees of the pension plan on all such requests for information.	acquire such in house expertise as this would strengthen the regulation of pension plans significantly. The Central Bank should thus treat the recruitment of an experienced pensions actuary as a priority.	
5.1 (d) On-Site Monitoring	The OPPB should provide that: (d) the Central Bank will request any information required from the auditors, actuaries, investment managers and other service providers. The Central Bank will copy the trustees of the pension plan on all such requests for information.	All requests for information from advisors (actuaries, auditors, investment managers) should be made through the Trustee and should not merely be copied to the Trustee.	<p>Agreed. The PPD was amended. Please see section 3.4.1 (d) which states: "The Central Bank will request any information required from the auditors, actuaries, investment managers and other service providers, through the trustees. However, the Central Bank reserves the right to contact any of the above-mentioned service providers directly, if necessary. When the Central Bank exercises this right it shall copy the trustees on the request, when appropriate. The TD&R of the pension plan must stipulate who (the Central Bank being an exception) would bear the costs incurred from the service providers furnishing the Central Bank with the requested information."</p> <p>For example, under section 4.5 "External Auditor and Actuary to Report to the Central Bank" both the actuary and the auditor have a whistle blowing requirement. In this case, the Central Bank will need to be able to contact the actuary and external auditor directly. For</p>

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
			example, if the external auditor has notified the Central Bank on transactions or conditions which indicate that the trustee has significant weaknesses which will impact the health of the pension plan the Central Bank must be able to communicate with the external auditor directly.
5.1 (b) & (d) On-Site Monitoring	The OPPB should provide that: (b)The Inspector or a person authorized by the Central Bank has the power to visit the premises of, inspect any books, records, accounts, minutes or other documents and convene meetings with the trustee, management committee, investment manager and sponsoring employer to discuss issues related to regulatory compliance. These parties would be obliged to submit information requested by the Central Bank (d) the Central Bank will request	The scope of the information that can be requested should be clearly defined and limited to undertaking of the Central Bank's regulatory functions. We are of the view that there should be 1 coordinator of all contact with the Central Bank and would like to suggest that this should be the Trustee – all requests and requirements should be addressed to them.	It is neither practical nor feasible to stipulate the scope of information that the Central Bank may require. Each on-site examination has its own scope which will determine documentation requirements. The scope of the on-site and request for documents will be detailed in the engagement letter sent by the Central Bank. The PPD does require a named point of contact. Please see section 4.2.1 (viii) which requires the pension plan to provide the Central Bank with: "A named point of contact for the trustee for the receipt of all correspondence from the Central Bank. The trustee is responsible for notifying the Central Bank within twenty (20) days of the change of the point of contact"

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
	any information required from the auditors, actuaries, investment managers and other service providers. The Central Bank will copy the trustees of the pension plan on all such requests for information.		
5.2 (a) Off site monitoring	In the performance of its duties under the OPPB, the Central Bank or the Inspector shall at all reasonable times have access to all books, records, accounts, minutes of meetings and any other documents relating to the pension plan, including documents stored in electronic form, of any sponsoring employer, trustee, and management committee	Define "reasonable times".	This is drafting language and therefore it is not necessary to define 'reasonable times'.
5.3 Reporting by	Entire Section	We would have thought that the whistle-blowing requirements should apply to all of the professionals involved with the pension plan, not just the actuary or	Noted. However, section 5.5 (k) of the PPD already places a responsibility on the trustee to report material

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
the Actuary and External Auditor		auditor. For example, if the sponsor is not paying contributions at the rate recommended by the actuary then the auditor and actuary are unlikely to spot this for months or even years but the trustee should be able to identify it almost immediately.	variances or missed contributions to the Central Bank.
5.3 Reporting by the Actuary and External Auditor	Entire Section	The descriptor "Reporting" is misleading here. This term should be confined to mean the routine reporting of information required under the OPPA. What is discussed here is more usually called "whistle-blowing" and we would suggest using this here to make it clear what is being proposed.	The title of this section has been re-named " External Auditor and Actuary to Report to the Central Bank"
5.3 Reporting by the Actuary and External Auditor	Entire Section	The actuarial profession is used to the concept of whistle-blowing in many jurisdictions and we thus have no problem with the general idea. However, we do have some concerns with the detail of the proposals in the Revised PPD.	Noted. We look forward to receiving your comments on this issue.
5.3 Reporting by the Actuary and External Auditor	Entire Section	The impute of this proposal is unclear – is it foreseen that the External Auditor must report to the Central Bank separately from the report as contained in the audited accounts? Or is it proposed that the external auditors report with the audited accounts include the issues	If the external auditor observes any of the irregular transactions listed in section 4.5 (i) a report must be sent to the Central Bank. This report would be separate from the audited accounts.

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
		<p>identified?</p> <p>In so far as the Regulators primary concern is to ensure that any anomalies are addressed we would like to suggest that the External Auditor make recommendations to the Trustee in this regard. In the event of a failure of compliance with the recommendations, the External Auditor could be required to report these failures to comply with recommendations.</p>	<p>This is a whistle blowing requirement and therefore while the report may also go to the sponsor, or trustee or management committee, the Central Bank expects to receive a report from the external auditor directly.</p>
5.3 (1) (f) Reporting by the Actuary and External Auditor	It is proposed that auditors be required to report in writing, to the Central Bank and the plan sponsor or trustees or management committee (as applicable) of a pension plan, any of the following irregular transactions or conditions that have come to their attention in the ordinary course of their duties:	It seems a bit unfair to require the External Auditor to review for compliance with the OPP Legislation.	Auditors are required to ensure compliance with all requirements pertaining to regulatory reporting and any other obligation may be required of them in olegislation.

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
	(f) Transactions or conditions which contravene any provisions of the new OPPB or any regulation made there under		
5.3 (2) Reporting by the Actuary and External Auditor	<p>During the ordinary course of his duties the actuary is required to report in writing, to the Central Bank and to the plan sponsor or trustees or management committee (as applicable) on any issue which meets one or more of the following criteria where:</p> <p>Major recommendations made by the actuary are not being followed by the relevant stakeholder; and</p> <p>Transactions or conditions which contravene any provisions of the OPPB or any regulation made there under relating to on-going funding requirements</p>	<p>As drafted, the proposals appear to require the actuary to inform the Central Bank immediately as soon as he identifies a problem no matter the scale of that problem or the ease with which it can be resolved. As we see it this has two negative consequences:</p> <ul style="list-style-type: none"> ▪ It will tie up Central Bank resources dealing with lots of relatively insignificant matters; and ▪ It will slow down the resolution of the issues that actually underlie the reported problem because the focus of stakeholders will be more on the potential fallout from Central Bank rather than solving the underlying causes. <p>A more appropriate approach would be as follows.</p> <ul style="list-style-type: none"> ▪ The actuary is not required to inform the Central Bank immediately but initially brings the problem to the attention of the plan sponsor, trustee and 	<p>The wording in section 4.5 (b) clearly requires that the actuary report significant issues to the Central Bank.</p> <p>This is a whistle blowing requirement and therefore while the report may also go to the sponsor, or trustee or management committee, the Central Bank expects to receive a report from the actuary directly.</p>

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
		<p>management committee.</p> <ul style="list-style-type: none"> ▪ The plan sponsor, trustee and management committee have a period specified in the OPPA (say 30 days?) to resolve the problem to the satisfaction of the actuary. <p>If they do so the actuary takes no further action. If they are unable to do so, however, the actuary then informs the Central Bank.</p>	
5.3 (2) Reporting by the Actuary and External Auditor	<p>During the ordinary course of his duties the actuary is required to report in writing, to the Central Bank and to the plan sponsor or trustees or management committee (as applicable) on any issue which meets one or more of the following criteria where:</p> <p>Major recommendations made by the actuary are not being followed by the relevant stakeholder; and</p> <p>Transactions or conditions which</p>	<p>The list of matters that might cause the actuary to blow the whistle appears to be incomplete, e.g. it should include contraventions of the pension plan's trust deed and rules as well as of the OPPA.</p>	<p>Agreed. Please see section 4.5(b) which was amended as follows:</p> <p>"During the ordinary course of his duties the actuary is required to report in writing, to the Central Bank on any issue which meets one or more of the following criteria where:</p> <ul style="list-style-type: none"> i. Major recommendations made by the actuary are not being followed by the relevant stakeholder; ii. Transactions or conditions which contravene any provisions of the OPPA or any regulations made there under relating to on- going funding requirements are executed; iii. Any contravention of the pension plan's TD&R which

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
	contravene any provisions of the OPPB or any regulation made there under relating to on-going funding requirements		the actuary identifies; iv. Any other transactions or conditions which, in the opinion of the auditor, should be included in a report under this section.
5.3 (2) Reporting by the Actuary and External Auditor	During the ordinary course of his duties the actuary is required to report in writing, to the Central Bank and to the plan sponsor or trustees or management committee (as applicable) on any issue which meets one or more of the following criteria where: Major recommendations made by the actuary are not being followed by the relevant stakeholder; and Transactions or conditions which contravene any provisions of the OPPB or any regulation made there under relating to on-going	Please clarify if this is required to be done as part of the Actuarial Valuation report or as a separate whistle blower report?	This is expected to be a separate report from the actuarial valuation report.

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
	funding requirements		
5.3 (2) Reporting by the Actuary and External Auditor	<p>During the ordinary course of his duties the actuary is required to report in writing, to the Central Bank and to the plan sponsor or trustees or management committee (as applicable) on any issue which meets one or more of the following criteria where:</p> <p>Major recommendations made by the actuary are not being followed by the relevant stakeholder; and</p> <p>Transactions or conditions which contravene any provisions of the OPPB or any regulation made there under relating to on-going funding requirements</p>	<p>A definition of 'major recommendations' will be needed. There are instances where the actuary can make a recommendation that the employer does not agree with and will not implement. This would not necessarily relate to the funding of the plan but may relate to benefit improvements for example. Funding issues are dealt with in another area of the OPPB.</p>	<p>It is not necessary to define major recommendations. Professional expertise should determine where an issue is significant.</p>
5.3 (4) Reporting by the Actuary and	It is also proposed that the auditor and actuary where they have received a request in writing	The bodies named are the ones responsible for the plan with the sponsor generally meeting the balance of the payments needed. While I can see that there may be	Noted. Where the external auditor or actuary discovers a matter, the expectation is that the actuary would report the matter to the Central Bank. However where the

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
External Auditor	from the Inspector with regards to any such matter referred to in 5.3(1) and (2), be required to report such findings to the Inspector, and the Inspector shall share such findings with the plan sponsor, trustee or management committee as appropriate	issues arising, CBTT has the power to remove the corporate trustees or any individual trustee or member of the management committee as it sees fit. The report in any event should be shared with the employer who is the plan's sponsor. If the issue is with the employer, CBTT has the option to wind up the plan at its discretion.	Inspector makes a request to the actuary or auditor, the Inspector should be charged with sharing that information with the trustee, sponsor, or management committee.
5.3 (5) Reporting by the Actuary and External Auditor	It is further proposed that actuaries and auditors, in fulfilling such responsibilities, would have protection under the law.	We note that the Revised PPD says that the whistle blower will have protection under the law (e.g., we assume, from the consequences of violating contractual requirements concerning client confidentiality) but we reserve our comments on this until we see exactly what form this protection will take.	The PPD was amended as follows: "No contractual duty to which an external auditor or actuary may have shall be regarded as contravened for communication in good faith to the Central Bank, for any information which this section applies."
5.4 Access to Central Bank Examination Reports	All Central Bank examination reports issued to trustees, management committees and investment managers should be treated as private and confidential and the distribution of these reports is prohibited	We do not agree that "All Central Bank examination reports issued to trustees, management committees and investment managers should be treated as private and confidential and the distribution of these reports is prohibited unless the written approval of the Central Bank is granted" as sharing these reports will improve the governance of the pension plan.	Section 56 of the Central Bank Act requires that the Central Bank preserve secrecy except in so far as may be necessary. However, the PPD was amended to permit the sharing of the examination report sent to the management committee and the individual trustees with the plan sponsor. It should be noted, however, that permission from the Central Bank is still required for the

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
	unless the written approval of the Central Bank is granted.		<p>distribution of the examination reports sent to the corporate trustees and investment managers which are regulated entities in their own right and the information in these examination reports may not only pertain to the pension plan.</p> <p>Please see section 3.8 which states: "Central Bank examination reports issued to individual trustees and management committees may be shared by the individual trustees and management committees with the plan sponsor only. However, the examination reports issued to all entities regulated by the Central Bank, which would include corporate trustees and investment managers must be treated as private and confidential and cannot be shared with the plan sponsor, or other third parties. The distribution of these reports is prohibited except with the written approval of the Central Bank."</p>
5.4 Access to Central Bank Examination Reports	All Central Bank examination reports issued to trustees, management committees and investment managers should be treated as private and confidential and the distribution	Does the proposal mean that each of these parties can receive separate reports which it cannot share with the employer, the trustee or the management committee? As indicated above, these parties must be aware of all matters related to their plan. I can see that they should not be shared with the investment manager who has	See previous response.

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
	of these reports is prohibited unless the written approval of the Central Bank is granted.	nothing to do with the non-investment matters affecting the plan. I can understand the reports not being shared with other pension plans which may have the same trustees.	
5.4 Access to Central Bank Examination Reports	All Central Bank examination reports issued to trustees, management committees and investment managers should be treated as private and confidential and the distribution of these reports is prohibited unless the written approval of the Central Bank is granted.	It appears that the Central Bank is requiring all players to keep any Examination Report by the Central Bank confidential from all other players. This may however not be practical. Disclosure and discussion between the parties (especially the Trustee, Investment Manager, Actuary and the Management Committee) will be necessary in order to give effect to any recommendation that the Central Bank may make. The players may not be able to act unilaterally to implement certain recommendations.	See previous response.
5.4 Access to Central Bank Examination Reports	All Central Bank examination reports issued to trustees, management committees and investment managers should be treated as private and confidential and the distribution of these reports is prohibited unless the written approval of	The Central Bank's insistence of providing separate examination reports to each stakeholder and insisting that they do not share these with anyone else without Central Bank permission is counter-productive in that problems cannot get solved if all of the stakeholders are not aware of them.	See response above.

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
	the Central Bank is granted.		
5.4 Access to Central Bank Examination Reports	All Central Bank examination reports issued to trustees, management committees and investment managers should be treated as private and confidential and the distribution of these reports is prohibited unless the written approval of the Central Bank is granted.	The sponsor, trustee and management committee need to be free to share part or all of the examination report with the actuary, auditor and the investment manager should they deem it necessary to do so as the contents of this report may be directly relevant to the work done by these key professional advisors.	See response above.
5.4 Access to Central Bank Examination Reports	All Central Bank examination reports issued to trustees, management committees and investment managers should be treated as private and confidential and the distribution of these reports is prohibited unless the written approval of the Central Bank is granted.	A single report should be prepared for the major stakeholders, i.e. trustee, management committee and, most importantly but omitted from the Revised PPD entirely, the plan's sponsor. The major financial and reputational risk in relation to a pension plan is carried by the sponsor and it is thus vital that the sponsor is aware of any problems that need to be addressed as soon as possible.	See previous response.
5.4 Proposal and Rationale	Proposal: All Central Bank examination	Given the oversight role of the Trustee in an occupational pension plans and the fact that they are the	See previous response.

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
Access to Central Bank Examination Reports	<p>reports issued to trustees, management committees and investment managers should be treated as private and confidential and the distribution of these reports is prohibited unless the written approval of the Central Bank is granted.</p> <p>Rationale:</p> <p>Currently, the Central Bank prepares separate examination reports for trustees, management committees and investment managers. These parties are directed to treat the report as confidential unless the Central Bank grants approval for the report to be shared. It is proposed that this practice should be continued due to the confidential nature of the information contained in Central</p>	<p>ones that are held financially accountable for breaches of the plan's provisions and legislation, I am of the view that the Central Bank should want the trustee to be privy to any exceptions raised in their reports to plan stakeholders and therefore, I am in complete disagreement with this proposal.</p>	

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
	Bank's reports and the fact that such reports are shared only with regulated persons. Moreover, confidentiality rules prohibit the Central Bank from sharing information except under certain circumstances.		
5.4 Proposal and Rationale Access to Central Bank Examination Reports	<p>Proposal:</p> <p>All Central Bank examination reports issued to trustees, management committees and investment managers should be treated as private and confidential and the distribution of these reports is prohibited unless the written approval of the Central Bank is granted.</p> <p>Rationale:</p> <p>Currently, the Central Bank prepares separate examination reports for trustees, management</p>	We note that all Central Bank examination reports issued are to be treated as private and confidential and the distribution of these reports is prohibited. We seek clarification as to whether distribution of these reports among the trustee, management committee and investment manager is prohibited. We are of the view that these parties should be allowed to share the examination reports among themselves as this will aid in the proper management of the pension plan fund.	See previous response.

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
	committees and investment managers. These parties are directed to treat the report as confidential unless the Central Bank grants approval for the report to be shared. It is proposed that this practice should be continued due to the confidential nature of the information contained in Central Bank's reports and the fact that such reports are shared only with regulated persons. Moreover, confidentiality rules prohibit the Central Bank from sharing information except under certain circumstances.		
5.4 Rationale Access to Central Bank Examination	Currently, the Central Bank prepares separate examination reports for trustees, management committees and investment managers. These parties are	We agree that findings concerning the sponsor, trustee or management committee should not be shared with the investment manager as the latter is no more than an agent of the former. However, the sponsor, trustee or management committee need to be aware of problems	See previous response.

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
Reports	directed to treat the report as confidential unless the Central Bank grants approval for the report to be shared. It is proposed that this practice should be continued due to the confidential nature of the information contained in Central Bank's reports and the fact that such reports are shared only with regulated persons. Moreover, confidentiality rules prohibit the Central Bank from sharing information except under certain circumstances.	with the investment manager revealed by an examination report.	
5.5 Preventative and Corrective Measures	Entire Section	In addition to the Trustee and Sponsoring Company, the Management Committee can be criminally charged or fined under this section. Since these members serve freely, this might be more of a deterrent to members offering up their service.	The trustee, plan sponsor and management committee each have crucial roles and responsibilities which if not carried out as required by the law or which if performed negligently may have detrimental consequences for the plan and its members.
5.5 (a) (iv)	The Inspector shall take preventive and corrective action	The actuary will not normally recommend a benefit improvement if the pension plan is not fully funded on	This provision was deleted.

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
Preventative and Corrective Measures	<p>where, based on information available to it, it considers that:</p> <p>(iv) A proposal to amend the TD&R would negatively affect the pension plan. This includes the right to prevent benefit improvement if the pension plan is not fully funded on an ongoing basis.</p>	<p>an ongoing basis and on most occasions a benefit improvement is recommended when there is a past service surplus.</p>	
5.5 (a) (iv) Preventative and Corrective Measures	<p>The Inspector shall take preventive and corrective action where, based on information available to it, it considers that:</p> <p>(iv) A proposal to amend the TD&R would negatively affect the pension plan. This includes the right to prevent benefit improvement if the pension plan is not fully funded on an ongoing basis.</p>	<p>Paragraph 5.5(a)(iv) of the revised PPD would allow the Central Bank to prohibit benefit improvements to a pension plan that is in deficit. We don't see that the Central Bank has any business telling the plan sponsor what benefits he can or cannot provide to his current and former employees provided that the sponsor:</p> <ul style="list-style-type: none"> ▪ Has complied with the requirements of the OPPA to have an actuarial costing of the improved benefits carried out so that he is aware of the financial implications of implementing them; and ▪ Is willing and able to pay the necessary contributions to fund the existing deficit and the 	This provision was deleted.

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
		<p>additional liabilities resulting from the benefit improvement.</p> <ul style="list-style-type: none"> One logical extension of this proposal is that a new pension plan would be prohibited from recognizing pre-plan service as pensionable because this would mean that the plan started life with a deficit. It should be noted that many pension plans in the wider public sector have been established on this basis. We are firmly of the view that this particular proposal should be deleted from the Revised PPD. 	
5.5 (b) Preventative and Corrective Measures	The trustee, management committee or sponsoring employer would be expected to comply with the recommendations of the Inspector. If these persons fail to both comply and/or provide a valid reason for their non-compliance, the Inspector may then have recourse to enforcement powers, including	What are the "recommendations of the Inspector" referred to in paragraph 5.5(b) of the revised PPD? Surely this section is concerned with directions of the Central Bank that stakeholders are compelled to comply with the rather than being able to treat them as recommendations that they may or may not comply with?	Based on an on- site examination, the Inspector may recommend and/or request that certain actions be taken to correct observed deficiencies. Where the trustee, management committee or sponsor fails to address the deficiencies in the stipulated timeframe, the Central Bank may escalate regulatory action. Please see section 3.4.3 (b) which states: "The trustee, management committee and plan sponsor would be required to comply with the on-site examination report recommendations made by the Inspector. If these persons fail to both comply and/or provide a valid reason for their non-compliance, the Inspector may then have

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
	the power to issue directions and administrative orders.		recourse to enforcement powers, including the power to issue directions.”
5.5 (b) & (c) Preventative and Corrective Measures	<p>(b)The trustee, management committee or sponsoring employer would be expected to comply with the recommendations of the Inspector. If these persons fail to both comply and/or provide a valid reason for their non-compliance, the Inspector may then have recourse to enforcement powers, including the power to issue directions and administrative orders.</p> <p>(c)The Inspector will be empowered by the OPPB to issue compliance directions to the trustees, management committee or sponsor as applicable. Non-compliance with a compliance</p>	We reiterate our comments in connection with proposal 5.4. Players may not always be in a position to unilateral action recommendations. In this context any restriction in communication may hamper implementation of such recommendations.	Section 56 of the Central Bank Act requires that the Central Bank preserve secrecy except in so far as may be necessary. However, the PPD was amended to permit the sharing of the examination report sent to the management committee and the individual trustees with the plan sponsor. This examination report will provide sufficient information to allow the MC or IT to implement recommendations without relying on information that was sent to the trustees or investment manager.

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
	direction would be an offence; however, the OPPB will recognize the right of the party that receives a compliance direction to appeal to a court of competent jurisdiction.		
5.5.1 (b) Directions	<p>Directions may also be issued where:</p> <p>(i) the directors and officers of a corporate trustee fail to meet or maintain the fit and proper criteria</p> <p>(ii) Members of the management committee fail to meet or maintain the fit and proper criteria</p>	It is unclear how the Central Bank proposes to monitor this. Is it proposed that the Central Bank will approve all appointments?	<p>The corporate trustees are licensed financial institutions and would generally satisfy the fit and proper requirements. These entities are subject to ongoing supervision.</p> <p>The individual trustees will be approved by the Central Bank and required to submit an annual attestation of their fitness and propriety.</p> <p>The management committee must submit a listing of its members and their compliance with the knowledge requirements to the Central Bank annually.</p> <p>Please see section 3.4.3.1(b)(ii) which states:</p> <p>"Directions may also be issued where:</p> <p>members of the management committee or individual trustees fail to meet or maintain the fit and proper criteria. The management committee and the individual</p>

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
			trustees will be required to submit a listing of its members and their compliance with the knowledge requirements to the Central Bank annually. Both management committee members and individual trustees will be required to submit annual attestations of their fitness and propriety by January 31 st of each calendar year in the form specified by the Central Bank. The form of this annual attestation will be specified in a Guideline."
5.5.1 (b) (iii) Directions	Directions may also be issued where: (iii) the actuary has stated in the valuation report that the pension plan fails to meet ongoing funding requirements.	What does paragraph 5.5.1(b) (iii) mean when it says that a Compliance Direction may be issued when an actuarial valuation report says that "the pension plan fails to meet ongoing funding requirements"? This reads as though the trigger point is the plan falling into deficit regardless of whether the sponsor is willing and able to pay the contributions required to fund it. This would make sense if the trigger is the failure of the sponsor to pay the contributions recommended by the actuary, but if this is the case this is not going to be revealed by an actuarial valuation report until a considerable time after the event. What is intended	Please see section 3.4.3.1 (b)(iii) which was amended as follows: Directions may also be issued where: (iii) the trustee fails to submit a recovery plan to the Central Bank when the pension plan's funding ratio is below 100%.

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
		here?	
5.5.1 (d) Directions	Before the Inspector issues a direction he will serve a notice of intention. The notice will specify: i) the facts of the matter ii) the directions that are intended to be issued; and iii) the time and place at which representation may be made.	How long before the intended date of issue of a Compliance Direction will the notice of intention be issued (paragraph 5.5.1(d))?	The notice of intention will specify the breach and stipulate a timeframe for making representation. If no representation is made the compliance direction will be issued. When representation is made the Central Bank will consider the issue and will either proceed to issue the compliance direction, alter or cancel the compliance direction.
5.5.1(i) Directions	The Central Bank may require the sponsor to have an individual on the management committee replaced and that person cannot be re-elected.	We note the proposal in paragraph 5.5.1(i) that Central Bank should have the power to direct the plan sponsor to remove a specified management committee member. We see no problem with this as far as the management committee members appointed by the sponsor are concerned. However, pension plan trust deed and rules always prohibit the sponsor from removing a management committee member appointed by the plan members and so we don't believe the proposal in the revised PPD would be acceptable here. The OPPA will have to give the Central Bank the power to remove an	Please see section 3.4.3.1 (i) which was amended as follows: "The Central Bank may require the management committee to have a member elected individual on the management committee replaced. Where the management committee member is elected by the pension plan sponsor the Central Bank may direct the plan sponsor to remove the individual. However, the member (plan sponsor and employee representatives) may be re-appointed or re- elected at a later date, conditional to meeting any requirements set out by the

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
		errant plan member-appointed management committee member itself.	Central Bank.”
5.6 Administrative Fines	Entire Section	We are glad to see that the proposed fines on management committee members in the Original PPD have, with one exception, been deleted from the Revised PPD. Moreover, it was confirmed at the stakeholder consultation meeting on 6 December that the one remaining fine – i.e. \$50,000 for allowing the Plan to invest in the sponsor's equity – was retained in error and will be deleted from the final PPD. Our understanding is therefore that there are no proposed fines to be levied on management committee members. This is a significant improvement given that all indications were that the overwhelming majority of management committee members would have refused to carry on in that role had the proposals in the original PPD been implemented without alteration.	The fine placed on the management committee of \$50,000 for allowing the Plan to invest in the sponsor's equity has been removed. However, the management committee will face a \$50,000 administrative fine for failure to: <ul style="list-style-type: none"> • establish and document policies which address conflicts of interest and detail dispute resolution procedures • maintain a complaints register • meet with the trustees and/or investment manager at least quarterly to discuss the investment performance of the plan.
5.6 Administrative Fines	Entire Section	We expressed last year that the administrative fines identified in the 2009 PPD were excessive. It is noted that each of these fines has now been reduced, and also that the MC is no longer liable to pay any of these fines.	See previous response.

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
		<p>However, it was also put forward that it needed to be clearly stated that monies should not be withdrawn from pension funds to pay fines.</p> <p>Additionally it is not agreed that receipts from fines be paid into the Consolidated Fund. These monies should instead be invested into the plan to compensate for losses incurred and to offset certain administrative costs.</p>	
5.6 Administrative Fines	Entire Section	<p>Apart from the foregoing, the administrative fines proposals suffer from many of the same deficiencies that we identified in our response to the Original PPD. Central Bank has not enunciated any clear set of principles that has guided either the size of the proposed fines or what they are intended to achieve. In particular, the proposed fines lack proportionality, eg:</p> <ul style="list-style-type: none"> ▪ The same fine applies if contributions are paid one day late or one year late; ▪ Similarly, the same fine applies if the amount of contributions paid late is \$10,000 or \$10 million; <p>In most cases the same fine applies to a big pension plan as to a small one (the 50% discount for plans with assets of less than \$25 million looks like no more than a crude</p>	<p>Various approaches are used internationally to come up with administrative fines and the Central Bank adopted a relatively simple approach. The fines applied by other jurisdictions were examined and adjusted downwards so as to appear more reasonable. In addition, the principle of making the fine less onerous for smaller pension plans was applied.</p>

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
		and last minute afterthought).	
Administrative Fines	Entire Section	<p>We are firmly of the view that administrative fines levied on pension plans should be retained by the Central Bank and be applied to reduce the levy now imposed on pension plans to meet part of the costs of supervision under the Central Bank (Payment of Supervisory Fees and Charges) Regulations 2011 rather than disappearing into the Consolidated Fund. This has already been suggested several times to Central Bank, which is firmly opposed to the suggestion but, to date, has not offered any cogent reasons for its opposition. To our mind the proposal has much merit to it, not least that:</p> <ul style="list-style-type: none"> ▪ The Supervisory Fees are not risk related, so well run and well funded plans pay just as much as poorly run and under-funded plans; but ▪ It is the latter group of “at risk” plans that require the most regulatory attention and thus which give rise to the most regulatory cost; ▪ Therefore, to the extent that the well-run plans are paying for their own regulation but also are cross-subsidizing the regulation of “at risk” plans, it is 	All Government fees and fines are placed in the Consolidated Fund. This mechanism reduces the possible moral hazard of a regulator appearing to benefit from the imposition of fines..

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
		only appropriate that the administrative fines paid by the latter are applied to reduce the costs imposed on the former.	
5.6 (c) Administrative Fines	(c) The imposition of administrative fines shall also apply to late and/or inaccurate submission of actuarial returns or information requested by the Central Bank as well as for breach of investment limits.	Clarity required around what constitutes a breach of investment limits. i) Is it referring to legal limits or limits set out in the SIP or both? ii) Will the penalty apply immediately upon breach, or after reasonable time is allowed for corrective action?	The limits established in the SIP should conform to (i.e. not exceed) the limits established in law. The breach refers to legal limits and the penalty will apply immediately upon breach. The fine must be paid and the breach corrected within 15 days.
5.6 (c) Administrative Fines	(c) The imposition of administrative fines shall also apply to late and/or inaccurate submission of actuarial returns or information requested by the Central Bank as well as for breach of investment limits.	We recommend amending this sentence as follows: "inaccurate submission of actuarial valuation reports, audited financial statements, semi-annual returns or information requested..."	Noted. However the PPD was amended as follows (please see section 3.4.3.2 (c)): "The imposition of administrative fines shall also apply to the late submission of actuarial valuation reports, audited financial statements, semi- annual returns or information requested by the Central Bank as well as for breach of investment limits."
5.6 (d) Administrative Fines	The Inspector may exercise his powers to take enforcement action against the trustee when the investment limits are	Pursuant to this subsection, the Inspector may exercise his powers to take enforcement action against the trustee when investment limits are breached. No further provision is made in this section for such	We disagree. The trustee will be held ultimately responsible for breach of the investment limits. The trustee is responsible for overseeing the investment performance of the pension plan, monitoring the

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
	breached.	<p>enforcement action to be waived or reimbursed if the trustee can prove that the breach of the investment limits was outside their control, for example that:</p> <ul style="list-style-type: none"> • The Investment Manager was notified in writing, yet still failed to bring the plan's investments into compliance; or • An irregular circumstance occurred which temporarily rendered the plan's investments over the limits, but the Trustee and Investment Manager are aware of same and working to bring the plan back into compliance but without realizing any losses (e.g. when RBTT shares were replaced with RBC shares, most pension plans became over their foreign equity limits). <p>It is strongly recommended that this section 5.6(d) be modified to make allowances for situations such as those described above.</p>	performance of the investment manager and ensuring that the investment manager produces a report periodically. Consequently, the investments should be actively monitored and managed. The trustee should address failure of the investment manager to execute instructions in their service contract with the investment manager.
5.6 (d) Administrative Fines	The Inspector may exercise his powers to take enforcement action against the trustee when the investment limits are	We disagree that the Central Bank may "take enforcement action against the trustee when the investment limits are breached" and recommend that "the trustee and the investment manager" should be	See previous response.

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
	breached.	penalized as inter alia, the trustee is normally responsible for hiring the investment manager and the investment manager should also be deemed Fit and Proper.	
5.6 (c), (d) & (e) Administrative Fines	<p>(c) The imposition of administrative fines shall also apply to late and/or inaccurate submission of actuarial returns or information requested by the Central Bank as well as for breach of investment limits.</p> <p>(d) The Inspector may exercise his powers to take enforcement action against the trustee when the investment limits are breached.</p> <p>(e) A trustee who contravenes any requirement to submit information or returns to the Central Bank is guilty of an</p>	We are of the view that the Central Bank should retain a certain flexibility concerning the imposition of fines.	The Inspector will have no discretion with respect to the imposition of fines except in cases of natural disaster and/or civil unrest. Please see section 3.4.3.2 (k) which states: "The Inspector should have the authority to either waive the administrative fine or grant an extension of time as may be reasonably sufficient for either the submission of the required returns or the payment of administrative fines in the case where there may be a hurricane, storm, fire, flood or any similar natural disaster or events such as industrial unrest, riot, public disorder or the like."

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
	<p>offence and shall pay the relevant fine. If the trustee proves that the breach resulted from the employer's failure to comply with his obligations under the OPPB, the trustee will be reimbursed in full. For example, the trustee must submit evidence to the Central Bank that the employer submitted information to the actuary after the agreed date. Certification from the actuary would be considered satisfactory proof of the date the data was received from the employer. Where it is proven that the sponsor was responsible for the late submission of data, the Central Bank would fine the sponsor for failure to provide information</p>		
5.6 (f)	Where a person objects to the	This could be an expense proposition for plans. We	We disagree. The current Insurance Act Chap 84:01

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
Administrative Fines	imposition of an administrative fine the matter would be pursued through the High Court of Trinidad and Tobago	would like to suggest that provision be made for internal review/appeal within the Central Bank.	made provisions for appeals of the decisions of the Central Bank by intermediaries to be made to a Tribunal since its establishment. However, the Tribunal has not functioned effectively since its inception. Consequently the Insurance Bill removed the provision to appeal to a Tribunal and only makes provisions for appeals through the High Court.
5.6 (i) Administrative Fines	All administrative fines imposed by the Central Bank will be collected by the Central Bank and paid into the Consolidated Fund.	If employer pays contributions late, this penalty should go to the Pension Plan to compensate for losing investment opportunity; other fees should be retained by CBTT to cover costs of regulation to offset the cost recovery levy.	All Government fees and fines are placed in the Consolidated Fund. The use of money collected from administrative fines to defer the cost of regulation presents a moral hazard concern.
5.6 (j) & (k) Administrative Fines	(j)Where a the breach is not corrected within fifteen (15) working days following the date of Notice to pay the administrative fine (penalty), whether or not the fine is actually paid, the person in breach would be then be liable to the criminal penalty in respect of the breach	Appendix III provides for capping of fines after 21 days. In this context 15 days appears absurd and arbitrary. Further we are of the view that the Central Bank should retain some flexibility in imposition of criminal penalty in addition to those listed in (k). All breaches may not be capable of rectification within 15/21 days. And Further Criminal Penalty may not be warranted in all cases.	<u>1st comment</u> This inconsistency has been addressed. <u>2nd comment</u> <u>The Central Bank can pursue regulatory action other than the levy of administrative fines where the circumstances so warrant.</u>

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
	<p>or offence.</p> <p>(k)The Inspector should have the authority to either waive or grant an extension of time as may be reasonably sufficient for the payment of administrative fines in the case where there may be a hurricane, storm, fire, flood or any similar natural disaster or events such as industrial unrest, riot, public disorder or the like.</p>		
5.6 Rationale Administrative Fines	With respect to 5.6 (d), the trustees are being given the responsibility to ensure that investments are within the limits stipulated by the new OPPB and as such, they would be fined if these limits are breached.	We disagree that “the trustees are being given the responsibility to ensure that investments are within the limits stipulated by the new OPPB and as such, they would be fined if these limits are breached”. We recommend that “The trustee and the investment manager” should be penalized as inter alia, the trustee is normally responsible for hiring the investment manager and the investment manager should also be deemed Fit and Proper.	The trustee will be held responsible for breach of the investment limits.
5.7 (c)	The trustee or management	The TD&R of a pension plan do not allow the Central	This proposal was amended to give the Central Bank the

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
Corrective Measures	committee, forthwith or within such time as may be specified to take all such measures as it may consider necessary to rectify the situation if, in the opinion of the Central Bank (from off-site monitoring or an on-site examination), a trustee or management committee is conducting the business of the pension plan in an unlawful or unsound manner or it is otherwise in an unsound condition. This would include a power on the part of the Central Bank to replace a trustee or management committee member or members with a Central Bank appointee.	Bank to replace the corporate trustee and an individual on the management committee as the appointment and termination of these parties are determined by the plan's TD&R. It is recommended that the Central Bank either be given the power to direct or require the employer to replace either the corporate trustee or a member on the management committee as stated in Section 5.5.1 (h) and (i).	power to remove a trustee or management committee member.
5.7 Corrective Measures	Entire Section	The ultimate corrective measure, i.e. the compulsory winding-up of the pensions plan instigated by Central Bank, is omitted from this section of the Revised PPD and at the very least merits a cross-reference to section	Please see section 3.4.3.3 (d) which gives the Central Bank the power to take any regulatory action prescribed in the OPPA. This would include a regulatory order to wind up a pension plan.

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
		8 of the PPD.	
5.7 (c) Corrective Measures	The trustee or management committee, forthwith or within such time as may be specified to take all such measures as it may consider necessary to rectify the situation if, in the opinion of the Central Bank (from off-site monitoring or an on-site examination), a trustee or management committee is conducting the business of the pension plan in an unlawful or unsound manner or it is otherwise in an unsound condition. This would include a power on the part of the Central Bank to replace a trustee or management committee member or members with a Central Bank appointee.	We disagree that CBTT should have power to replace Trustee or Mgmt Committee member with CBTT appointee. ii) Trustee fees and other terms and conditions are negotiated before appointment and Petrotrin will no longer have this opportunity. iii) Our Rules state that the Management Committee must consist of 5 members made of 3 company representatives and 2 members' representatives.	The Central Bank may need to be able to replace a trustee or management committee member that is not fulfilling his or her fiduciary responsibility. However, the Central Bank will not take this type of action without permitting time to remedy the situation or unless the matter is urgent.
5.9	It is proposed that the appeals	This process should be clearly documented.	Agreed. Please see section 3.6 which was amended to

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
Appeals	jurisdiction be a Judge in Chambers of the High Court, as currently provided for under the IA.		<p>provide more detailed provisions related to the appeals process. This includes:</p> <ul style="list-style-type: none"> • Stipulating that during the course of the appeal the Central Bank direction or decision will remain in force unless otherwise stipulated by the adjudicating Judge. • Stipulating that the adjudicating Judge may reverse any decision made by the Central Bank and give directions with respect to the payment of costs/ expenses incurred because of the appeal.
5.9 Appeals	It is proposed that the appeals jurisdiction be a Judge in Chambers of the High Court, as currently provided for under the IA.	The appeals process needs to be clearly documented. Clear guidelines would facilitate a fair and transparent appeals process, while failure to explicitly identify the appropriate procedure would jeopardize the effectiveness of the appeals process.	Given that appeals would be to a Judge in Chambers there is no need to detail the process in Guidelines. However, section 3.6 "Appeals" has been amended to provide more details with respect to the Appeals process.
5.9 Appeals	It is proposed that the appeals jurisdiction be a Judge in Chambers of the High Court, as currently provided for under the IA.	We agree that effective, expeditious and affordable appeals mechanisms are needed. We are not convinced that the mechanism of appeal to a Judge in Chambers provides this and wonder whether there might be scope for some sort of arbitration or alternative dispute	The current Insurance Act Chap 84:01 made provisions for appeals of the decisions of the Central Bank by intermediaries to be made to a Tribunal since its establishment. However, the Tribunal has not functioned effectively since its inception. Consequently

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
		resolution process to deal with disagreements between the Central Bank and pension plan sponsors, trustees and/or management committees.	the Insurance Bill removed the provision to appeal to a Tribunal and only makes provisions for appeals through the High Court.
Governance of Pension Plans			
6. Governance of Pension Plans	Entire Section	<p>We note that the Revised PPD now recognises that:</p> <ul style="list-style-type: none"> ▪ Corporate trustees are professionals whose day to day business is the trusteeship of pension plans; and ▪ Management committee members' involvement in pension plans is a part time job for which they are not equipped with expert knowledge. <p>The division of responsibilities between these two stakeholders set out in the Revised PPD now reflects this reality much more closely than was the case in the original PPD and thus largely retains the status quo. We have no significant problem with the current proposals in this area.</p>	We acknowledge your comment.

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
6. (d) Preamble Governance of Pension Plans	The Central Bank recognizes that pension plan stakeholders such as actuaries, auditors and investment managers play an important role in the operations of the pension plan and their responsibilities should be encapsulated in service contracts. Trustees and management committee members would be held accountable for their performance (see below for details).	Please note that service providers such as actuaries and auditors are not normally hired by way of service contracts but investment managers are hired by way of an Investment Management Agreement between the trustees and the investment manager.	The Central Bank is aware that trustees simply issue a letter to service providers engaging their services. However, it is being proposed that a more formal arrangement be established.
6. (e) Preamble Governance of Pension Plans	The role of the sponsor is not currently defined	We do not understand why section (e) of the preamble to this section of the Revised PPD says that "The role of the sponsor is not currently defined". To our mind there is no confusion over the role of the sponsor in relation to an occupational pension plans save in the Revised PPD where it is still the case that the Central Bank seeks to exclude the sponsor from areas of the pension plan's operation and governance where it has a legitimate interest.	<p>The proposal refers to the fact that the role of the sponsor is not currently defined in the Insurance Act. However, the PPD has been clarified by adding the words "in the Insurance Act."</p> <p>We require clarification and further details with respect to the comment that the Central Bank is excluding the sponsor in the administration and governance of the pension plan. The PPD currently requires <i>inter alia</i> that the plan sponsor be represented on the management committee; be responsible for communication with plan members and beneficiaries as well as, good record</p>

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
			keeping. In this regard, examples of the suggested deficiencies would be appreciated.
6.1 Structure of Pension Plans	<p>The 1969 Draft Regulations and Section 30 of the Income Tax Act require that all pension plans must have one of the following:</p> <p>A corporate trustee AND a management committee; or</p> <p>A Board of Trustees comprising a minimum of three individual trustees.</p> <p>The new OPPB would require that this structure be maintained.</p>	The Board of Trustees may be partly comprised of representatives elected/nominated by members of the pension plan. Should the fit and proper guidelines be applied to Trustees functioning as members' representatives?	Yes. The fit and proper requirements outlined in Appendix IV apply to individual trustees of the pension plan.
6.1 Structure of Pension Plans	<p>The 1969 Draft Regulations and Section 30 of the Income Tax Act require that all pension plans must have one of the following:</p> <p>A corporate trustee AND a management committee; or</p> <p>A Board of Trustees comprising a minimum of three individual trustees.</p>	This provision allows for pension plans to have either, a corporate trustee and a management committee, or a minimum of three individual trustees, those plans which opt for the second option to have three trustees would not have Management Committees. Once again, MCs should be established as far as possible, and where this is not feasible and a Board of Trustees is the preferred option, this Board must include at least one employee representative.	<p>This suggestion was already included in the October 2011 PPD. However, the PPD has since been amended as follows (Please see section 5.2.1 (c)): " Each management committee and Board of Trustees must comprise:</p> <p>At least one representative of active members selected by them. If there are no active members the management committee must have a minimum of two (2) pensioner representatives and one (1) plan sponsor representative "</p>

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
	The new OPPB would require that this structure be maintained.		
6.1 Structure of Pension Plans	<p>The 1969 Draft Regulations and Section 30 of the Income Tax Act require that all pension plans must have one of the following:</p> <p>A corporate trustee AND a management committee; or</p> <p>A Board of Trustees comprising a minimum of three individual trustees.</p> <p>The new OPPB would require that this structure be maintained.</p>	We are in favour of retaining the status quo.	We acknowledge your comment.
6.2 Composition of the Management Committee and the Board of Trustees	Entire Section	We recommend including an additional item as follows: e) "A deferred pensioner representative when the deferred pensioners exceed 25% of active member cohort".	The pensioner representative can be a deferred pensioner. Please see section 5.2.1 (b) which states: "A pensioner representative when the number of pensioners exceeds 25% of active member cohort. A deferred pensioner may act as the pensioner representative."
6.2	Entire Section	We recommend including an additional item as follows:	Agreed. Please see section 5.9 (c) which states:

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
Composition of the Management Committee and the Board of Trustees		<p>f) "A representative and his alternate must agree to undertake the responsibility on the management committee and the sponsor company should provide the necessary liability insurance for those representatives".</p> <p>Either the sponsor company or the pension plan (applicable) should bear the cost of this liability insurance.</p>	<p>"It is proposed that the requirements outlined in the Fourth Schedule of the IA be incorporated into and strengthened in the new OPPA. It is proposed that the TD&R of a registered pension plan should include at a minimum:</p> <p>A statement as to whether the plan sponsor or the pension plan is responsible for providing indemnification insurance to persons serving as management committee members and individual trustees for any action done in good faith in the execution or intended execution of a duty or authority under the Act or any Regulations made thereunder."</p>
6.2 Composition of the Management Committee and the Board of Trustees	Entire Section	It must be clearly stated how many of each type of member should comprise the committee. Our Rules provide for 3 company representatives and 2 members' representatives. The Chairman and Secretary are Company nominees but the Secretary is not a voting member.	Under section 5.2 "Composition of the Management Committee and the Board of Trustees" stipulates the minimum requirements for the composition of the management committee. However, it should be noted that pension plans may exceed this minimum requirement.
6.2 Composition of	Entire Section	<p>We recommend including an additional item as follows:</p> <p>g) "Each representative and alternate on the</p>	<p>Agreed. Please see section 5.7 (b) which states:</p> <p>"The Central Bank, in order to assess the on-going fitness</p>

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
the Management Committee and the Board of Trustees		management committee should fill out a Fit and Proper questionnaire at the beginning of every year for submission to the Central Bank".	and propriety of the individual trustees and management committee members, will require members of the board of trustees, the management committee (including alternates) to submit annual attestations of their fitness and propriety by January 31 st of each calendar year in the form specified by the Central Bank. The form of this annual attestation will be specified in a Guideline."
6.2 (a) Composition of the Management Committee and the Board of Trustees	Each management committee and Board of Trustees must comprise: At least one representative of active members selected by them	Paragraph 6.2(a) needs to cater for the situation where there are no active members left (which can happen).	Agreed. Section 5.2.1 (c) was amended as follows: At least one representative of active members elected by them. If there are no active members the management committee must have a minimum of two (2) pensioner representatives and one plan sponsor representative;"
6.2 (b) Composition of the Management Committee and the Board of	Each management committee and Board of Trustees must comprise: At least one employer representative	We recommend amending item b as follows: b) At least two employer representatives	We disagree. The proposal as stated allows the employer to have two or more representatives on the Committee.

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
Trustees			
6.2 (b) Composition of the Management Committee and the Board of Trustees	Each management committee and Board of Trustees must comprise: At least one employer representative	<p>Is there an intention to grandfather this proposal?</p> <p>Our pension plan provides for a maximum of six individual trustees, two of whom are elected by staff and are designated staff trustees and three non-staff trustees, who were initially appointed by our employer for indefinite terms. In accordance with the TD&R, the non- staff trustees elect their successors.</p> <p>Whilst this arrangement is not common, it was conceptualized to insulate the Board of Trustees from undue management influence in the conduct of the affairs of the pension plan, given circumstances that were affecting the employer at the time the arrangement was put in place.</p> <p>History and the evidence emanating from the on-going Commission of Inquiry into the collapse of two financial institutions in Trinidad & Tobago, have demonstrated the merit of the aforementioned insulation and my concern is that if other companies and pension plans were to be similarly circumstanced in the future, that the proposal could debar them from taking similar preventative action as was done in the case of our pension plan.</p>	This proposal will not be grandfathered. The proposed composition of the management committee as stipulated in the PPD is a minimum requirement. It does not exclude other persons from being members of the management committee if stipulated in the TD&R. Amendments to the TD&R may be necessary in order to comply with the provisions of the legislation. The OPPB proposes a three (3) year transition period for amendments to the TD&R.
6.2 (c)	Each management committee and	It must be noted that where a recognized majority union	Requiring that the management committee or Board of

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
Composition of the Management Committee and the Board of Trustees	Board of Trustees must comprise: A pensioner representative when pensioner numbers exceed 25% of active member cohort	is present, the union negotiates on behalf of pensioners at each round of negotiations. Their interests including pension issues are therefore addressed at this forum. It is therefore proposed that this item be removed.	Trustees include a pensioner representative when pensioner numbers exceed 25% of active member cohort does not negate a union's ability to negotiate on behalf of pensioners. It should also be noted that not every pension plan has union representation.
6.2 (c) Composition of the Management Committee and the Board of Trustees	Each management committee and Board of Trustees must comprise: A pensioner representative when pensioner numbers exceed 25% of active member cohort	Under Clause 6.2 it is stated that when the number of pensioners exceed 25% of active members in a Company, there needs to be a pensioner representative on the management committee. Clarification is required as to whether this includes deferred pensioners and whether this requirement would be one that is continuous. We respectfully note that the management committee is a position that is voluntary and unsalaried and therefore it may be difficult for a pensioner to continuously act as a member of the committee.	A pensioner representative could be a deferred pensioner. The requirement is on a continuous basis. Please see section 5.2.1 (b) which states: "A pensioner representative when the number of pensioners exceeds 25% of active member cohort. A deferred pensioner may act as the pensioner representative."
6.2 (c) Composition of the Management Committee and the Board of Trustees	Each management committee and Board of Trustees must comprise: A pensioner representative when pensioner numbers exceed 25% of active member cohort	We agree with the proposal in paragraph 6.2(c) that there should be pensioner representation where there is a sufficiently large body of pensioners (which is not surprising given that we suggested this). However: <ul style="list-style-type: none">▪ This representation should relate not only to pensioners but to deferred pensioners too and for this purpose the two categories of members should	<u>1st bullet</u> The PPD was revised to clarify that the pensioner representative relates to pensioners or deferred pensioners. Please see section 5.2.1 (b) which states: "A pensioner representative when the number of pensioners exceeds 25% of active member cohort. A deferred pensioner may act as the pensioner representative."

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
		<p>be treated as a single group.</p> <ul style="list-style-type: none"> ▪ The revised PPD needs to indicate when and how often it should be tested whether the number of pensioners (and deferred pensioners) crosses the 25% threshold. ▪ Incidentally, we see that the definition of “management committee” in Appendix II to the Revised PPD says that there will always be a pensioner representative on the committee regardless of the number of pensioners. We assume that this contradiction is an error and that section 6.2(c) of the Revised PPD reflects Central Bank's true intentions. 	<p><u>2nd bullet</u></p> <p>The Central Bank does not agree that the PPD should stipulate when and how often the ratio of pensioners to active members should be tested. Reliance will be placed on the trustees to ensure compliance with the TD&R and/or legislation. However, the Central Bank will verify the composition of the management committee during on-site examinations. In addition, actuarial valuation reports also provide information on the active members and pensioners.</p> <p><u>3rd bullet</u></p> <p>The definition of management committee was amended to reflect the provisions in section 5.2.1 (b).</p>
6.2 (d) Composition of the Management Committee and	A Chairman and Secretary, who may not necessarily be selected from the existing management committee or individual trustees.	The revised draft now stipulates that each MC and Board of Trustees must comprise a Chairman and Secretary, as we recommended in 2010. It should be further specified that one of these positions be an employer representative, and the other, an employee	The PPD provides minimum requirements. However, the pension plan's TD&R can further detail the composition in order to ensure balanced representation on the management committee.

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
the Board of Trustees		representative. This would allow for balance and both interests would be represented at this level, rather than having these positions being dominated by either side.	
6.2 (d) Composition of the Management Committee and the Board of Trustees	A Chairman and Secretary, who may not necessarily be selected from the existing management committee or individual trustees.	Why is it necessary to specify that the management committee can have a chairman who is not a (voting) member of the committee? It will almost always be the case that the management committee secretary is not a member of the committee but rather is a resource provided by the sponsor.	The proposal as stated allows pension plans some degree of flexibility regarding the composition of the management committee. A management committee must have a chairman and a secretary. Whether the Chairman and the Secretary are voting or nonvoting members would be determined by the sponsor and trustee when developing the plan's TD&R.
6.2 (d) Composition of the Management Committee and the Board of Trustees	A Chairman and Secretary, who may not necessarily be selected from the existing management committee or individual trustees.	The intention of this clause is unclear. Does this mean that the TD&R will determine the method of appointment of the Chairman and Secretary and that they need fall within the categories set out in (a) to (c)?	The proposal envisages that the TD&R will stipulate inter alia whether the Chairman and the Secretary are: <ul style="list-style-type: none"> ▪ appointed by the sponsor or members of the management committee; and ▪ voting or non- voting members They do not have to be appointed from the following categories: <ul style="list-style-type: none"> • At least one representative of active members selected by them; • At least one plan sponsor representative

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
			<ul style="list-style-type: none"> A pensioner representative when pensioner numbers exceed 25% of active member cohort. A deferred pensioner may act as the pensioner representative.
6.3 Duties of the sponsoring employer	Entire Section	We recommend including a new item as follows: j) "Ensure that a proper and functional management committee (if required) is in place including company and members' representatives and their alternates".	Agreed. The PPD has been amended to include this among the duties of the sponsor when appropriate. Please see section 5.3 (e).
6.3 Duties of the sponsoring employer	Entire Section	We recommend including a new item as follows: k) "Provide benefit statements at least triennially to active members".	Agreed. The PPD has been amended to require the plan sponsor to provide triennial benefit statements for active members of DB plans and annual benefit statements for active members of DC plans. Please see section 5.3 (k).
6.3 Duties of the sponsoring employer	Entire Section	We recommend including a new item as follows: l) "Provide exit statements to leavers".	Agreed. The PPD has been amended to include this among the duties of the sponsor. Please see section 5.3 (l).
6.3	Entire Section	The sponsor is responsible for appointing a corporate	Please see section 5.3(d) which states:

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
Duties of the sponsoring employer		trustee but what is its responsibility relative to a Board of Trustees structure?	"The plan sponsor is responsible for: Appointing a corporate trustee or ensuring that a properly constituted Board of Trustees is in place, where appropriate".
6.3 Duties of the sponsoring employer	Entire Section	It appears that responsibility for maintaining the data required to do benefit calculations, carry out actuarial valuations, etc, is to lie with the sponsor. We have no problem with this, but the Revised PPD should make it clear that the sponsor is free to delegate these functions to a third party administrator whilst retaining ultimate responsibility for them being carried out properly.	Agreed. Please see section 5.3 (h) which states: "The plan sponsor is responsible for: "Establishing good record-keeping and systems to facilitate compliance with the stipulated timeframes for submission of data. <i>The plan sponsor may delegate the responsibility of maintaining data to a third party. However, ultimate responsibility rests with the sponsor.</i> "
6.3 (c) Duties of the sponsoring employer	Ensure that communication with pension plan members and beneficiaries is adequate and done in accordance with the TD&R and legal requirements	How is 'adequate' measured? Will the Central Bank publish guidelines in this regard?	Section 5.3 (c) was amended as follows: "The plan sponsor is responsible for: Ensuring that communication with pension plan members and beneficiaries is carried out in accordance with the TD&R and legal requirements."
6.3 (f) Duties of the sponsoring	Establish dates with the trustee for the delivery of data to the actuary, which should be at least three (3) months before the	The proposed deadline for submitting an actuarial valuation report to the Central Bank is 9 months after the due date of the valuation. Under paragraph 6.3(f) of the Revised PPD the sponsor has up to 6 months after	Agreed. Please see section 5.3(g) which states: "The plan sponsor is responsible for: Establishing a date or dates with the trustee for the

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
employer	actuarial valuation report is due.	<p>the valuation date to deliver the data required for the valuation to the actuary. This makes no sense given that:</p> <ul style="list-style-type: none"> ▪ It then leaves only 3 months for the actuary to scrutinise and validate the data, address any data deficiencies, do the valuation calculations, produce a draft report containing preliminary valuation results for discussion with the stakeholders and then produce the final report for submission to the Central Bank. This is simply not enough time; and ▪ Paragraph 2.6(c) of the Revised PPD says that the due date for delivery of the active member benefit statements is also 6 months after the valuation date, i.e. the statements potentially have to be issued the same day that the actuary receives the data on which they are to be based. <p>As drafted these proposals are incompatible. The Revised PPD should be further revised to require the sponsor to deliver the data required to produce the actuarial valuation to the actuary within 3 months of the valuation date.</p>	delivery of data to the actuary, which should be within sixty (60) days of the valuation date.”
6.3 (f) & 6.5 (k) Duties of the sponsoring	6.3(f) Establish dates with the trustee for the delivery of data to the actuary, which should be at least three (3) months before the	It is likely to be difficult for the actuaries to complete the valuation report if they receive the data 3 months before the report is due. I will however leave this for the	See previous response.

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
employer	<p>actuarial valuation report is due.</p> <p>6.5(k) Establishing dates with the employer for the delivery of data to the actuary. The timeframe for the submission of the data should be at least three (3) months before the actuarial valuation report is due.</p>	actuaries to comment further.	
6.3 (g) Duties of the sponsoring employer	Pay over to the trustee, all employee and employer contributions within thirty (30) days of the date that the deductions relating to the period were made.	We would like to suggest that this clause be amended to provide for remittance of all contributions within 30 days from the end of the month in which deductions are made to cater for weekly payments.	Agreed. Please see section 5.3(i) which states: "Paying over to the trustee, all employee and employer contributions within twenty (20) days of the end of the month in which deductions were made."
6.3 Footnote 31 Duties of the sponsoring employer	An obligation is not being placed on the employer to provide information to the actuary, auditor or any other stakeholder as it is envisioned that the trustee will be the focal point of contact for the service providers.	It appears from the Revised PPD that no specific sanctions will be applied to a sponsoring employer who fails to provide valuation data within the stipulated deadline (the footnote on page 42 of the PPD confirms this). The single most common cause of late submission of valuation reports is the late submission of the required data to the actuary by the sponsor or the agency to which the sponsor has delegated benefit and data administration. To our mind if the Central Bank is not prepared to compel sponsors to provide valuation	<p>Footnote 31 referred to on page 42 of the October 2011 PPD has been deleted and the PPD has been amended to provide further clarity. Please see section 5.3(f) which states: "The plan sponsor is responsible for: Providing the trustee with any plan member data that it requires to carry out its functions."</p> <p>The PPD also places a requirement for the sponsor to provide the trustee with the data within the agreed upon deadline. Please see section 5.3(g) which states: "The</p>

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
		data on a timely basis it cannot hold itself out to be serious about the timely submission of valuation reports and should not seek to penalize trustees for failing to submit valuation reports within a rigid 9-month deadline.	<p>plan sponsor is responsible for:</p> <p>Establishing a date or dates with the trustee for the delivery of data to the actuary, which should be within three (3) months of the valuation date."</p> <p>In addition, Appendix III of the PPD identifies the applicable administrative fine to be applied to the sponsor for failing to provide information to the trustee within the stipulated timeframe.</p>
6.4 Duties of the management committee	Entire Section	We believe that the TDR represent the policy and procedures that administer the plan. The Management Committee should be able to propose amendments to the TDR.	In practice the management committee can propose amendments and communicate such proposals to the trustee. This practice can be formalized in the pension plan's TD&R.
6.4 Duties of the management committee	Entire Section	Under clause 6.4 the duties and the responsibilities of the management committee are listed. We note however that some of the duties and responsibilities that are outlined therein are duties and responsibilities of the administrator or trustee. For example, we note that the management committee under this clause is required to oversee along with the corporate trustee that the assets	We disagree. The management committee has a vital role in the management of a pension plan. If the management committee does not have the requisite skill to carry out its functions effectively it is required to obtain the said skills. Please see section 5.4 (b) which states: "It is further proposed that where the management committee does not possess the requisite

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
		of the pension plan are invested in accordance with the requirements and restrictions as prescribed in the investment policy. We are of the respectful view that this should be the duty of the trustee or the administrator.	skills to perform the duties required in 5.4 (a) (i) to (iii) above, the management committee must retain the services of an investment advisor or other skilled professional to assist in carrying out its mandates.”
6.4 Duties of the management committee	Entire Section	<p>The duties set out in the Revised PPD are all right as far as they go but we are of the opinion they should be extended to include:</p> <ul style="list-style-type: none"> ▪ A duty to meet with the auditor to discuss the annual audited financial statements; and <p>A duty to meet with the actuary to discuss the report on the triennial actuarial valuation and, where it exists, the recovery plan.</p>	We disagree. The management committee is required to review reports of investment performance quarterly and meet with the corporate trustees and investment managers annually. If the management committee requires clarification on the audited financials and/or the actuarial valuation reports it can request that the trustee set up the appropriate meetings.
6.4 (c) & (d) Duties of the management committee	<p>(c)Overseeing the administration of the pension plan;</p> <p>(d)Establishing the policies and procedures for the administration of the pension plan</p>	In our plan the Secretary of the Management Committee oversees the day to day administration of the pension plan and not the Management Committee and this should be maintained. Due to the volume of daily transactions, it is impossible for the Management.	The decision to delegate the day to day administration of the pension plan to the secretary of the management committee is a procedural matter and need not be addressed in the PPD. Nevertheless, the management committee will be held ultimately responsible for establishing and documenting policies and procedures for the effective operations and administration of the pension plan. Please see section 5.4 (c).
6.4 (f)	Ensure that on-going training (at	We understand that in one of the stakeholder	The Central Bank will generally provide information

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
Duties of the management committee	least annually), is available for self-improvement. Either the sponsor company or the pension plan (if applicable) will pay for on-going training and the TD&R must address training issues.	consultation meetings on 6 December the Central Bank was asked whether it would provide pension training and the reply was that this would be considered. We do not see how the Central Bank could simultaneously act as the regulator of management committees and as their trainer, particularly if the former role includes monitoring the content and quality of training? There would appear to be significant conflicts of interest here.	sessions on the legislation and any regulations or guidelines made thereunder, as appropriate to stakeholders. Please note this duty has now been placed with the plan sponsor (please see 5.3 (o)).
6.4 (f) Duties of the management committee	Ensure that on-going training (at least annually), is available for self-improvement. Either the sponsor company or the pension plan (if applicable) will pay for on-going training and the TD&R must address training issues	<p>We note the requirement for the management committee to source annual training at the pension plan's expense. Whilst we are in favour of the training of management committee members there are some practical issues here.</p> <ul style="list-style-type: none"> How is the Central Bank going to ensure there is sufficient capacity amongst training providers to meet the demand from pension plan management committees? As far as we know we are the only organisation in Trinidad regularly providing management committee training across the full spectrum of subject matter that needs to be covered. Will Central Bank prescribe minimum content for training? It seems to us that it must if the training requirement is to be meaningful. 	<p><u>1st bullet</u></p> <p>While it is not the Central Bank's role to ensure there is sufficient capacity among training providers we <u>encourage the stakeholders in the industry to position themselves to meet these training needs</u>.</p> <p><u>2nd bullet</u></p> <p>Appendix IV A (2) details the areas in which at a minimum the management committee members should be trained. However, the Central Bank will not prescribe the details of such training.</p> <p><u>3rd bullet</u></p> <p>During on-site examinations the Central Bank will</p>

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
		<ul style="list-style-type: none"> What steps will Central Bank take to monitor the quality of training provided? <p>As with other areas of the proposals, we have some concerns over the costs these proposals will impose on small pension plans.</p>	<p>evaluate the quality of the training provided. Also, the annual attestation will be required to state the type of training, if any, received in the last year.</p>
6.4 (f) Duties of the management committee	<p>Ensure that on-going training (at least annually), is available for self-improvement. Either the sponsor company or the pension plan (if applicable) will pay for on-going training and the TD&R must address training issues.</p>	<p>Who and what is the mechanism for monitoring the quality and content of such training.</p>	<p>During on-site examinations the Central Bank will evaluate the quality of the training provided. Also, management committee members will be required to state in their annual attestations whether they have received any training in the past year. It should be noted that this duty has now been placed with the plan sponsor. Please see section 5.3(o).</p>
6.4 (g) Duties of the management committee	<p>Establishing policies for dealing with its own conflicts of interest and ensuring that the corporate trustee and other service providers have adopted acceptable conflict of interest policies;</p>	<p>This is not clear as to what exactly is expected. Is self investment by a corporate trustee or investment manager permissible?</p>	<p>The PPD was expanded to require a policy addressing investing the shares of the pension plan in the corporate trustees' group. It should be noted that this would be permitted to the limit of 10% to a single related party or all related parties. Please see section 5.4 (c) which states: "The management committee is responsible for:</p> <p>Establishing the policies and procedures for the administration of the pension plan which at a minimum address:</p> <p>i) Conflicts of interest: This policy must include provisions addressing investment in the shares of the</p>

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
			<p>pension plan in the corporate trustee's group of companies in keeping with the limit of 10% to a single related party or all related parties, and</p> <p>ii) Claims and/or disputes: This policy must detail a dispute resolution procedure which is consistent with the TD&R and the legislation."</p>
6.4 (j) Duties of the management committee	Such other duties and functions as the Central Bank may specify	The duties identified for the MC are quite thorough. However, the last item - <i>(j)Such other duties and functions as the Central Bank may specify</i> - is not seen to be necessary and should be deleted as items (a) through (e) adequately identify the responsibilities of the MC.	We disagree. The need to require additional responsibilities for the management committee may arise in the future and this provision will facilitate this.
6.5 Duties of the corporate trustee	Entire Section	The duty to have the actuary prepare the recovery plan when the valuation shows that the pension plan is in deficit and to submit this to the Central Bank is omitted from the list of duties.	Agreed. Please see section 5.5 (q) which states: "The corporate trustee shall be the legal owner of the assets with responsibility for: Ensuring that where the pension plan is in deficit the actuary prepares a recovery plan for submission to the Central Bank."
6.5 (a) Duties of the corporate trustee	Selecting the actuary, investment manager and auditor in consultation with the management committee	In sub-paragraph (a), the sponsoring employer must be consulted in the appointment of the investment manager as it is the sponsor who will suffer the consequences of poor investment management, whether this is the financial consequences in a DB pension plan or the damage to its reputation in a DC	In practice the sponsor would have one or more representatives on the management committee (or Board of Trustees) and therefore will be a part of the selection process.

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
		plan.	
6.5 (a) Duties of the corporate trustee	Selecting the actuary, investment manager and auditor in consultation with the management committee	The employer, as the sponsor of the plan, should be part of the decision to appoint the actuary, auditor and investment manager.	See previous response.
6.5 (d) Duties of the corporate trustee	Providing the Central Bank with all information required from the service providers of the pension plan	<p>Section 6.5(d) requires the Corporate Trustee to provide the Central Bank with all information required from the service providers of the pension plan. Under section 5.6 the Central Bank is given the power to impose administrative fines on the Trustee for late submission of information requested by them.</p> <p>Whereas section 5.6(e) provides an exception to the Trustee where it can prove that its inability to provide the information resulted from the Employer's failure to provide same, this exception needs to be widened to allow for instances where the information is due from another plan agent e.g. Actuary, Auditor, Investment Manager, Custodian, Administrator, and that agent fails to provide the requested information within the stipulated timeframe.</p>	We disagree. The trustee should address this issue in the service contracts of the other service providers.
6.5 (h) Duties of the	Monitoring the monthly remittance of members' and employer's contributions thirty	Is it practically feasible? How will they verify this?	Yes. The trustee is expected to have mechanisms in place to fulfill its statutory duties.

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
corporate trustee	(30) days after the end of the month for which the contributions relate and report to the Central Bank, any material negative variances or missed contributions in the previous quarter within thirty (30) days after the end of each quarter		
6.5 (k) Duties of the corporate trustee	Establishing dates with the employer for the delivery of data to the actuary. The timeframe for the submission of the data should be at least three (3) months before the actuarial valuation report is due	Is the 3 month period a sufficient time frame?	This time frame is appropriate. It should be noted, however, that this duty is now the responsibility of the plan sponsor. The time frame has also been amended. Please see section 5.3 (g) which states: "The plan sponsor is responsible for: Establishing a date or dates with the employer for the delivery of data to the actuary, which should be <i>within sixty (60) days of the valuation date.</i> "
6.5 (l) Duties of the corporate trustee	Submitting the actuarial valuation report to the Central Bank no later than nine (9) months after the valuation date	The Valuation date should be clearly defined.	The valuation date is defined in the TD&R of each plan.

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
6.5 (r) Duties of the corporate trustee	Selecting the asset custodian	Is it the expectation that the corporate trustee will not act as the asset custodian but must appoint another party? It is not clear whether there is need for both an asset custodian and a trustee.	The corporate trustee may act as the asset custodian. However, individual trustees will need to appoint an asset custodian.
6.7 Notification requirement	Where the employer becomes bankrupt or starts liquidation proceedings he or she must notify the Central Bank within seven (7) days.	"Where the employer...." should be changed to "Where the Sponsor Company..."	Throughout the PPD the term 'employer' was replaced with 'plan sponsor'. Please note this requirement has now been placed as a duty of the plan sponsor under section 5.3 (m).
6.8 Contents of the TD&R	Entire Section	Our view is that specifying how the residual surplus will be treated within this document may reduce the scope for actuarial guidance in such a complicated matter. It may well lead sponsors to suggest that the residual surplus be used to support contribution holidays given the impact of International Accounting Standards (IAS19).	Noted. However, the Central Bank will not be stipulating the use of surplus.
6.8 (a) (iv) Contents of the TD&R	It is proposed that the requirements outlined in the Fourth Schedule of the Insurance Act be removed from the IA. These provisions would be strengthened and included in the new OPPB. It is proposed that the	The requirement for the Trust Deed and Rules to provide for policies and procedures for the selection of advisors, and the mechanism for their appointment and removal appears to be impracticable as it would demand, unusually, that detailed administrative provisions be included in the deed or rules, and may lead to	It is expected that the TD&R would stipulate criteria for selection and terms of appointment and removal of trustees and other service providers. Detailed administrative procedures need not be part of the TD&R.

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
	TD&R of a registered pension plan should include: (iv) the appointment and removal of trustees, investment managers, auditors, actuaries and other service providers	inflexibility and the need for frequent amendment.	
6.8 (a) (ix) Contents of the TD&R	It is proposed that the requirements outlined in the Fourth Schedule of the Insurance Act be removed from the IA. These provisions would be strengthened and included in the new OPPB. It is proposed that the TD&R of a registered pension plan should include: (ix)a requirement for all assets of the pension plan are to be held in the name of the trustees	Is this possible to hold all plan assets in the name of the Trustee?	Yes. The trustee is the legal owner of the assets. Please see section 5.5 which states: "The corporate trustee is the legal owner of the assets with responsibility for:....."
6.8 (b) (i) Contents of the TD&R	Communication with pension plan members including, but not limited to providing: (b) (i) every member with a copy	By and large this follows the existing requirements of the Insurance Act 1980 and so we have little to add. However: ▪ Paragraph 6.8(b)(i) appears to be saying that the	The PPD was amended to ensure that each member has access to those documents and where they may be sourced. Please see section 5.9 (b) which states: " It is proposed that the TD&R of a registered pension plan should include at a minimum:

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
	of the TD&R of the pension plan and of all amendments thereof, and of the latest statements of accounts, balance-sheets and actuarial valuation report prepared in accordance with the requirements of this OPPB upon request.	<p>trust deed and rules must provide for members to receive copies of the trust deed and rules, financial statements, actuarial valuation reports automatically. We do not believe this is appropriate – these are dry, technical documents that will not enhance the majority of pension plan members' understanding of the pension plan. What the deed should say is that:</p> <ul style="list-style-type: none"> (i) The members must automatically receive the more user-friendly communication; (ii) The members have a right to request copies of the more formal documents if they want them, i.e. not only the trust deed and rules, financial statements and actuarial valuation reports but also the recovery plan where one exists; and (iii) The members must be informed of their right to see these latter documents 	<p>Communication with pension plan members including, but not limited to providing:</p> <ul style="list-style-type: none"> i) every member with the location of, and if requested, access to a copy of the TD&R of the pension plan and of all amendments thereof, the annual report prepared by the trustees and the latest statements of accounts, balance-sheets and actuarial valuation report prepared in accordance with the requirements of this OPPB upon request; ii) every member with benefit statements and any other disclosure requirements; and iii) for the settlement of membership disputes.”
6.8 (d) Contents of the TD&R	It is proposed that the requirements outlined in the Fourth Schedule of the Insurance Act be removed from the IA. These provisions would be strengthened and included in the	It is my understanding that the management committee has no role to play once the plan is wound up. The requirements once a plan is wound up are clearly stated in the TD&R and it is a fairly straight-forward valuation exercise. This is also emphasised by the tight timelines set by CBTT for the winding up process and the absence	Agreed. Section 6.8 (d) was deleted.

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
	<p>new OPPB. It is proposed that the TD&R of a registered pension plan should include:</p> <p>(d)The manner in which the management committee must function if the plan is wound up</p>	of any mention of the management committee in Section 8.	
6.8 rationale Contents of the TD&R	<p>All registered pension plans in Trinidad and Tobago are required to be established under an irrevocable trust. The TD&R is the main legal document of the pension plan and it facilitates the creation of this irrevocable trust. As such, the TD&R, must include certain provisions which guide the governance and administration of the pension plan. Sponsors are given the discretion to specify the details as they relate to sponsoring employer's commitment and undertaking to the pension plan. Furthermore, the trustee uses this document to guide their decisions and actions.</p>	It may be useful to define residual surplus	<p>This term has been removed from the PPD.The second paragraph of the rationale was amended as follows:</p> <p>"A requirement for pension plan documents to specify how certain matters such as <i>surplus</i> will be dealt with, may reduce the need for costly action such as bringing the matter to the court for decision. This is essential in Trinidad and Tobago as many pension plans have large surpluses."</p>

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
	A requirement for pension plan documents to specify how residual surplus will be dealt with may reduce the need for costly action such as bringing the matter to the court for decision. This is essential in Trinidad and Tobago as many pension plans have large surpluses.		
Prudential Requirements			
7. Prudential Requirements	Entire Section	We do not understand why this section is called "Prudential Requirements" as this does little to explain its content. We would have thought, given the fundamental importance of both actuarial valuations and investment matters to the proper running of pension plans, that each of these would have merited its own dedicated section in the Revised PPD.	The areas covered under this section are generally required for the prudent operation of pension plans. In addition, quantitative investment limits and permissible asset classes have now been included in this section hence the designation "Prudential Requirements".
7.1 Actuarial	Entire Section	The Central Bank currently has no specialized pensions' actuarial expertise in house to advise it on actuarial	The Central Bank has made progress in sourcing the requisite pension expertise and in training current staff

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
Valuations		issues relating to pension plans. We reiterate that we are strongly of the view that the Central Bank needs to acquire such in house expertise as this would strengthen the regulation of pension plans significantly. The Central Bank should thus treat the recruitment of an experienced pensions' actuary as a priority.	to allow it to fulfill its mandate. This is in addition to being a member of international and regional regulatory pension bodies.
7.1 Actuarial Valuations	Entire Section	We trust that the provision in the 1980 Insurance Act that says that an insured pension plan does not require an actuarial valuation will not be duplicated in the OPPA given that this is a nonsensical exclusion. Whether or not a valuation is required should depend solely on the nature of the benefits provided by the pension plan and not on the investment vehicle chosen to deliver those benefits.	Agreed.
7.1 (a) Actuarial Valuations	Actuarial valuations must be performed at intervals of not more than three years. Intervals referred to are the periods between valuation dates. With respect to pure DC pension plans the actuary will not be required to perform actuarial valuations. However, they are required to produce and submit to the	We have no idea what the "statement of current benefits" alluded to in the second sentence of paragraph 7.1(a) might be and Central Bank should clarify this. We would have thought that the requirement should be for the plan's trustee to certify that the pension plan in question falls within the definition of a "pure DC plan" and thus does not require an actuarial valuation.	Agreed. The PPD was amended as follows (please see section 6.1 (a)): "Actuarial valuations must be performed at intervals of not more than three years. Intervals referred to are the periods between valuation dates. With respect to pure DC pension plans the actuary will not be required to perform actuarial valuations, however, the trustees will be required to submit a letter certifying that the pension plan is a pure DC plan."

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
	Central Bank a statement of current benefits at the same frequency at which actuarial valuations are performed and submitted to the Central Bank.		
7.1 (c) Actuarial Valuations	The trustees must ensure that actuarial valuation reports are submitted to the Central Bank no later than 9 months after the valuation date. In addition, the trustees must also ensure that the management committee receives a copy of the actuarial valuation report.	We have already commented on the proposed 9-month submission deadline for reports on actuarial valuations. We continue to be of the view that a 9-month deadline is too short and observe that the Central Bank has not offered any evidence in favour of its retention.	This requirement currently exists and there are no compelling reasons for the Central Bank to adopt a less stringent standard in the OPPB.
7.1 (c) Actuarial Valuations	The trustees must ensure that actuarial valuation reports are submitted to the Central Bank no later than 9 months after the valuation date. In addition, the trustees must also ensure that the management committee receives a copy of the actuarial valuation report.	The 'valuation date' needs to be more clearly defined	"Valuation date" is a term of art and refers to the date at which the actuary's estimate of value applies.

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
7.1 (e) Actuarial Valuations	During the review of an actuarial valuation the Central Bank may request the actuary to provide supplemental information or explanations to enable the Central Bank to assess the actuarial valuation. The actuary shall respond to all such requests within the period stipulated by the Central Bank. The trustees of the pension plan will be copied on all information requests that the Central Bank makes to actuaries.	<p>We note that the Central Bank may request additional information from the actuary after the valuation report is submitted (paragraph 7.1(e) of the Revised PPD) but would reiterate our view that any request for such additional information should be channelled through the plan's trustee rather than being addressed directly to the actuary. Our reasons for this are as follows.</p> <ul style="list-style-type: none"> ▪ The statutory duty to submit the valuation report lies with the trustee, not the actuary, and it is therefore appropriate that any queries concerning this report should, in the first instance, be addressed to the trustee. ▪ The generation of actuarial information can involve considerable cost and, to the extent that this cost falls on the pension plan the trustee has a legitimate interest in the matter. In particular, there may be occasions where the trustee is of the view that the Central Bank's request for additional actuarial information is not justified and therefore that it is in the pension plan's interest to challenge it. 	Agreed. The PPD was amended as follows: "During the review of an actuarial valuation report the Central Bank may request additional information from the trustee to enable adequate assessment of the report. However, the Central Bank reserves the right to contact the actuary directly. In cases where the actuary directly receives a request for information the trustees will be copied on the correspondence. The TD&R must stipulate who (the Central Bank being an exception) would bear the cost of providing the Central Bank with additional information."
7.1 (g) Actuarial	If the Central Bank is not satisfied with the response of the actuary (or is not satisfied that the	Paragraph 7.1(g) of the Revised PPD would allow the Central Bank to require the actuary to revise the actuarial valuation or to have the trustee employ a	The Central Bank would only require a new/revised valuation if it is considered necessary to do so. In addition, where the Central Bank requests a new valuation, it

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
Valuations	<p>valuation was prepared in accordance with actuarial standards or any Regulations prescribed) the Central Bank may :</p> <p>(i) instruct the actuary to revise or redo the actuarial valuation and re-file the actuarial valuation report; or</p> <p>(ii) employ a different actuary to prepare an actuarial valuation and file a new actuarial valuation report, taking into account the matters specified in the Central Bank's directions.</p>	<p>different actuary to do a new actuarial valuation. Either of these would impose considerable additional cost on the pension plan and the trustee will want to be satisfied that this is justified and that the Central Bank's reasons for demanding the additional actuarial work are valid. We therefore believe that the OPPA should specify that these powers can only be exercised:</p> <ul style="list-style-type: none"> ▪ After the Central Bank has taken its own actuarial advice; ▪ After the Central Bank has set out in writing to the trustee its reasons for demanding the revised or new actuarial valuation (we note that a similar requirement already exists in paragraph 7.1(i) of the Revised PPD); and ▪ After the trustee has had the opportunity to respond setting out why it believes this is unnecessary (if this is the case). 	<p>would set out its reasons for this in its communication with the trustee and the actuary. Nevertheless any decision that the Central Bank makes can be contested in a court of law. We therefore, disagree that the OPPA should specify the conditions under which the Central Bank would exercise its powers to request another actuarial valuation. It should be noted however, that the PPD was amended as follows:</p> <p>"Where the Central Bank is not satisfied with the responses provided by the trustee or is not satisfied that the valuation was prepared in accordance with actuarial standards or any Regulations prescribed, the Central Bank may :</p> <ul style="list-style-type: none"> (i) request a meeting with the trustee and/or actuary, or (ii) require the trustee to submit a revised actuarial valuation report; or (iii) instruct the trustee to employ a different actuary to prepare an actuarial valuation and file a new actuarial valuation report, taking into account the matters specified in the Central Bank's directions."
7.1 (g) Actuarial	If the Central Bank is not satisfied with the response of the actuary	A second evaluation will be at a cost to the pension plan. In light of this we are of the view that this should be	Please see the previous response.

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
Valuations	<p>(or is not satisfied that the valuation was prepared in accordance with actuarial standards or any Regulations prescribed) the Central Bank may :</p> <p>(i) instruct the actuary to revise or redo the actuarial valuation and re-file the actuarial valuation report; or</p> <p>(ii) employ a different actuary to prepare an actuarial valuation and file a new actuarial valuation report, taking into account the matters specified in the Central Bank's directions.</p>	<p>sparingly used with guidelines in this regard being clearly defined and Central Bank must specify reasons for requiring such a second evaluation.</p>	
7.1 (g) & (h) Actuarial Valuations	<p>(g)If the Central Bank is not satisfied with the response of the actuary (or is not satisfied that the valuation was prepared in accordance with actuarial standards or any Regulations prescribed) the Central Bank may :</p>	<p>We note that the Central Bank may request a revised actuarial report if they are of the view that same was not prepared in accordance with actuarial standards or any Regulations and that the cost of the revised actuarial valuation should be borne by the pension plan.</p> <p>It is our humble view that if an actuary prepares a report which is not in accordance with actuarial standards or Regulations that the cost of that revised report should be</p>	<p>We agree that if the revised actuarial report is required due to the actuary's negligence the pension plan should be able to recover costs from the actuary. However this should be addressed in the actuary's service contract and will not be specified in legislation.</p> <p>It should also be noted that the PPD states that the</p>

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
	<p>(i) instruct the actuary to revise or redo the actuarial valuation and re-file the actuarial valuation report; or</p> <p>(ii) employ a different actuary to prepare an actuarial valuation and file a new actuarial valuation report, taking into account the matters specified in the Central Bank's directions.</p> <p>(h) The cost of the revised actuarial valuation should be borne by the pension plan.</p>	borne by the actuary as the said report should be consistent with the standards of practice issued by the actuarial professional body. Alternatively, the cost of the revised report should be borne by the trustee who appointed the actuary and not the pension plan.	<p>TD&R must stipulate who would bear the cost of the additional valuation report. Please see section 5.9(g)(iii) which states: " It is proposed that the TD&R of a registered pension plan should include at a minimum:</p> <p>Stipulations on whether the pension plan or the plan sponsor will bear the costs of the following requirements under the OPPA:</p> <p>The requests by the Central Bank for the provision of a revised actuarial valuation report."</p>
7.2 Recovery Plan	Entire Section	We are generally in agreement with the proposals concerning recovery plans	We acknowledge your agreement.
7.2 (a) Recovery Plan	When a pension plan's funding ratio is below 100%, the trustee must submit to the Central Bank for approval a recovery plan prepared by the actuary. The recovery plan must be submitted within three months of the due date of the actuarial valuation	The timeline set out in paragraph 7.2(a) is practical.	We acknowledge your agreement.

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
	report.		
7.2 (c) Recovery Plan	When a pension plan has submitted a recovery plan and it is approved, the sponsor must fund the pension plan at least as rapidly as required by the recovery plan.	Will the Central Bank be communicating approval of all recovery plans?	<p>Please see section 6.2 (b) which states:</p> <p>“If after twenty (20) days of submission of the recovery plan, the Central Bank raises no objection to its contents, the pension plan should consider the recovery plan approved.</p> <p>i. However, where the Central Bank objects to the recovery plan within the twenty (20) day period, the Central Bank will indicate a date for resubmission of the plan with the trustee.”</p>
7.2 (d)(i) Recovery Plan	A recovery plan must set out: (ii) the steps to be taken to ensure that the funding ratio is greater than or equal to 100% within the required amortization periods	What is the intent of paragraph 7.2(d)(i)? Surely the “steps taken” will be the additional contributions specified in the recovery plan?	Agreed. Section 7.2 (d)(i) has been deleted.
7.2 (e) Recovery Plan	The period for amortization of a funding deficit must not exceed	We have no problem with the deficit funding period proposed in paragraph 7.2(e), but please note that this is effectively 9 years, not 10. i.e. 10 years from the	We acknowledge the comment.

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
	10 years from the valuation date.	valuation date less the one year used up in preparing the valuation report and subsequent recovery plan.	
7.2 (f) Recovery Plan	A recovery plan shall be deemed to be discontinued when the funding ratio exceeds 100%.	How shall the recovery plan be 'deemed' to be discontinued? Are we to understand that this "deeming" will occur when the actuaries undertake an evaluation and make a finding that the plan is 100% funded? This may need to be clarified.	The PPD was amended as follows: "A recovery plan shall be considered discontinued when the funding ratio equals or exceeds 100%. The actuary must provide the actuarial valuation report as support." (please see section 6.2 (f))
7.2 (h) Recovery Plan	A revised recovery plan must not extend beyond the period within which a previously identified deficit is to be funded. Consolidation of deficits will be allowed once the actuary can demonstrate that the original schedule has not been extended by consolidation.	Most readers would find it easier to understand paragraph 7.2(h) if it included a specific cross-reference to the example in the Rationale set out below it.	The rationale provides support for the related proposals and should be read in conjunction with them.
7.2 (i) Recovery Plan	If the Central Bank is not satisfied that the revised recovery plan is in accordance with the provisions laid out above, this would constitute a breach of the OPPB and the Central Bank may take any	Why is that a breach? It is just the opportunity for CBTT to step in and mandate the requirements which, if not followed, then become a breach.	Agreed. The PPD was amended as follows: "Where the Central Bank is not satisfied that the revised recovery plan is in accordance with the provisions set out in this section the Central Bank may take any such action as is allowed under the OPPA, to ensure that an adequate recovery plan is submitted for approval."

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
	regulatory action as allowed under the OPPB.		
7.3 General Investment Proposals	Entire Section	Proposal 6.8 (a) (ix) clearly states that all assets of the Plan are to be held in the name of the trustee. Please clarify if it can be held in the name of agents.	The assets may be held in the name of the trustees or the trustees' agents. Section 5.9(a)(ix) was amended as follows: "a requirement for all assets of the pension plan are to be held in the name of the trustees or its agents." It should be noted however, that where the trustee has delegated this function it still remains responsible for the pension plans' assets.
7.3 General Investment Proposals	Entire Section	Investments important enough to have a separate section and not be part of Prudential Requirements section.	The investment proposals are appropriately placed under the Prudential Requirements section. However, it should be noted that the PPD was amended to include the permissible asset classes and investment limits (sections 6.4 & 6.5) which were originally placed as an appendix.
7.3 General Investment	Entire Section	We continue to be very disappointed with the proposals on investment matters contained in the Revised PPD. This is one of the most important areas in the operation of pension plans and probably the one where things can	We reviewed the 2010 Survey of OECD countries and many countries still impose investment limits on classes of assets. The Central Bank is therefore of the view that its approach is consistent with best practices and has

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
Proposals		<p>most easily go wrong and with the biggest impact. Yet all we see in the proposals is less than half a page in the body of the Revised PPD plus the 5-page Appendix V. Moreover, the Appendix does little more than to recycle the material contained in the Insurance Act 1980 (with one or two minor modifications) which was not put together with pension plans specifically in mind.</p> <p>In our view this section of the Revised PPD is woefully inadequate and the Central Bank needs to revisit this to develop a modern investment regulation regime specifically tailored to the needs to local pension plans.</p>	<p>taken into consideration the changes made to the Asset Regulations for the new Insurance Bill in revising the pension plan portfolio investment limits.</p>
<p>7.3 (b)</p> <p>General Investment Proposals</p> <p>Grandfathering subsidized mortgages</p>	<p>Trustees and investment managers are required to undertake all investment transactions at arm's length, with rates and terms comparable to those available in the market for similar investment transactions. It should be noted that subsidized mortgages that exist with the coming into force of the Act will be grandfathered.</p>	<p>Does the specification for arm's length investment transactions preclude the investment of plan assets in mutual funds issued by the plan sponsor? In addition, under current IAS39 fixed income instruments may be valued at either amortized cost or fair value through equity. Is there any preference in terms of treatment by the regulator? How would the assessment of actuarial valuations be influenced?</p>	<p>The PPD allows investment in mutual funds that have exposure to the plan sponsor.</p> <p>With regard to the second comment, the pension plans are expected to follow the professional standard with respect to the valuation of fixed income instruments.</p> <p>It should be noted that the provisions relating to subsidized mortgages have been removed from the PPD.</p>
7.3 (b)	Trustees and investment managers are required to	Our Committee maintains a strong social consciousness to its members in assisting them to acquire their own	The provisions relating to subsidized mortgages have

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
General Investment Proposals Grandfathering subsidized mortgages	undertake all investment transactions at arm's length, with rates and terms comparable to those available in the market for similar investment transactions. It should be noted that subsidized mortgages that exist with the coming into force of the Act will be grandfathered.	homes many of whom may not be able to source such financing otherwise. We are all aware that even, at the macro-level, initiatives are being undertaken to promote this measure. Representing a pension plan, with a healthy surplus holds the view that such plans should be allowed to apply the surplus funds to facilitate such subsidized mortgages to its membership.	been removed from the PPD.
7.3 (c) General Investment Proposals	For the application of quantitative investment limits, pension plan assets must be valued and reported in accordance with International Financial Reporting Standards (IFRS).	We look forward to receiving details on this statement that "pension plan assets must be valued and reported in accordance with International Financial Reporting Standards (IFRS)". IFRS compliant financial statements will require significantly more work than at present in their preparation and subsequent audit. It will also increase the audit fees to be charged by the auditors. Please advise on the date/transition period when IFRS compliant statements will be required for pension plans.	This provision has been deleted.
7.4 Statement of Investment Policies	Entire Section	CBTT to prescribe template for Statement of Investment Policy.	The PPD details the minimum requirements for the SIP in section 6.9 (c). The trustee is required to develop the SIP. Consequently, the Central Bank does not consider it necessary to prescribe a template for the SIP.

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
7.4 (a) Statement of Investment Policies	The minimum content of the SIP will be detailed in Regulations and would include inter alia the following: the responsibilities of the investments of the pension plan.....	We recommend amending as follows “the responsibilities of the trustee, investment manager, management committee , and the sponsor...”	Agreed. The PPD was amended to include the management committee (please see section 6.9(c) (i)).
7.4 (b) Statement of Investment Policies	The minimum content of the SIP will be detailed in Regulations and would include inter alia the following: The nature of the pension plan's liabilities	There are a couple of omissions from the outline SIP content in paragraph 7.4(b). <ul style="list-style-type: none"> ▪ The sponsor's objectives need to be considered given that the decisions taken concerning investments ultimately impact on the sponsor of a DB plan. For example, is the sponsor's main concern to stabilise the cash contribution rate it has to pay to the pension plan or is minimisation of the pension cost reported under IAS 19 more important? 	Section 6.9 (c) (iv) requires the SIP to address “the investment objectives and specific investment goals of the pension plan, as well as performance targets.”
7.4 (b) Statement of Investment Policies	The minimum content of the SIP will be detailed in Regulations and would include inter alia the following: The nature of the pension plan's	There are a couple of omissions from the outline SIP content in paragraph 7.4(b). <ul style="list-style-type: none"> ▪ The minimum frequency with which the SIP is to be revised needs to be specified. 	Agreed. Section 6.9(c)(xi) was amended as follows: “The minimum content of the SIP would include inter alia the following: a requirement for annual review of the SIP and any revisions if appropriate.”

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
	liabilities		
7.4 (b) (vii) Statement of Investment Policies	<p>The minimum content of the SIP will be detailed in Regulations and would include inter alia the following:</p> <p>If any or all of the investments are outsourced, the procedure and criteria by which external asset managers and investment funds are selected</p>	The procedures and criteria for selecting investment managers have no place in the SIP and so paragraph 7.4(b) (vii) of the revised PPD should be deleted.	<p>The Central Bank concurs that <i>procedures</i> should not be included in the SIP. However, the criteria by which external asset managers and investment funds are selected should be detailed in the SIP.</p> <p>The PPD was amended as follows: “The minimum content of the SIP would include the following:</p> <p>...If any or all of the investments are outsourced, the criteria by which external asset managers and investment funds are selected” (please see section 6.9 (c) (viii)).</p>
7.4 (b) (ix) Statement of Investment Policies	<p>The minimum content of the SIP will be detailed in Regulations and would include inter alia the following:</p> <p>(xi)The policies and procedures for identifying and resolving</p>	Please clarify as to what is intended. Is the Central Bank intending to prohibit self investment by the Trustee and Investment Managers of pension funds managed by them?	<p>The trustee and investment manager are not permitted to invest the assets of the pension plan in the equity, debentures etc of the plan's sponsor, except under the circumstances specified.</p> <p>However, the trustee may wish to invest assets of the pension plan in its equity, debentures etc or that of its</p>

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
	conflicts of interest that might arise in connection with the investment of the pension plan's assets.		parent or affiliate. Policies and procedures must be developed for addressing this and other such conflicts of interest. In any event, investment in the trustee and/or its affiliates would be limited to 10%.
7.5 Actuarial Valuation Reports	The content of the actuarial valuation report must be consistent with the requirements of the standards of practice issued by the actuary's professional body.	The Insurance Act identified several tables and other items that were required to be stated in an actuarial report. These can be included for completeness.	The PPD will only stipulate that the content of the actuarial valuation report must be consistent with the requirements of the standards of practice issued by the Caribbean Actuarial Association (where applicable) or the actuary's professional body. These standards may change over time and therefore should not be hard coded in law.
Permissible Asset Classes and Quantitative Investment Limits			
Appendix V Permissible Asset Classes and Quantitative Investment Limits	Entire Section	We did not locate any cross-reference to this APPENDIX. We expected the scope of this APPENDIX to be widened significantly but these areas have generally been left unchanged when compared with the Second Schedule to the Insurance Act 1980.	The provisions in this Appendix have been included in section 6, Prudential Requirements.
Appendix V Permissible Asset Classes	Entire Section	<ul style="list-style-type: none"> Bond investments seem to be limited to TT Govt and other sovereign states. Are corporate bonds captured under category 8? 	<u>1st bullet</u> Yes, commercial bonds are captured under 6.4 (b).

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
and Quantitative Investment Limits		<ul style="list-style-type: none"> CBTT needs to specify permissible countries for overseas investments. 	<p><u>2nd bullet</u></p> <p>Pension plans may invest in any country with an investment grade rating from an approved credit rating agency, subject to local asset ratio limits. Where a credit rating agency is granted recognition by the Central Bank, notice of this shall be provided on its website. The Central Bank will also update the list of eligible credit rating agencies from time to time.</p>
Appendix V Permissible Asset Classes and Quantitative Investment Limits	Entire Section	<p>We note that the OECD Principles quoted at the start of Appendix V say that adequate regulation of pension plan investment:</p> <p>“...includes the need for an integrated assets/liabilities approach...”</p> <p>We agree with this statement, which implies that regulation should allow pension plan investment policy to be specifically tailored to each plan's liability profile. This would fit naturally into the Statement of Investment Policy process with each plan developing its own investment mix. The crude investment limits that currently exist do nothing to assist this process and pay no regard to individual plan needs. This is of particular concern because one of the key issues faced by pension</p>	<p>We reiterate that the OECD 2010 Survey shows that very few countries have a full prudent person approach, but rather many countries maintain investment limits.</p>

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
		plans at this time is finding appropriate assets to invest in (due to the small local equity market, insufficient issue of appropriate Government bonds and restrictions on overseas investments). As a result, many plans are over-exposed to short term assets, which increase the risk of funding volatility and shortfalls. We therefore urge Central Bank to re-think this entire part of the PPD and to develop revised investment proposals that reflect the OECD Principles quoted at the start of Appendix V.	
Appendix V A Permissible assets	Entire Section	Countries in emerging market region should be included in permissible list.	Pension plans may invest in any country with an investment grade rating from a credit rating agency, recognized by the Central Bank, subject to local asset ratios. Where a credit rating agency is granted recognition by the Central Bank, notice of this shall be provided on its website. The Central Bank will also update the list of eligible credit rating agencies from time to time.
Appendix V A(1)(b) Permissible	A pension plan may invest in bonds, debentures, or other evidence of indebtedness:	We recommend that a listing of the approved credit rating agencies be provided.	The Central Bank will publish Guidelines on the criteria used in the recognition of a credit rating agency by the Central Bank of Trinidad and Tobago. Where a credit rating agency is granted recognition by

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
assets	(b)with an investment grade rating from a credit rating agency approved by the Central Bank of Trinidad and Tobago, which is issued or guaranteed by a sovereign state other than the Government of Trinidad and Tobago and which said guarantee is explicit, unconditional, legally enforceable and irrevocable over the life of the investment		the Central Bank, notice of this shall be provided on its website. The Central Bank will also update the list of eligible credit rating agencies from time to time.
Appendix V B(1) to B(3) Quantitative Investment Limits	(1) A pension plan that has total assets less than or equal to 150% of its total liabilities cannot invest more than 50% of the total value of assets in equities. Equities will include local equities, foreign equities, regional equities and the equity component of collective investment schemes. (2) A pension plan that has total assets in excess of 150% of its total liabilities may invest in equities up to a limit of:	The provisions contained in sections B (1) to B(3) of Appendix V concerning increased equity investment limits for well funded plans are technically flawed. In the absence of prescribed methods and assumptions to be used to measure the pension plan's funding level at best this would lead to inconsistency from one plan to another and, at worst, it opens the door to abuse. Moreover, there is little demand for this facility from pension plan stakeholders – these provisions were added to the existing Insurance Act to solve a problem that had ceased to exist by the time the relevant legislation was passed and the opportunity should be taken to do away with them now.	Noted. Sections B2. and B.3. were deleted and section B.1. (now section 6.5(a))was amended as follows: “A pension plan may invest up to 50% of its assets in equities.”

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
	<ul style="list-style-type: none"> • 50% of the total value of assets; plus • 50 % in respect of that portion of the total value of assets in excess of 150% of the total liabilities; • subject to the provision that the aggregate value of equity investments must not exceed 70% of the total value of assets. <p>(3)For the purpose of the above limits, total liabilities shall be determined based on the assumptions used in the latest actuarial valuation and the details of the pension plan's membership used for the purpose of determining these liabilities shall comply with such requirements as may be specified by the Central Bank</p>		
Appendix V B (4)	A maximum of 10% of the portfolio of a pension plan may be	The practicality of the verification of the equity component of collective investment schemes may prove	The Central Bank has amended the proposal. The use of 'look-through' will not be allowed. As such, the equity

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
Quantitative Investment Limits Collective investment schemes	invested participations in a collective investment scheme.	to be tedious, as these reports are not widely published on a regular basis. In the instances that they are, it may be published long after the information is useful. If this is to be enforced we suggest that it be made mandatory that all financial institutions with these products publish their asset allocations at least four weeks after the end of each calendar quarter.	component of collective investment schemes does not have to be verified.
Appendix V B (4) Quantitative Investment Limits Collective investment schemes	A maximum of 10% of the portfolio of a pension plan may be invested participations in a collective investment scheme.	<ul style="list-style-type: none"> We do not believe that a mutual fund should be treated as a counterparty exposure and thus ought not to be limited to 10%. We are open to the 10% counterparty limit within the mutual fund's own portfolio on a "look-through" basis as long as it is administratively feasible. We also believe that arm's length equity or debt investment transactions of the sponsor should be subject to a 5% counterparty limit as opposed to being totally prohibited. <p>We also believe that the terms "derivatives" and "hedging" need to be properly defined in the bill.</p>	<p>Please see the previous response, which addresses the Central Bank's position on 'look-through'. A maximum of 10% of the portfolio of a pension plan may be invested participations in a collective investment scheme. This is considered prudent by the Central Bank.</p> <p>Self-investment or the investment of the pension plan in assets of the sponsor will not be allowed save for investment in a collective investment schemes.</p> <p>The terms derivatives and hedging are terms of art and do not need to be defined.</p>

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
Appendix V B (4) Quantitative Investment Limits Collective investment schemes	A maximum of 10% of the portfolio of a pension plan may be invested participations in a collective investment scheme.	The collective investment scheme provisions in sections B (4) of Appendix V are wholly inappropriate and need to be revised. This was discussed at great length in the OPAC meetings and we are surprised that those discussions are not reflected in the proposals contained in the Revised PPD.	The collective investment schemes proposals reflect the policy decision of the Central Bank and are consistent with its treatment in the draft Asset Regulations for insurance companies.
Appendix V B (4) Quantitative Investment Limits Look Through	A maximum of 10% of the portfolio of a pension plan may be invested participations in a collective investment scheme.	We consider it vital that collective investment schemes should be considered on a “look through” basis, i.e. investment in a collective investment scheme would only be permissible if the underlying investments held by the collective investment scheme would be permissible for direct investment by the pension plan. As things currently stand, a pension plan is not permitted to invest directly in, say, Argentinean equities but is allowed to invest in a collective investment scheme domiciled in New York that is 100% invested in Argentinean equities. This cannot be right – i.e. pension plans should not be able to circumvent investment restrictions by putting prohibited investments inside a different wrapper – and can be prevented by “look through” assessment of all collective investment schemes.	The Central Bank has considered adopting the “look-through” approach but we recognize the challenges in adopting this approach at this time. In addition, the TTSEC, the regulatory body for mutual funds does not stipulate “look through” as a requirement and as such, companies do not provide the relevant information required to carry-out the assessment of the scheme on this basis.

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
Appendix V B (4) Quantitative Investment Limits	A maximum of 10% of the portfolio of a pension plan may be invested participations in a collective investment scheme.	Provided collective investment schemes are assessed on a look through basis there is no need to deal with them as a separate asset category and indeed it makes no sense to do so. Rather the underlying assets should be taken into account in assessing compliance with investment limits. For example, if it is the Central Bank's view continues to be that equity investment should not exceed 50% of a pension plan's assets then this approach would prevent a pension plan circumventing this by investing 50% of its assets directly in equities plus another 10% in equity-based collective investment schemes.	Please see response above.
Appendix V B (4) Quantitative Investment Limits	A maximum of 10% of the portfolio of a pension plan may be invested participations in a collective investment scheme.	There is no need to limit investment in collective investment schemes to 10% of the pension plan's assets. Indeed, for smaller plans the investment of 100% of assets via one or more collective investment schemes is likely to be the most prudent investment strategy given that it provides a level of diversification that is otherwise unavailable to them via direct investment	We disagree. The limit is considered prudent.
Appendix V B (4) Quantitative Investment Limits	A maximum of 10% of the portfolio of a pension plan may be invested participations in a collective investment scheme.	With respect to the 10% limit on investing in collective investment schemes, it is understood that a 'look through' facility would be available. In this regard, we recommend that a timeframe for responses to 'look through' requests be established. Given that all	The Central Bank has considered adopting the "look-through" approach, however, this is not a TTSEC requirement and companies do not provide the relevant information required to carry-out the assessment of investment on a "look-through" basis. Consequently,

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
		stakeholders appreciate the critical importance of the time factor as it relates to investments, the need for establishing a time frame for responses to be received would also be appreciated.	'look through' will not be allowed.
Appendix V B (4) Quantitative Investment Limits	A maximum of 10% of the portfolio of a pension plan may be invested participations in a collective investment scheme.	<p>We would observe that there are pension plans who are already 100% invested in collective investment schemes and thus in breach of the existing requirements of the Insurance Act 1980 and the proposed requirements of the OPPA. These include:</p> <ul style="list-style-type: none"> (i) Pension plans invested in various managed funds issued by local insurance companies; (ii) Pension plans run via deposit administration contracts – Appendix V does not define what is and is not a collective investment schemes but we would find it hard to categorise the investment element of a deposit administration contract as anything else. 	We note your observation, however the investment limits for pension plans with respect to collective investment schemes are those prescribed in the Second Schedule to the Insurance Act, Ch. 84:01.
Appendix V B (6) Quantitative Investment Limits	Pension plans will be prohibited from issuing mortgages to any connected party at subsidized rates. Existing mortgages issued to members will be allowed to continue, but pension plans will	As per this item, pension plans will be prohibited from issuing mortgages to any connected party at subsidized rates. This would significantly impact several home ownership plans which unions have negotiated. The significant social impact of implementing this restriction must be noted as it would now be more difficult for	All provisions related to subsidized mortgages have been removed from the PPD.

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
	not be permitted to invest in new ones.	numerous workers to have an opportunity for home ownership. Additionally, these mortgages have proven to be very profitable investments, and this is especially important in times like the present where there are not many lucrative investment options in the financial sector. In this regard, we put forward, that at a minimum, subsidized mortgages be permitted where pension plans are in surplus, so that both the social and economic benefits that are currently derived, as identified above, are not completely eliminated.	
Wind Up of Pension Plans			
8. Wind Up	Entire Section	One of the issues raised by the Inspector at the recent consultation related to the delay in winding up plans caused by absent beneficiaries. This can be helped by the education of members and issuing benefit statements on withdrawal. I would like to suggest that where members cannot be contacted if the plan is wound up, their benefits should be purchased and held by CBTT for a stated period of time after which the funds can fall into the Consolidated Account. This would allow the wind up to be completed.	<p>Please see section 5.5 (l) which states: “ The corporate trustee shall be the legal owner of the assets with responsibility for:</p> <p>Ensuring the orderly wind up of the pension plan. This will include depositing any monies belonging to members and beneficiaries which have not been claimed after five (5) years, with the Central Bank. The Central Bank will place these monies in the Consolidated Fund. It should be noted that once the trustees have deposited the monies with the Central Bank their liability to the pension plan will be extinguished.”</p> <p>It should be noted that further details surrounding this</p>

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
			process will be detailed in a guideline.
8.1 Regulatory Order to Wind- Up a Pension Plan	Entire Section	CBTT can also consider closing the plan for a period and monitoring before winding up the plan, as this period may allow the plan and employer to get back on its feet without jeopardizing the members' benefits.	The Central Bank will not temporarily close a pension plan. The PPD has provisions for a recovery plan if the pension plan is in deficit. Please see section 6.2.
8.1 Regulatory Order to Wind- Up a Pension Plan	Entire Section	Does Central Bank intend that pension plans' trust deed and rules will need to be amended to cater for the possibility of compulsory winding-up?	Section 5.9 of the PPD details the minimum content of the TD&R. In addition, please see section 5.9 (d), (e) and g (i) with respect to wind up. To the extent that the TD&R does not address these issues it is expected that an amendment of the TD&R will be required.
8.1 Regulatory Order to Wind- Up a Pension Plan	Entire Section	The compulsory winding-up of a pension plan should be viewed as a serious step akin to the placing of an insurance company into judicial management. Our understanding is that under the Insurance Bill currently before Parliament the Central Bank cannot do the latter unilaterally but rather has to apply to the High Court for an order placing the insurer under judicial management and thus presumably has to make a case to the Court that judicial management is necessary. We believe that	The wind up process requires the Central Bank to give written notice of its intention to wind up the pension plan to the plan sponsor, trustee and management committee specifying the grounds upon which the Central Bank proposes to wind up the plan. The trustee then has the opportunity to make representation on behalf of the pension plan. If the Central Bank decides to proceed with the wind up the trustee can then appeal the Central Bank's decision through the Courts (see

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
		a similar application to the Court should be required before a pension plan can be compulsorily wound-up by Central Bank.	section 7.2).
8.1 (a) Regulatory Order to Wind- Up a Pension Plan	The Central Bank may order the wind up of all or part of a pension plan in the following circumstances, or in any other circumstance as may be prescribed in regulations: If the sponsor, either local or foreign becomes insolvent or bankrupt (as defined in any bankruptcy and insolvency laws) or discontinues its operations in Trinidad and Tobago	Is it necessary to order the winding up of a pension plan if the sponsor discontinues its operations in Trinidad and Tobago?	Yes, it is one of the stipulated reasons in the PPD for winding up a pension plan. If the sponsor discontinues its operations in Trinidad and Tobago they will no longer have BIR tax approval and will not fall under the ambit of the OPPA.
8.1 (c) & (d) Regulatory Order to Wind- Up a Pension Plan	The Central Bank may order the wind up of all or part of a pension plan in the following circumstances, or in any other circumstance as may be prescribed in regulations: (c) if there has been a cessation, suspension or shortfall of the	We agree that it is necessary for the Central Bank to have the power to initiate the compulsory winding-up of a pension plan. However, this should be reserved as an extreme measure to be employed only in extreme circumstances and we do not believe that the drafting of the Revised PPD conveys this. For example, paragraphs 8.1(c) and (d) imply that compulsory winding-up could be triggered by relatively minor transgressions. We do not believe that this is Central Bank's intention and	The proposal states that the Central Bank may order the wind up under the stated circumstances. Consequently, when circumstances described under the section entitled "Regulatory order to wind up a pension plan" (please see sections 7.1 (a) to (c)) occur the Central Bank will firstly conduct its investigations into the matter to confirm the status, be assured their grounds are met, give the pension plan time to address the concerns and

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
	<p>sponsor's or employees' contributions required by actuarial advice or the TD&R</p> <p>(d) if there is a failure to pay benefits by the trustee in accordance with the TD&R</p>	<p>therefore suggest that paragraph 8.1 be re-drafted accordingly to say that the power could only be exercised where the Central Bank has reasonable grounds to think that failure to wind-up would significantly prejudice pension plan members' interests.</p>	<p>thereafter determine its course of action.</p> <p>The proposal remains unchanged.</p>
<p>8.1 (c) & (d)</p> <p>Regulatory Order to Wind-Up a Pension Plan</p>	<p>The Central Bank may order the wind up of all or part of a pension plan in the following circumstances, or in any other circumstance as may be prescribed in regulations:</p> <p>(c) if there has been a cessation, suspension or shortfall of the sponsor's or employees' contributions required by actuarial advice or the TD&R</p> <p>(d) if there is a failure to pay benefits by the trustee in accordance with the TD&R</p>	<p>This is arbitrary – why windup a plan if there is a failure of the sponsor to pay contributions? Or the trustee does pay benefits. This issue can be rectified otherwise – (i) attempting to understand why contributions were ceased (ii) appointing another trustee to perform the duties of the trustee?</p>	<p>Please see previous response.</p> <p>Moreover, this is consistent with what is required in other jurisdictions.</p>
<p>8.2 & 8.4 - Compulsory Wind Up and</p>	<p>Entire Section</p>	<p>We welcome that the Revised Proposals are attempting to legislate all of the steps to be taken and followed, by the various parties, in winding up a plan, rather than</p>	<p>Section 7.4 (g) stipulates that the trustee has one year to submit the preliminary wind up report to the Central Bank during the voluntary dissolution of a pension plan.</p>

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
Voluntary Dissolution of a Pension Plan		<p>leaving these steps subject to what may be contained in the operative TD&R and the differing interpretation of these clauses by the various parties.</p> <p>We do however feel that greater clarification is required on some of these proposed steps. We note that once the Central Bank or the Sponsor serves <u>official notice of the intention to wind up the plan</u>, the date from which contributions cease and benefits can no longer be earned by that plan or the <u>effective date of wind up</u> is no later than three (3) months from the service of the official notice.</p> <p>There are then a host of steps to be taken by the trustees, Actuaries and the Central Bank, one of which is for the trustee to prepare a <u>preliminary wind up report</u>. For a compulsory wind up, this report is required no later than one (1) year from the date official notice of wind up is served. The time frame for that preliminary wind up report in cases of Voluntary dissolution of the plan also needs to be specified.</p> <p>Furthermore, under both types of wind up, the trustees are permitted to purchase annuities out of the assets of the plan in wind up, after Central Bank approves the trustee's <u>draft, final wind up report</u> (which may be several months after the preliminary wind up report). If the plan's TD&R however provide for wind up benefits to</p>	<p>In the case where the TD&R requires that pension benefits be secured by transferring the assets to another pension plan the trustee will initiate the transfer after receiving approval of the final wind up report from the Central Bank. This transfer must be completed within six months of the approval of the final wind up report.</p>

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
		<p>be secured by the transfer of assets to another plan, what is the time frame for that transfer process to begin?</p> <p>If the transfer of these assets can only begin after the Central Bank approves the trustee's <u>draft, final wind up report</u>, this will unnecessarily delay the transfer process. Currently this transfer process involves several third parties e.g. brokers, the Central Depository, the Stock Exchange, and therefore may not be accomplished in under six (6) months. We would therefore recommend that in the case of transfer of assets on wind up of a plan, that this process be allowed to start at least when the Central Bank approves the trustee's <u>preliminary wind up report</u>.</p>	
<p>8.2</p> <p>Procedure for the Compulsory Wind Up of a Pension Plan by the Central Bank</p>	<p>Entire Section</p>	<p>We are of the view that Winding up of a pension plan is a very dramatic step. We are of the view that all avenues should be explored before this step is undertaken. We would like to suggest that consideration be given to the Central Bank, in the circumstances listed in 8.1, give notice to Sponsor, the Management Committee and Trustee to explain why wind up should not be ordered. Only if the Bank is not satisfied, then the order for winding up should be made.</p>	<p>Ordering a wind up of a pension plan is a serious matter. The Central Bank will not take this step prior to taking other regulatory action.</p>

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
<p>8.2 (a) & (d)</p> <p>Procedure for the Compulsory Wind Up of a Pension Plan by the Central Bank</p>	<p>(a) In the case of the above mentioned circumstances where the Central Bank orders the wind up of all or part of a pension plan, the Central Bank must give written notice of its intention to wind up the pension plan to the sponsor, trustee and management committee specifying the grounds upon which the Central Bank proposes to wind up the pension plan and indicating the effective date of wind up in this notice. The effective date of wind up must not be later than three (3) months after the notice of intention is received.</p> <p>(d) The cost of the wind up, including if the Central Bank appoints a new trustee is to be paid in accordance with the pension plan's TD&R. Where the TD&R is silent on the costs of a wind-up, such costs shall be paid</p>	<p>There could conceivably be instances where the TD&R provide for the host company to bear the winding-up expenses but that host is either insolvent or has left the legal jurisdiction. The Bill needs to be drafted wider to cater that in such circumstances, the winding-up expenses is to be borne by the plan.</p>	<p>Please see section 7.2 (d) which states:</p> <p>"The cost of the wind up, including if the Central Bank appoints a new trustee is to be paid in accordance with the pension plan's TD&R. Where the TD&R is silent on the costs of a wind-up, such costs shall be paid out of the pension plan."</p>

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
	out of the pension plan.		
8.2 (d) Procedure for the Compulsory Wind Up of a Pension Plan by the Central Bank	The cost of the wind up, including if the Central Bank appoints a new trustee is to be paid in accordance with the pension plan's TD&R. Where the TD&R is silent on the costs of a wind-up, such costs shall be paid out of the pension plan.	Please note that the TD&R of most pension plans allow the cost of winding-up the plan to be paid by the plan and this amount is deducted before distribution to the plan's beneficiaries.	We acknowledge your comment.
8.2 (d) Procedure for the Compulsory Wind Up of a Pension Plan by the Central Bank	The cost of the wind up, including if the Central Bank appoints a new trustee is to be paid in accordance with the pension plan's TD&R. Where the TD&R is silent on the costs of a wind-up, such costs shall be paid out of the pension plan.	We are not sure whether the OPPA can specify that expenses of winding-up should be met by the pension plan (and thus reduce winding-up benefits) where the pension plans TD&R is silent on this (paragraph 8.2(d)). This is essentially a legal rather than actuarial matter but Central Bank needs to consider the point.	The general law relating to trusts as set out in the Trustee Ordinance provides for a trustee's costs to be paid out of the trust. Accordingly, pursuant to the Trustee Ordinance the costs of winding up of a plan would ordinarily be met by the pension plan. Therefore this proposal is in line with existing law.
8.2 (f) Procedure for the Compulsory Wind Up of a Pension Plan by the Central	The trustees shall prepare a preliminary wind up report setting out the details laid out below: (i) The most recent audited financial statements and a statement providing an	The intent is that the preliminary report required under paragraph 8.2(f) should be a statement of affairs rather than a definitive report detailing the winding-up benefits to be provided to pension plan members and understanding of this part of the Revised PPD might be aided if this were stated explicitly. Paragraph 8.2(f) fails	Please see section 7.2 (e)which states: "The trustee must prepare and provide the Central Bank with a preliminary wind up report no later than one year from the date notice to wind up the pension plan was given."

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
Bank	<p>estimate of the value of assets as at the wind up date;</p> <p>(ii) A copy of the most recent actuarial valuation, if such valuation has not yet been submitted to the Central Bank;</p> <p>(iii)Expected timetable for the completion of the wind up process;</p> <p>(iv)The manner in which the wind up benefits are to be secured, e.g. by the purchase of annuities, or by the transfer of assets to another registered pension plan.</p> <p>(v)Planned application and treatment of any surplus or deficit on wind up;</p> <p>(vi)Copies of all information or communication provided or proposed to be provided to members about the proposed wind up</p>	<p>to say that the preliminary report is to be submitted to the Central Bank and should be revised to do so.</p>	

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
8.2 (f) Procedure for the Compulsory Wind Up of a Pension Plan by the Central Bank	The trustees shall prepare a preliminary wind up report setting out the details laid out below: (iv)The manner in which the wind up benefits are to be secured, e.g. by the purchase of annuities, or by the transfer of assets to another registered pension plan.	Please note that the TD&R of most pension plans allow the purchase of annuities for the beneficiaries and not the transfer of assets to another registered pension plan. Legal advice should be sought on whether by transferring assets to another pension plan the trustees' duty will be effectively discharged.	Where a trustee of an existing plan transfers the assets to another plan it behooves that trustee to obtain an undertaking from the new trustee to take on the liability (re: the assets in question), in order to discharge its liability.
8.2 (i) Procedure for the Compulsory Wind Up of a Pension Plan by the Central Bank	The Central Bank may require the trustee to submit annual progress reports.	In paragraph 8.2(i): <ul style="list-style-type: none">▪ "may" should be "shall"; and▪ the deadline for submitting annual reports needs to be specified.	The Central Bank reserves the right to request annual progress reports. However, the PPD was amended to specify a timeframe for submission. When an annual progress report is requested the trustee will have twenty (20) days from the date of receiving the request to submit the report to the Central Bank. (please see section 7.2 (i))
8.2 (k) Procedure for the Compulsory Wind Up of a Pension Plan by the Central	Once the Central Bank approves the DRAFT final wind up report the trustee shall purchase the annuities. If the Central Bank is not satisfied with the DRAFT final wind up report the trustee may be required to re-submit.	In paragraph 8.2(k) it is vital that the Central Bank responds promptly on the draft final wind-up report and a deadline for this needs to be specified in the OPPA. Insurance company wind-up annuity premium quotes have a limited shelf life and are likely to expire if too long is taken over consideration of the draft report.	The PPD was amended as follows (please see section 7.2 (k)): "The Central Bank will review and approve the DRAFT final wind up report within sixty (60) days. Once the Central Bank approves the DRAFT final wind up report the trustee shall purchase the annuities or transfer the assets of the pension plan to another pension plan. If the

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
Bank			assets are being transferred to another pension plan. If the assets are being transferred to another pension plan it must be completed within six (6) months of the approval of the DRAFT final wind up report."
8.3 (a) & (b) Right of Appeal	(a)The sponsor or the trustees should have the right to appeal an order by the Central Bank to wind up the pension plan. (b)Such an appeal should be lodged with a Judge in Chambers within four weeks of the Notice to wind up the plan	If the Central Bank has to apply to the High Court for an order to wind-up a pension plan the sponsor and trustee would have the right to be heard then.	The provisions in the PPD require the Central Bank to provide the plan sponsor, trustees and management committee with written notice specifying the grounds upon which the Central Bank proposes to wind up the pension plan. The Central Bank is not required to apply to the High Court in order to wind up a pension plan (please see sections 7.1 and 7.2). However, it should be noted that any decision by the Central Bank can be appealed in a Court of law.
8.4 Voluntary Dissolution of a Pension Plan	Entire Section	"Voluntary" is perhaps a misnomer here in that it includes the situation where winding- up is triggered by the sponsor going out of business.	Noted. However, this is consistent with the language used in other jurisdictions, as it refers to the fact that wind up action was initiated by the plan sponsor and not the Regulator.

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
8.4 (a) Voluntary Dissolution of a Pension Plan	In the case of a partial wind up, the TD&R of the pension plan should include rules that set out the conditions that would trigger a partial wind up and ensure that all members, former members and other persons eligible for benefits under the pension plan have the same rights and benefits they would have had on a full wind up	What is a partial winding up?	There are pension plans that apply to more than one company. If one company discontinues operations the relevant pension plan will be wound up. It also refers to removing a class of employee.
8.4 (c) Voluntary Dissolution of a Pension Plan	This notice must specify the effective date of and reasons for the wind up. The notice must be published in the Gazette and placed in the daily newspaper for a minimum of fourteen days.	In paragraph 8.4(c) we do not see what would be gained by the sponsor specifying the reasons for winding-up and we were under the impression that it had been agreed in the OPAC meetings that this requirement would be deleted.	Best practice dictates that the Regulator should be apprised of the reasons for voluntary wind up of the plan.
8.4 (d) Voluntary Dissolution of a Pension Plan	The date of notice to wind up shall not be later than three (3) months before the benefit accrues and contributions cease.	Please note that the TD&R of most pension plans state "six" months rather than "three" months.	Noted. The TD&R will have to be amended to specify sixty (60) days. Please see section 7.4 (e).
8.4 (d)	The date of notice to wind up shall not be later than three (3)	This period of notice may not be practicable depending on the circumstances causing the wind up. In some cases	We disagree that these events are reason enough not to

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
Voluntary Dissolution of a Pension Plan	months before the benefit accrues and contributions cease.	the wind up may be caused by events e.g. takeovers, financial problems, etc. which would make it impossible to give the required notice. In some cases, the notice may be immediate.	give the required notice. A decision to voluntarily wind up a pension plan requires forethought. Similarly, mergers and acquisitions require a great deal of planning. We believe the time period proposed to be appropriate.
8.4 (e)(iii) Voluntary Dissolution of a Pension Plan	The trustees shall prepare a preliminary wind up report setting out the details laid out below: (iii) expected timetable for the completion of the wind up process	We recommend amending as follows “expected timetable for the completion of the winding-up of the plan; ”	Agreed. Section 7.4.(f)(iii) was amended as follows: “The trustees shall prepare a preliminary wind up report setting out the details laid out below: (iii) expected timetable for the completion of the winding- up of the pension plan.”
8.6 (a) & (b) Application of Assets of Pension Plan on Wind-Up	(a) All new pension plans must have a priority order for the application of pension plan assets in the event of wind up stipulated in their TD&R (b) Existing pension plans that do not stipulate a priority order for the application of pension plan assets in the event of wind up must make an amendment to	Section 8 should include the priority rule for use on winding up for completeness.	The Central Bank will not stipulate a priority order.

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
	their TD&R to include a priority order.		
8.6 (b) Application of Assets of Pension Plan on Wind-Up	Existing pension plans that do not stipulate a priority order for the application of pension plan assets in the event of wind up must make an amendment to their TD&R to include a priority order.	Where no priority order is specified in an existing trust deed and rules we do not believe it is a simple matter to amend the trust deed and rules to include one (paragraph 8.6(b) – incidentally, there is no paragraph 8.5). In effect having no priority order may mean that all categories of beneficiaries share the available assets pari passu and introducing a specific priority order would potentially disadvantage some categories of member by giving them lower winding-up benefits. We expect that it would be necessary for the plan's trustee to make an application to the High Court before the winding-up provisions could be altered in this manner.	There is no need to apply to the High Court to approve an amendment to a pension plan's TD&R. As is customary, such an application will be made to the Central Bank or the BIR for approval. If a plan would like all categories of beneficiaries to share the available assets pari passu that can be their priority order i.e. all beneficiaries rank equally with respect to the distribution of plan assets on wind up.
8.7 Communication with Members	Entire Section	In any case of a wind up, the trustees of the pension plan must give written notice to its members as well as its beneficiaries, not members alone.	Agreed. Please see section 7.6 (a) which states: "In any case of a wind up, the trustees of the pension plan must give written notice to its members and beneficiaries . This notice must specify the effective date of and reasons for the wind up and should take the form of a letter sent to all members and beneficiaries and a public notice in the form of an advertisement in the daily newspaper and the Gazette for a minimum of two weeks. The notice must provide the parties with contact

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
			information for the trustees of the pension plan.”
8.7 Communication with Members	Entire Section	Minimum content of communications will need to be specified in Regulations.	Section 7.6 is specific to communication with members upon wind up of a pension plan. It also stipulates the minimum content of the notice. We welcome feedback on what additional elements need to be specified in Regulations.
8.7 Communication with Members	Entire Section	Each beneficiary should receive a statement when the winding-up is concluded detailing their benefit entitlements.	We disagree. This will represent an additional cost to which would have to be paid by the trustees because the pension plan would have already be wound up.
8.7 Communication with Members	Entire Section	Will members have the right to see the preliminary winding-up report and the final winding-up report? The latter document will probably contain person-by-person details of winding-up benefits provided that should probably be kept confidential.	No. Members will not have access to the preliminary or final wind up report.
8.7 (a) Communication	In any case of a wind up the trustees of the pension plan must give written notice to its	What purpose will be served by the public notice of the winding-up?	The public notice will assist in locating members and beneficiaries. In addition, best practice dictates that where a licensed or registered financial institution is

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
with Members	members. This notice must specify the effective date of and reasons for the wind up and should take the form of a letter sent to all members and beneficiaries and a public notice in the form of an advertisement in the daily newspaper and the Gazette for a minimum of two weeks. The notice must provide the parties with contact information for the trustees of the pension plan.		being wound up, best efforts must be made to inform members of the public who may have a claim on the institution.
8.7 (c) Communication with Members	The trustees should issue a progress report to the members at least every twelve months thereafter.	Will the annual progress report to members be the same document as the annual progress report to the Central Bank?	No. The progress report submitted to the Central Bank may contain member specific data. The report submitted to members should state what stage of the process has been reached and what remains to be completed.
8.8 (a) & (b) Liabilities and Surplus in Wind Up	(a) The value of liabilities must be determined by an actuary in accordance with the requirements of the pension plan's TD&R.	Paragraphs 8.8(a) and (b) are statements of the obvious and should be deleted.	We disagree. The provisions have been maintained for clarity and completeness.

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
	(b) Disposal of surplus must be in accordance with the pension plan's TD&R		
8.8 (c) Liabilities and Surplus in Wind Up	In existing pension plans where the TD&Rs are silent on the use of surplus on wind up, the trustee must amend the TD&R to determine the use of surplus. The stated transition period for the amendment of the TD&R will apply.	What happens to Plans in deficit upon wind up?	If a plan is in deficit upon wind up the actuary will be required to provide an opinion on the matter. For example, the actuary may suggest a pro rata reduction in benefits.
8.8 (c) Liabilities and Surplus in Wind Up	In existing pension plans where the TD&Rs are silent on the use of surplus on wind up, the trustee must amend the TD&R to determine the use of surplus. The stated transition period for the amendment of the TD&R will apply.	The trustee cannot amend the TD&R unilaterally. Usually the agreement of at least the sponsor company is required.	It is expected that the trustee will consult with the relevant parties on this matter. However, the obligation is for the trustee to seek the amendment of the TD&R.
8.8 (c) Liabilities and Surplus in Wind Up	In existing pension plans where the TD&Rs are silent on the use of surplus on wind up, the trustee must amend the TD&R to	The amendment of existing winding-up provisions suggested in paragraph 8.8(c) is a legal minefield that would be best avoided.	We note your comment however all plans are required to make determination as to the treatment of surplus.

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
	determine the use of surplus. The stated transition period for the amendment of the TD&R will apply.		
8.9 Liability of Sponsor on Wind Up	Entire Section	The Revised PPD still makes no comment that consideration has been given to requiring the employer to fund any solvency deficit to some extent. It is disappointing that the Revised PPD does not at least discuss this issue, which is one of the key areas where local pension legislation falls behind that in other jurisdictions (eg the UK, which is one of Central Bank's reference points for the Revised PPD). Whilst the Revised PPD strengthens the governance for the funding of ongoing plans, it provides little if any additional security for plan members when a plan is wound-up and there is a deficit.	The PPD requires the trustee to submit a recovery plan to the Central Bank if the funding ratio falls below 100%. Please see section 6.2 The PPD also states that the pension plan's TD&R must stipulate how a deficit on wind up will be treated. Please see section 7.2 (b).
8.9 (b) Liability of Sponsor on Wind Up	Outstanding contributions are deemed to be the debt of the sponsor and rank pari passu with employee emoluments.	This is beyond our sphere of expertise, but does the proposal in paragraph 8.9(b) clash with the Companies Act?	The Companies Act places the payment of wages second to taxes or charges for the Government and the NIB. It should be noted that footnote 38 indicates that the proposal in the PPD will require consequential amendments to be made in the OPPB to the Company's Act and the Bankruptcy Act (if necessary).
8.9 (b)	Outstanding contributions are	It is noted that the emoluments rank 'pari passu' with	The PPD requires that the TD&R be amended to deal

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
Liability of Sponsor on Wind Up	deemed to be the debt of the sponsor and rank pari passu with employee emoluments.	the outstanding contributions to the plan. It should be noted that on wind up, there may be a large surplus after considering the accrued liabilities. The surplus thereby generated may be more than sufficient to provide the maximum possible benefits for all members, pensioners and deferred pensioners. In such a circumstance, it may be better to pay salaries as no further benefit is gained from adding to the fund. There should also be some statement made about the repayment of excess funds to the employer/sponsor when benefits for all members have been maxed out.	with surplus.
8.9 rationale Liability of Sponsor on Wind Up	A pension is a deferred payment and forms part of a contractual arrangement between the sponsor and employee. The employee agrees to defer the payment of current wages in exchange for the promise of a future pension payment. Additionally, the ultimate risk for members is the loss of their retirement income and in many cases membership in a pension plan is mandatory.	We recommend amending as follows "A pension is a deferred or immediate payment and forms part of a contractual arrangement between the sponsor and member . The member agrees to defer..."	The current rationale is an integral part of this PPD and the suggested changes would alter its intended meaning.

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
Transitional Arrangements			
9. Transitional Arrangements	Entire Section	How are the Inland Revenue and Central Bank going to make sure that they have sufficient resources available to process the amended trust deeds and rules of in excess of 300 pension plans? As things currently stand neither body has anywhere near the resources needed to deal with this volume of work.	The Central Bank has taken account of the resources that may be required for this task.
9. Transitional Arrangements	Entire Section	<p>We are disappointed to see the Revised PPD contains no more detail on the transitional arrangements and grandfathering than the Original PPD did (although the material is now at least in its own section of the PPD and thus easier to locate). In order for readers to understand how the transition to the new regulatory regime is going to work the Central Bank needs to do the following.</p> <ul style="list-style-type: none"> ▪ Draw up a point by point list of all of the proposals set out in the Revised PPD. ▪ Separate this list into two sub-lists, the first consisting of items that are already required under the Insurance Act and the second sub-list consisting of the items that will be brought in for the first time by the OPPA. 	<p>The Transitional Arrangements have been expanded substantially. There are now three (3) categories of transition periods:</p> <ul style="list-style-type: none"> • Prudential Requirements; • Governance of pension plans; and • Reporting Requirements <p>In addition, the length of the transition periods for each category has been specified.</p>

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
		<ul style="list-style-type: none"> ▪ Pension plans should already be compliant with items in the first sub-list and thus no special consideration will be needed here. ▪ For each item in the second sub-list the Central Bank will need to indicate whether: <ul style="list-style-type: none"> (i) Immediate compliance with the requirements of OPPA overriding the pension plan's trust deed and rules; or (ii) There will be a transition period during which compliance will be deferred but will then be required at the end of that period. The length of the transition period should be specified. 	
9. Transitional Arrangements	Entire Section	We have a number of questions regarding the transition periods set out in Table A in section 9 of the Revised PPD (we assume that the start date of each of these periods is the date on which the OPPA is proclaimed by the President).	We would appreciate sight of the questions on the transition periods. With respect to the second question,, the transition dates would begin on the date on which the OPPA is proclaimed.
9. Transitional Arrangements	Quantitative Investment limits: 1 year	Why is any transition period at all needed for compliance with the new investment limits given that these limits are largely unchanged from what currently applies? We would have thought that compliance should be immediate.	In some instances the sector may need time to come into compliance. This is also consistent with the application of transition periods when existing regulations are changed.

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
9. Transitional Arrangements	Amendments to the TD&R for all relevant provisions in the OPPB: 3 years	<p>What has to be accomplished by the end of the 3-year period for amending the trust deed and rules to be OPPA- compliant, i.e.:</p> <p>(i) Amendments must be submitted to the Inland Revenue and Central Bank; or</p> <p>Amendments must be approved by the Inland Revenue and registered by Central Bank?</p> <p>If the latter, it will be necessary to set an earlier submission deadline that will allow the Inland Revenue and Central Bank to process all of the applications for approval and registration by the end of the 3-year period. It should be noted that given the complexity of the changes required it will be necessary for pension plans to submit their amending documentation in draft to the Inland Revenue and Central Bank for review and comment before final executed versions can be submitted (see earlier discussion on this topic).</p>	At the end of the 3 year period amendments must be approved by the BIR and the Central Bank. Therefore, amendments will have to be submitted prior to the 3 year deadline.
9. Transitional Arrangements	<p>Communication with members : 1 year</p> <ul style="list-style-type: none"> • Benefit statements • Membership booklets • Exit statement 	Benefit statements (we presume the reference here is to active member statements) will be produced triennially, not every year, so a 1-year transitional period makes no sense. The requirement should be for the first statements to be produced in conjunction with the first actuarial valuation with an effective date on or after the	Please see footnote 39 which states: "Within one (1) year of the enactment of the OPPA benefit statements must be provided when not previously provided and thereafter every three (3) years."

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
		date the OPPA becomes effective.	
9. Transitional Arrangements	Communication with members : 1 year <ul style="list-style-type: none"> • Benefit statements • Membership booklets • Exit statement 	Exit statements are relatively straightforward and plenty of warning of the need to produce them will have been available before the OPPA comes into effect. We do not believe a one-year transition period is required and think that immediate compliance would be reasonable.	The PPD was amended. The timeframe has been reduced from one (1) year to sixty (60) days.
9. Transitional Arrangements	Management Committee member acquiring the stipulated knowledge requirements: 3 months	The 3 month requirement for the training of the members of the management committees may be too short. Six months or one year can give more time for the implementation of the initial training requirement.	Agreed. The PPD was amended to six months.
9. Transitional Arrangements	Management Committee member acquiring the stipulated knowledge requirements: 3 months	External training will be needed to help management committee members acquire the knowledge requirements set out in Appendix IV (a) to the Revised PPD. Given that there are in excess of 300 registered pension plans it is ludicrous to expect this to be accomplished within 3 months. Central Bank needs to rethink this based on a realistic assessment of the availability of training and come up with a revised transition period.	The PPD was amended. The management committee now has six (6) months to comply with the training requirement.
9. (a)	The OPPB would not require the re-registration of pension plans	We note that existing registered plans will be deemed to be registered under OPPA, but doesn't this need to be	Registration will not be time limited. If pension plans have not adhered to the provisions at the end of the

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
Transitional Arrangements	already registered under the IA. Pension plans registered under the IA would be deemed to be automatically registered under the OPPB. Pension plans will be registered under the previous IA where applications for registration have been filed before the commencement date of the OPPB	time-limited. E.g if by the end of 3 years the pension plan's trust deed and rules have not been amended to be OPPA-compliant will the deemed registration then lapse? If so, what penalties would apply?	period, normal regulatory action will take place.
Appendix II Interpretation			
Definitions Appendix 2	Entire Section	Appendix II to the Revised PPD contains a glossary of terms used in the PPD. We do not comment on this in detail in this report, but the Central Bank should note that many of the definitions are insufficiently precise, some contain errors, others are redundant and some are used inconsistently in the Revised PPD.	We would appreciate your specific comments on this area and recommendations for amendment.
Definitions Appendix 2	Entire Section	We note reference is made to a "sponsoring sponsor". However, no definition is provided for this and therefore, we ask for clarification as to what this means.	This was an error. The PPD was amended to define plan sponsor.
Definitions	Entire Section	Appendix V Part C provides for counterparty exposure limits. However, no definition is provided for a	The PPD was amended to include the following definition of counterparty: "for the purpose of measuring the

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
Appendix 2		counterparty and therefore, we seek clarification as to who is a counterparty for the purposes of the Bill.	counterparty credit exposure limit means the borrower, the other party to or participant to a loan, investment or other agreement, the issuer of a security in the case of an investment in a security, or the party with whom the contract is made in the case of a derivative contract."
Definitions Appendix 2	Entire Section	<p>We note that the Proposal Document does not contain a definition for "administrator". At present the administrator of our plan is responsible for ensuring that money is being contributed into the fund, the proper asset allocation decisions are made and that payouts are promptly distributed among all qualified plan participants or beneficiaries.</p> <p>We note however that provisions have been made for an investment manager who is defined as "a person or company that invests and manages the assets of a pension plan."</p> <p>We therefore ask that you kindly advise whether the investment manager will now replace the administrator.</p>	The investment manager is not intended to replace the administrator.
Definitions of actuarial liabilities, actuarial value	"Actuarial liabilities" is an actuary's estimate of the present value of the future benefits expected to be paid out of a	The definitions of "actuarial liabilities" and "actuarial value of assets" are incomplete and lack precision and the definitions of "defined contribution pension plan" and "pure defined contribution pension plan" need to	We welcome your suggestions for improvement of the definitions section and ask that you provide them as soon as possible for inclusion in the drafting of the Bill.

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank’s response
of assets, defined contribution pension plan and pure defined contribution plan	<p>pension plan, using actuarial methods and assumptions.</p> <p>“actuarial value of assets” means net assets or net assets adjusted to take account of market volatility, liquidity or such other risks or circumstances the actuary considers appropriate.</p> <p>“Defined contribution pension plan” – is a pension plan with benefits to members based on the amount contributed to a pension plan by the sponsor and/ or members accumulated with interest.</p> <p>“Pure defined contribution pension plan” – is a pension plan with benefits to members based on the amount contributed to a pension plan by the sponsor and/ or members accumulated with interest. This does not include pension plans where the employer which sponsors the pension plan guarantees a rate of</p>	be tighter.	

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
	return or which has pensions in payment. Such a pension plan is not exposed to actuarial risk.		
Definition of actuary	"Actuary" – a person or company whose responsibility, as a minimum, is to evaluate present and / or future pension liabilities in order to determine the financial solvency of the pension plan, following actuarial and accounting methods and is a Fellow, by examination, of the Institute, Society or Faculty of Actuaries or possesses such other qualifications as approved by the Central Bank.	In the definition of "actuary", the Institute of Actuaries and the Faculty of Actuaries no longer exist as separate entities, having merged in 2010.	Agreed. The PPD was amended as follows: "actuary means a fellow of a professional association of actuaries and possessing such other qualifications as may from time to time be specified by the Inspector."
Definition of connected parties	"connected party"- for the purposes of the OPPB, a person is a connected party of a pension plan where the person is: a. the sponsor of the pension plan; b. a financial holding company,	We would like to suggest that consideration must be given to inclusion of Corporate Trustee and Investment Managers under the definition of connected parties	Agreed. The definition was amended to include trustee and investment manager.

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
	<p>holding company or controlling shareholder or significant shareholder of the sponsor of the pension plan;</p> <p>c. a person who holds ten percent or more of any class of shares of a person referred to in paragraphs (a) and (b);</p> <p>d. an affiliate of a person referred to in paragraphs (a) and (b);</p> <p>e. a director or officer of a person referred to in paragraphs (a) and (b)</p> <p>f. a director, officer, individual trustee or member of the management committee of the pension plan;</p> <p>g. a member or beneficiary of the pension plan; and</p> <p>h. a relative of a person referred to in paragraphs (e), (f) and (g); and</p>		

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
	i. an entity that is controlled by a person referred to in paragraphs (e), (f) and (g).		
Definitions of solvent, solvency actuarial liability and solvency deficit	<p>"Solvent" – refers to a pension plan with actuarial assets in excess of actuarial liabilities.</p> <p>"Solvency actuarial liability" is the actuarial liability of the pension plan on the basis of a solvency valuation.</p> <p>"Solvency deficit" is the greater of D-C and zero where D and C are defined as in the solvency ratio C is the actuarial value of assets on the basis of a solvency valuation, and D is the solvency actuarial liability of the pension plan.</p>	The definitions of "solvent", "solvency actuarial liability" and "solvency deficit" are redundant now that the material referring to them in the Original PPD has been removed from the Revised PPD.	These definitions have been deleted.
Definition of solvency valuation	<p>"Solvency valuation" means a valuation of assets and actuarial liabilities of a pension plan that assumes:-</p> <p>(a) the wind up of the pension plan would be at the effective</p>	The definition of "solvency valuation" fails to take into account large pension plans that would be too big to purchase annuities from the local market.	Noted. We would appreciate your suggestions for improvement.

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
	<p>date of the valuation;</p> <p>(b) the pension plan will realize its assets;</p> <p>the pension plan will purchase annuities on terms that would be sufficient to satisfy its liabilities;</p> <p>and</p> <p>(c) the expenses are those that the pension plan would likely incur in connection with the wind up.</p>		
Definition of management committee	<p>"management committee" – a committee which liaises between the sponsor and the trustees and directs the trustees in the administration of a pension plan. The management committee must include at least one employee representative, one employer representative and one pensioner representative.</p>	<p>The definition for the 'management committee' should specify when a pensioner representative needs to be included. Why is the 'chief actuary' included as an officer?</p>	<p>The definition of management committee was amended to include the case where a pensioner representative needs to be included: "management committee" – a committee which liaises between the plan sponsor and the trustees and directs the trustees in the administration of a pension plan. The management committee must include at least one employee representative, one employer representative and one pensioner representative when pensioner numbers exceed 25% of active members".</p> <p>The Chief Actuary is not included as an officer.</p>
Definition of management	<p>"management committee" – a committee which liaises between</p>	<p>Recommend amending to "The management committee must include at least one employee representative, two</p>	<p>The PPD prescribes a minimum standard. The pension</p>

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
committee	the sponsor and the trustees and directs the trustees in the administration of a pension plan. The management committee must include at least one employee representative, one employer representative and one pensioner representative.	employer representatives , one pensioner representative, if applicable, and one deferred pensioner representative, if applicable.	plan may include more conditions in their TD&R.
Definition of member	"Member" – includes active member, deferred member and pensioner.	"Member" is defined to include pensioners and deferred pensioners but in various places in the Revised PPD (e.g. the second paragraph of the Executive Summary) used to mean an active member only.	Noted. This was revised.
Appendix III Proposed Schedule of Administrative Fines			
Administrative Fines Criminal Penalties	Entire Section	As we recommend that "The trustee and the investment manager" should be penalized as inter alia, the trustee is normally responsible for hiring the investment manager and the investment manager should also be deemed Fit and Proper.	Noted. However, the investment manager could be foreign or local. The Central Bank has no jurisdiction over a foreign investment manager. Consequently, the responsibility and fines are placed on the trustee who is responsible for the day to day oversight of the investment manager.
Administrative	Entire Section	From Proposal 5.6 (j) we understand that the Criminal Penalties are imposed on the persons on whom an	Please note that criminal penalties apply on summary conviction. Consequently, where an option to discharge

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
Fines Criminal Penalties		administrative fine is imposed and it is not rectified within 15 days of the notice. Clarification in this regard may be necessary in Appendix iii. Further we reiterate our comments in relation to proposal 5.6 (j) in this regard.	a criminal penalty by payment of an administrative fine is provided, and a person fails to both pay the fine in the specified timeframe and remedy the breach, the criminal liability in respect of the offence is not discharged and the Central Bank is therefore entitled to pursue the matter through the Court.
Structure of administrative fines	Entire Section	The proposed Administrative Fines need further work. There is currently no clear logic behind the overall structure of Administrative Fines and it appears likely that in many situations the punishment inflicted by the fine would not fit the crime that lead to it.	We disagree. It is important to note that there is no blueprint for every jurisdiction and consequently discretion has to be applied when developing and instituting the fines. Factors considered in developing the criminal penalties and administrative fines in the PPD include nominal and relative amounts of criminal penalties and where applicable administrative fines in other jurisdictions; size and membership of pension plans in T&T; dissuasiveness of the penalty/fine etc.
Administrative fines used to offset supervisory fees	Entire Section	There is a strong body of opinion that the Administrative Fines collected by Central Bank should be recycled to offset the recently-introduced Supervisory Fees now levied on pension plans rather than disappearing into the Consolidated Fund. The Supervisory Fees are clearly not risk-related, which means that the fees paid by well-run and well-funded plans are subsidizing the costs of regulating the less well run plans. It is only fair that Administrative Fines paid by the latter should be applied	Noted. However, there is also a strong argument against this recommendation. Currently all fines collected by statutory authorities are placed into the Consolidated Fund. There is also a moral hazard argument against using fines to offset fees as it negates the impact of the fine on the offender. Research has found one jurisdiction that attempts to treat with this concern by ensuring that the offender does not benefit from the use of the fine. To

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
		to minimize the cross-subsidy paid by the former group. Central Bank is strongly opposed to this but to date has not articulated the reasons why.	offset supervisory costs. However we found the system adopted by the jurisdiction to be administratively burdensome and therefore will not be considered by the Central Bank.
Administrative Fines (Appendix 3)	Failure to adhere to investment limits: \$50,000: Trustee	<p>We note the proposed \$50,000 fine on the trustee for failing to comply with investment limits prescribed by OPPA, e.g. the 50% limit on equity investment. The Revised PPD needs to clarify how this limit is to apply, ie:</p> <ul style="list-style-type: none"> ▪ Is it to be taken to apply on quarter days only – this may not be Central Bank's intention but we suspect this is how many trustees and investment managers currently interpret it; or ▪ Is it to be taken to apply continuously? <p>If the latter is what is intended the Central Bank could presumably carry out an on-site inspection and require the trustee to demonstrate that the investment limits had been complied with every day of the year. We doubt that many (if any) local pension plans have systems in place to demonstrate compliance on this basis in the past or to monitor it in the future. One possible but unintended consequence of requiring continuous compliance with investment limits might thus be to</p>	<p>Active management of the investment portfolio will require the investment manager to take account of market movements in setting limits. The penalty will only apply when the breach becomes known.</p> <p>The requirement to comply with requirements in law is continuous in nature. Similar to any other legal requirement, a person is expected to comply at all times or face the consequences when discovered.</p> <p>Compliance with the limit will be assessed quarterly and during on-site examinations. Annual audits should also verify whether the limits were breached during the year.</p>

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
		reduce the level of equity investment – ie to be sure of being below the 50% equity limit on any given day the investment manager and trustee might in practice have to settle for a lower equity content, e.g. 40% rather than 50%.	
Administrative Fines (Appendix 3)	Failure to remit contributions: \$75,000: Plan Sponsor	Some fines may be disproportionate to the offence for example, the failure to remit contributions on time, is a flat fine of \$75,000 regardless of the amount of contributions remitted late.	Failure to remit contributions is a serious offence and the Central Bank considers the penalty to be appropriate.
Administrative Fines (Appendix 3)	Failure to communicate adequately with pension plan members : \$50,00: Plan Sponsor	We have already remarked the proposal to fine the plan sponsor for: “...failure to communicate adequately with pension plan members...” only makes sense if “adequate communication” is defined in terms of: <ul style="list-style-type: none"> ▪ Providing minimum prescribed content; and Doing so within a prescribed timeline.	Adequate communication refers to the communication requirements stipulated for the sponsor in sections 6.3 (a to c) and 2.6. However, the PPD was amended for clarity. Please see Appendix III.
Administrative Fines (Appendix 3)	Acquisition of shares of the sponsoring sponsor: \$50,000: Individual trustees and Management committee	We recommend that “The trustee and the investment manager” should be penalized as inter alia, the trustee is normally responsible for hiring the investment manager and the investment manager should also be deemed Fit	The PPD has been amended. This fine is to be applied to the trustee.

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
		and Proper	
Administrative Fines (Appendix 3)	Acquisition of shares of the sponsoring sponsor: \$50,000: Individual trustees and Management committee	The \$50,000 fine for acquisition of shares of the sponsoring sponsor should not be visited on the Management Committee since latter only has oversight for investment management, and is not directly responsible for the day to day investment management decisions made on behalf of the plan. Further, such fines are likely to discourage participation by members and management on Management Committees or to lead to increased costs for insurance for those who do participate.	See previous response.
Appendix IV Fit and Proper Requirements			
Appendix IV Fit and Proper Requirements	Entire Section	We recommend replacing this caption as follows “Fit and Proper Requirements for Corporate Trustees, Individual Trustees, Members on Management Committees and Investment Managers ”.	It is expected that an investment manager would be licensed or registered in its jurisdiction of incorporation. Consequently, their fitness and propriety would already have been assessed.
Appendix IV Fit and Proper Requirements	Entire Section	Will the Central Bank screen and approve all appointments? If not, how does the Central Bank intend to monitor this?	The PPD was amended to include a requirement for stipulated stakeholders including individual trustees and members of the management committee to submit annually an attestation confirming the fitness and

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
		Who is responsible for compliance with this clause?	propriety of the stipulated stakeholders (including representative and alternate management committee members) directly to the Central Bank.
Appendix IV (a)(2) Fit and Proper Requirements	In determining whether an individual and/ or entity is fit and proper, consideration will be placed on probity, competence and soundness of judgment for fulfilling the responsibilities of that position, to the diligence that is necessary in fulfilling or is likely to fulfill those responsibilities and to whether the interests of members or potential members and beneficiaries of the pension plan are, or are likely to be, in any way threatened by the individual or entity's position.	We recommend replacing "members or potential members and beneficiaries" with "current and future beneficiaries".	Members include pensioners, deferred pensioners and active members. Beneficiaries are persons who benefit if a member dies e.g. a spouse or a child.
Appendix IV A Knowledge Requirements			
Appendix IV A (1)	Requirement for individual trustees and the management	Who will determine and enforce these requirements?	The plan sponsor has been given the responsibility of ensuring that management committee members and

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
Knowledge Requirements for Individual Trustees and Management Committees	committee		<p>individual trustees receive on-going training. Please see section 5.3(o).</p> <p>An annual reporting requirement to the Central Bank would be introduced where management committee members would be required to stipulate the training they received over the past year. Appendix IV stipulates the areas in which individual trustees and management committee members should be trained. Please see section 5.4 (e).</p>
Appendix IV A (2) Knowledge Requirements for Individual Trustees and Management Committees	“each member of the Board of (Individual) Trustees and member of the management committee must within 2 to 3 months of their appointment as a trustee or management committee member become conversant with.....”	The time frame stated of ‘2 to 3 months’ should be more specific.	The PPD was amended as follows: “each member of the Board of (Individual) Trustees and member of the management committee and their alternates must within four (4) months of their appointment as a trustee or management committee member become conversant with.....”
Appendix IV A (1)(v) & (3)(d) Knowledge	(1)(V) “any other document recording policy for the time being adopted by the trustees relating to the administration of	The reference to ‘trustee’ should be changed to the ‘individual trustees or the MC’ as they are the ones responsible for setting up the administration policy. The corporate trustee is not involved in this exercise. Also,	Noted. This will be amended during the drafting of the Bill.

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
Requirements for Individual Trustees and Management Committees	the pension plan generally" (3)(d) "any other document recording policy for the time being adopted by the trustees relating to the administration of the pension plan generally"	as the corporate trustee is not responsible for the administration of the Plan perhaps some further description of this document in the second reference may be appropriate.	
Appendix IV A (B)(2) Knowledge Requirements for Corporate Trustees	A company to which this section applies must, in relation to each pension plan, secure that each individual who exercises any function with the company as trustee of the pension plan is conversant with each of the following documents so far as it is relevant to the exercise of the function	'secure' in the first line should be replaced by 'ensure'.	Agreed. The PPD was amended as follows: "A company to which this section applies must, in relation to each pension plan, ensure that each individual who exercises any function with the company as trustee of the pension plan is conversant with each of the following documents so far as it is relevant to the exercise of the function"
Appendix IV A (B)(5) Knowledge Requirements for Corporate Trustees	The degree of knowledge and understanding required by subsection (5) is that appropriate for the purposes of enabling the individual properly to exercise the function in question.	the reference should be to '4' and not '5';	Agreed. The PPD was amended.

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
Comments on the Entire PPD			
Entire PPD		<p>Our response to the proposals is framed having regard to the following principles:</p> <ul style="list-style-type: none"> ▪ The Central Bank's role is to regulate pension plans to ensure that they are well governed and that the risk of failing to provide the promised benefits to members is minimised. <p>Well run pension plans should be able to easily comply with the new regulations at minimal additional cost. The focus of the regulations should be to address key potential problem areas.</p>	We acknowledge your comment.
Entire PPD		In general, most pension plans in Trinidad and Tobago already conform to the requirements of the proposed legislation so that there should be very little difficulty in the trust deeds and rules of the plans conforming to the requirements of the proposed legislation.	We acknowledge your comment.
Entire PPD		A general comment relates to the relationship between the Central Bank of Trinidad and Tobago ("CBTT") as the regulator and the Board of Inland Revenue ("BIR") which has certain responsibility for the approval of the plans so that the pension fund plans can receive the tax benefits granted. It would be necessary for these two bodies to	<p>The registration and approval process has been streamlined to delineate the roles of the Central Bank and the BIR.</p> <p>The Central Bank is aware that providing a pension plan is voluntary and every step has been taken to ensure that the provisions in the PPD are reasonable. However,</p>

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
		<p>be on the same page because it has been my experience where plans that were approved by the BIR had difficulties with the then Supervisor of Insurance and needed amendment before the plans would be registered.</p> <p>It was heartening to hear the Actuary speak about the possibility that the employer could contribute at a rate lower than the members. This was something that the previous supervisor did not allow thus forcing companies to contribute at rates that were too high, resulting in unnecessary levels of surplus.</p> <p>In addition, I wonder about the effect this legislation would have on some of the smaller plans and also whether it would make companies move towards other arrangements for their employees given the strictures placed on the companies and persons who may wish to be members of the management committees. One effect of the OPPB must be a general increase in fees payable by the plans and a significant increase in the fees that the trustees charge in order that they are commensurate with their increased responsibility.</p>	<p>currently legislation governing pension plans is inadequate. This PPD is intended to provide a regulatory framework in which the Central Bank can carry out its role as regulator and by so doing afford a level of protection to members and beneficiaries of pension plans.</p>
Entire PPD		The Revised PPD represents a step forward compared with the Original PPD published in December 2009.	We appreciate your comments.

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
Entire PPD		<p>We are pleased to see that the Central Bank has taken on board some of the views expressed in the original consultation. For example, the proposals contained in the Original PPD that would have transferred significant powers and duties from corporate trustees to management committees and imposed fines on management committee members for failing to carry out those duties would have been a significant obstacle to people agreeing to serve on management committees. These proposals no longer appear in the Revised PPD.</p>	<p>We appreciate your comments.</p>
Entire PPD		<p>We believe that the Revised PPD does provide the basis for a workable framework for the regulation of the non-investment aspects of local pension plans, although this is subject to the following caveat.</p> <p>A considerable amount of detail is missing from the Revised PPD and we understand that this will be contained in regulations that are yet to be drafted. To date this project has had a 5-year gestation period and it is therefore a shame that no progress has been made with the drafting of Regulations. Until the missing regulations are available it is not going to be possible to form a definitive opinion on whether the OPPA will be fit for purpose.</p>	<p>It is customary that after the PPD has been finalized and sent for drafting, the Regulations will be developed.</p>

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
Entire PPD		Levy/Penalties should be placed in a General Fund that would make provision to meet all or part of a plans liability in the event of insolvency. This Fund to assist Plans in crisis.	As with all fines collected by the Government and regulatory authorities, the funds collected from penalties will be placed in the Consolidated fund.
Entire PPD		Bill to stipulate that members have final recourse to Regulator	The PPD states that members can seek recourse to the Central Bank or other designated body (see section 2.7 (e))
Entire PPD		The investment-related aspects of the Revised PPD are far from acceptable. The process of designing the OPPB provides a once-off opportunity to establish a modern risk-related regime for the regulation of pension plan investment that allows pension plans to determine investment strategies tailored to their own particular circumstances. As things currently stand this opportunity is being ignored and the Revised PPD does little more than retain the existing investment regime which is over 30 years old (other than for minor adjustments along the way) and which was not set up with pension plans in mind in the first place. We strongly urge the Central Bank to discard the investment proposals in the Revised PPD and go back to first principles to devise a more modern and appropriate investment regulatory regime (this need not delay the drafting of the non-investment parts of the OPPB which	The investment section of the PPD is prudent and consistent with international precedent. The permissible asset classes for investments and the associated limits were reviewed in accordance with the OECD 2009 Survey and found to be acceptable. In addition, the requirements in the draft Insurance Asset Regulations were considered.

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
		can proceed whilst the investment proposals are being addressed). As we recall the initial Laurie Savage proposals contained a framework that would be a suitable starting point for this (although this was removed from the final proposals for reasons that were never disclosed).	
Entire PPD		We commented on the current inability of Central Bank to contact all pension plans directly and recommended that this be addressed now. The proposal in paragraph 4.3.1 of the Revised PPD that would require each pension plan to nominate a single point of contact would solve this problem, but Central Bank should not wait until the OPPA becomes law to get this in place. Is there still time to add this requirement to the Insurance Act currently before Parliament? If not, could it be dealt with as an amendment to the Insurance Act shortly after the latter is put in place (no doubt there will be various errors and omission in the Act that need correcting anyway)?	The Central Bank is unable to consider this amendment to the Insurance Bill at this time.
Entire PPD		The translation of the Final PPD in to a draft Bill will need to marry legal and Parliamentary drafting skills with practical knowledge of how pension plans operate. If the latter element is missing we fear that the resulting legislation will not do the job required of it. We also	As is customary with all legislation developed by the Central Bank, the draft Bill will go through both an industry and public consultation before it is laid in Parliament. Both the FIA and the current Insurance Bill were subject to several rounds of consultation with the

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
		consider it vital that the draft Regulations should be subject to consultation with the industry before they are finalised. Given the importance of these (they will determine the practicality of implementing many of the proposals in the Revised PPD), we believe it is essential that the Central Bank provides the pensions industry with an opportunity to comment.	industry. In addition, the industry may provide written comments throughout this process. There was also a face to face consultation held on the Insurance Bill.
Entire PPD		We have commented twice in this report on the Central Bank's lack of in house pension's actuarial expertise to advise it on actuarial issues relating to pension plans. We reiterate that we are strongly of the view that the Central Bank needs to acquire such expertise as this would strengthen the regulation of pension plans significantly. The Central Bank should thus treat the recruitment of an experienced pensions' actuary as a priority.	The Central Bank has made progress in acquiring the pension actuarial expertise required.
Entire PPD		There is also a related but broader issue that needs to be addressed, namely the training of the Central Bank's staff who work in the pensions area. The OPPA will introduce both specific requirements for the annual training of management committee members and various levels of requirements for knowledge and understanding to apply to the stakeholders involved in pension plans. It is therefore necessary to look at the	We acknowledge your suggestion regarding the training of supervisory staff and will note them when evaluating training programs for staff locally, regionally and internationally.

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
		training and knowledge requirements of the Central Bank's staff in this context. Clearly, this is a complex issue that cannot be addressed fully in a few sentences, but if the credibility of the Central Bank as regulator is to be maintained it is vital that its staff are seen to possess a suitable level of knowledge. To our mind the staff of Central Bank should be expected to possess a significantly higher level of knowledge than will be required of management committee members and thus as a minimum they should be able to meet the knowledge requirements to be imposed on corporate trustees.	
Entire PPD		<p>We note that the consultation process for the Revised PPD has been improved compared with that for the original one, i.e.:</p> <ul style="list-style-type: none"> ▪ A more realistic period has been allowed for analysis of the Revised PPD and submission of comments; and <p>Central Bank held two stakeholder meetings to discuss the Revised PPD.</p>	We appreciate your comment.
Entire PPD		We note that the Central Bank was not able to issue the Revised PPD directly to the various pension plan stakeholders and had to rely on corporate trustees to	Noted. The Central Bank is working on addressing this issue.

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank's response
		<p>distribute the Revised PPD on its behalf. In particular, there appear to be no direct lines of communication with each pension plan sponsor and management committee available to Central Bank. This was identified as an issue when the Original PPD was issued over 2 years ago and we are therefore surprised that no steps have been taken to address it in the interim. This problem will be solved when and if the proposal contained in the Revised PPD for each pension plan to nominate a single point of contact makes it into the Occupational Pension Plans Act. However, this is unlikely to happen for at least 2 years and we do not believe it is acceptable to wait this long for a solution. We recommend that the Central Bank should address this matter now as a priority.</p>	
Entire PPD		<p>The Revised PPD is silent on the process by which the proposals will be turned into legislation and the timetable within which this will be accomplished.</p>	<p>Please see the Executive Summary in which a new section entitled "Central Bank's Process for Development/Amendment of Legislation and Consultation with Stakeholders" has been included.</p>
Entire PPD		<p>We note that throughout the Revised PPD the term "OPPB" is used to refer to both the Bill that will be</p>	<p>The appropriate amendments have been made to the PPD.</p>

Reference (October 2011 PPD)	October 2011 PPD	Industry Comments	Central Bank’s response
		presented to Parliament and the primary legislation that this will give rise to, i.e. the eventual Occupational Pension Plans Act. We find this confusing and throughout this document have used “OPPB” with the former meaning and “OPPA” with the latter.	
Entire PPD		<p>The final couple of paragraphs of the Revised PPD outline the approach taken by Central Bank, and, in particular, that the proposals have been guided by examination of pensions legislation in Canada, the UK, South Africa and Barbados. The reasons for choosing the first two jurisdictions are clear, but we still question the other two given that:</p> <ul style="list-style-type: none">▪ South Africa’s legislation is relatively new and untried and that country is something of a once-off given its own particular history; and <p>The legislation in Barbados is not yet fully operative and has been sent back to a Parliamentary Committee for reconsideration now that it has become clear that the regulatory burden it imposes is out of proportion to the scale of the local pensions industry.</p>	The Central Bank has considered several pieces of legislation, international standards and best practices, as well as, the structure of the industry in developing these policy proposals.