

**The Occupational Pension Scheme (Investment) Regulations 2005 (“OPSIR “),
SI 2005/3378**

Employer-related investments

Briefly, the key provisions are :

i) that “employer related loans” as defined there, are not allowed. *Reg 12(2)(b) and 12(4)*.

Such loans include, as explained at reg 11(b) and 11(c) respectively, any guarantees given to secure obligations of the employer, and third party loans. Also, by virtue of section 40(3) of the Pensions Act 1995, any unpaid debts owed to the scheme by participating employers *regulation 12(4)(a)*.

ii) any employer-related investment which is a transaction at an undervalue is forbidden, no fund resources can be used for this.¹ *Reg 12(3) and definition at reg 12(5)*. A transaction at an undervalue would seem to be when fund resources are given to the employer for nothing, or where the consideration received from the employer in return is less than the value in money or money’s worth of the fund resources handed over.

iii) other “employer related investments” as defined in OPSIR are limited to 5% of the “current market value of the resources of the scheme”. *Reg 12(2)(a)*

(Meaning that, for example, for the purposes of Schedule 1 of the LGPS investment regulations, any investments that are permissible “employer-related investments” in the OPSIR sense - would be limited to 5% of the fund.)

NOTE – This summary description does not in any way constitute legal advice. It is merely intended to give an informal outline of the scope of the OPSIR provisions. Any LGPS fund authority taking any investment decision on which OPSIR could have any bearing, should obtain their own legal and other relevant advice.

¹ Applies to any transaction on/after 6 April 1997.