



Department  
for Work &  
Pensions

# Occupational Pension Schemes (Master Trusts) Regulations 2018

Public consultation on the regulations to support the  
Pension Schemes Act 2017

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30 November 2017

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# Introduction

This consultation seeks views on the draft regulations that will fully commence the new authorisation and supervisory regime for Master Trust schemes under the provisions of the Pension Schemes Act 2017 (the 2017 Act).

The aims of the Master Trust scheme authorisation and supervision regime are that:

- members of Master Trust schemes have equivalent protections to members in other types of pension schemes;
- the risks specific to Master Trust scheme structures including the size and scope of schemes, lack of employer engagement, diverse business models and other factors that influence their financial resilience and viability, are proportionately and proactively regulated; and
- There is an appropriate balance between preventing risks occurring and giving the Pensions Regulator (the Regulator) powers to intervene when necessary.

These draft regulations have been developed in close consultation with the Regulator.

We have also engaged with a number of stakeholders listed in Annex B.

## About this consultation

This consultation seeks views on the government's draft regulations. Once the consultation closes on 12 January 2018 all the responses will be considered and the Government will publish its response setting out how the Government intends to proceed.

The new Master Trust regime will be administered by the Regulator who will produce detailed practical support for schemes through operational guidance and a Code of Practice. The Code of Practice will be published in draft and will be subject to a separate public consultation.

## Who this consultation is aimed at

The government would particularly, but not exclusively, be interested to hear from:

- representatives from Master Trust schemes including trustees and scheme funders;
- employers who have opted to enrol their employees in to a Master Trust scheme to meet their automatic enrolment obligations;
- employers who are thinking about using a Master Trust scheme to meet their automatic enrolment obligations;
- employers who have opted not to use a Master Trust scheme;
- Master Trust scheme members; and
- Consumer protection organisations.

## **Purpose of the consultation**

For the regime to work effectively, we need regulations to set out clearly what Master Trust schemes must do to gain authorisation and continue to operate in the market. This consultation focuses on the draft regulations which have been developed to achieve this. The consultation document contains a number of questions about specific aspects of the policy. We would also welcome views on whether the regulations effectively deliver the stated intended outcomes.

## **Scope of consultation**

This consultation applies to England, Wales and Scotland. It is anticipated that Northern Ireland will make corresponding legislation.

## **Duration of the consultation**

The consultation period begins on 30 November 2017 and runs until 12 January 2018.

## **How to respond to this consultation**

Please send your consultation responses to:

Sarah Dunn

1st Floor

Caxton House

Tothill Street

London SW1H 9NA

Email: [MASTERTRUST.REGULATIONSCONSULTATION@DWP.GSI.GOV.UK](mailto:MASTERTRUST.REGULATIONSCONSULTATION@DWP.GSI.GOV.UK)

## **Government response**

We will aim to publish the government response to the consultation on the [GOV.UK](http://GOV.UK) website. The [consultation principles](#) encourage departments to publish a response within 12 weeks or provide an explanation why this is not possible. Where consultation is linked to a statutory instrument responses should be published before or at the same time as the instrument is laid.

# How we consult

## **Consultation principles**

This consultation is being conducted in line with the revised [Cabinet Office consultation principles](#) published in January 2016. These principles give clear guidance to government departments on conducting consultations.

## Feedback on the consultation process

We value your feedback on how well we consult. If you have any comments about the consultation process (as opposed to comments about the issues we are consulting on), including if you feel that the consultation does not adhere to the values expressed in the consultation principles or that the process could be improved, please address them to:

DWP Consultation Coordinator  
2nd Floor  
Caxton House  
Tothill Street  
London  
SW1H 9NA

Email: [caxtonhouse.legislation@dpw.gsi.gov.uk](mailto:caxtonhouse.legislation@dpw.gsi.gov.uk)

## Freedom of information

The information you send us may need to be passed to colleagues within the Department for Work and Pensions, published in a summary of responses received and referred to in the published consultation report.

All information contained in your response, including personal information, may be subject to publication or disclosure if requested under the Freedom of Information Act 2000. By providing personal information for the purposes of the public consultation exercise, it is understood that you consent to its disclosure and publication. If this is not the case, you should limit any personal information provided, or remove it completely. If you want the information in your response to the consultation to be kept confidential, you should explain why as part of your response, although we cannot guarantee to do this.

To find out more about the general principles of Freedom of Information and how it is applied within DWP, please contact the Central Freedom of Information Team:

Email: [freedom-of-information-request@dpw.gsi.gov.uk](mailto:freedom-of-information-request@dpw.gsi.gov.uk)

The Central FoI team cannot advise on specific consultation exercises, only on Freedom of Information issues. Read more information about the [Freedom of Information Act](#).



## **Foreword by the Minister for Pensions and Financial Inclusion**

This consultation relates to matters close to my heart. Anyone who has heard me speak will know that I am passionate about automatic enrolment and that, in my view, auto enrolment must work for savers and employers alike. To support this, there must be trust and confidence in the pensions system.

The authorisation and supervisory regime introduced by the Pension Schemes Act 2017 will ensure that the over 7 million people saving for their pensions through Master Trust schemes will have equivalent protection to members of other pension schemes.

The draft regulations annexed to this consultation detail how the authorisation regime will work and what will be required of Master Trust schemes.

They aim to strike the right balance between safeguarding the savings of the millions of employees using Master Trust schemes, and the work these schemes must undertake in order to be authorised by the Regulator.

We look forward to receiving thoughts and comments from all those with an interest in this key area of the pensions market.

A handwritten signature in blue ink, appearing to read 'Guy Opperman', with a large, stylized flourish underneath.

**Guy Opperman MP**  
**Minister for Pensions and Financial Inclusion**

# The consultation

## Background

1. The Pensions Act 2008 introduced provisions to mandate employers to automatically enrol eligible workers into a qualifying workplace pension scheme. Roll out to employers completes in early 2018, at which point an estimated 10 million people will have been automatically enrolled into a workplace pension scheme.
2. The vast majority of employers have chosen to use a Master Trust pension scheme to meet their automatic enrolment obligations rather than set up and run their own scheme. This has led to a considerable expansion of the Master Trust market. Membership of Master Trust schemes grew from around 0.2 million in 2010 to around 7.1 million by 2016.
3. There is broad consensus that the existing regulatory controls are insufficient to provide appropriate levels of assurance to Master Trust scheme members.
4. The 2017 Act will introduce an authorisation and supervisory regime for Master Trust pension schemes. Once the new regime is fully commenced, Master Trust schemes will be required to apply for and receive authorisation in order to operate in the market.
5. In the 2017 Act, a Master Trust scheme is defined as an occupational pension scheme, used by more than one employer and providing money purchase pensions (either alone or with other benefits), which is not a public sector scheme or used only by connected employers.
6. The Regulator will assess each Master Trust scheme against five criteria. These are:
  - The persons involved in the scheme are fit and proper persons;
  - The scheme is financially sustainable;
  - Each scheme funder meets specific requirements;
  - The systems and processes used in running the scheme are sufficient to ensure that it is run effectively; and
  - The scheme has an adequate continuity strategy.
7. Schemes that fall within the definition of a Master Trust scheme, that do not apply for authorisation or do not meet the authorisation criteria, and, therefore are not authorised, will be required to transfer their members to another scheme and wind up.
8. The supervisory regime will ensure that, once authorised, Master Trust schemes continue to meet the authorisation criteria. Those at risk of falling below the standard will be required to address those areas of concern, or to transfer their scheme's members to another scheme and wind up.
9. The draft regulations, are provided in annex A. They set out the details of how the provisions in the 2017 Act will be implemented, where they are not contained in the 2017 Act itself. They provide further clarity for existing Master

Trust schemes that will need to go through the authorisation process to continue to operate, and for those who are considering joining the market.

10. They also give details about how Master Trust schemes that do not meet the authorisation criteria or decide not to apply for authorisation must ensure that their members' interests remain protected and that they leave the market in an orderly manner.
11. Over the coming months the Regulator will consult on its Code of Practice and publish operational guidance. This will make clear what the Regulator expects to see from schemes if they are to meet and maintain the authorisation criteria. It will also clarify the expectations on Master Trust schemes when they face a significant change, or experience problems that put their members' interests at risk.
12. This consultation document focuses on the policy underpinning the new regime and asks a number of questions which we would welcome your input on. The policy has been broken down into four broad areas:
  - Scope and application
  - Authorisation process
  - Authorisation criteria
  - Controls and monitoring



# Chapter 1 Scope and Applications

## Scope

13. The 2017 Act defines a Master Trust scheme as an occupational pension scheme which provides money purchase benefits and is used or intended to be used by two or more employers, but not only by employers who are connected to each other and is not a relevant public service scheme.

### **Regulations to set out when employers are connected and to disapply and apply the authorisation regime to certain schemes.**

14. The definition in the 2017 Act is deliberately broad in order to capture the full range of relevant structures which face the risks outlined in the introduction above and which will do so for the foreseeable future. Concerns were raised during the passage of the Bill through Parliament that, given the very large number of occupational pension schemes and the great diversity of scheme structures and rules, the definition may draw in some schemes that do not need to be authorised.
15. The draft regulations in this section seek to restrict the authorisation regime to schemes that face the risks associated with being a Master Trust scheme now or will do so in the future. In drafting these regulations we have been conscious of the need to limit the opportunities for schemes to avoid the authorisation regime we believe they should be covered by.

### **Regulation 3 - Connected employers [section 1 (3) (b)]<sup>1</sup>**

16. The definition in the 2017 Act already excludes schemes only intended to be used by connected employers. These schemes are more like single employer schemes and their risks are, therefore lower. For example, employers in these schemes are typically far more closely involved in running the scheme and have a more active relationship with the trustees. In a Master Trust scheme the employer's involvement may be limited, sometimes just to paying over their contribution. A weaker link with employers is not the only reason for the increased risks that exist in a Master Trust scheme but it is a significant one.
17. The 2017 Act sets out that employers are connected if they are or have been part of a group undertaking as defined in section 1161(5) of the Companies Act 2006. We have been clear that there are other types of corporate activity that may mean employers should be considered connected and that we would set these out in regulations. In considering how else employers might be connected, we have continued to balance both the extent to which connection protects scheme members with whether authorisation is an appropriate way to manage any risk now and in the future.
18. These regulations set out other ways in which employers may be considered as connected.

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<sup>1</sup> These are the relevant sections in the 2017 Act

19. This includes situations where an “outside” employer has bought part of the business of an employer in the corporate group and takes on the employees. Depending on the terms, the employees may remain members of the old pension scheme, at least for a certain period. Nothing in the scheme has changed – it is still a corporate group with its own pension scheme – but the introduction of an outside employer would otherwise bring the scheme within the Master Trust definition in the 2017 Act. We think it is reasonable to allow employers and schemes time to manage this type of activity without bringing them within the scope of the authorisation regime.
20. Bringing this and similar corporate relationships within the meaning of connected employers is only intended to affect a small number of schemes that were never intended to be open to multiple employers outside the corporate group.
21. We have not extended the concept of connection to cover non-corporate activity or structures, such as connection through what might be considered common interests or types of business. We have been clear that industry wide schemes were always intended to be within the scope of authorisation, as were not for profit schemes. Although membership may be more limited than a Master Trust scheme which is open to every employer, such schemes may still have a significant number of members and employers. They also need to be sustainable, even if their motive is not commercial. Ultimately when considering the schemes which are within authorisation, we have taken into account member protection and the future intentions of schemes in respect of offering money purchase benefits as well as proportionality.

## **Regulations 25, 26 and 27 - Disapplications [section 40(1) (b)]**

### **a) Certain schemes offering mixed benefits**

22. The Master Trust scheme definition applies to multi-employer schemes providing a mix of defined benefit (DB) and money purchase benefits, to the extent that they provide money purchase benefits. This is a growing area with more DB-only multi-employer schemes looking to provide an alternative option for the scheme employers. The authorisation regime will only apply to the money purchase aspects, as protections for DB schemes are already in place. Including mixed benefit schemes within the authorisation regime will protect all members of these schemes.
23. We believe most mixed benefit schemes should remain in the scope of authorisation if they meet the conditions for being a Master Trust scheme. This is because although the money purchase side may currently be small (at least in comparison to the defined benefits) they are liable to grow in scale as time progresses. As we expect entirely new Master Trust schemes to be authorised before they take on members, we think it is reasonable that mixed benefit schemes should also be authorised.
24. However, we believe authorisation would be disproportionate for some mixed benefit schemes because the potential for future scale is extremely limited and it is in the interest of the members that the money purchase benefit aspect remains available. The regulations entirely disapply the authorisation regime where certain circumstances apply:

- Certain schemes originally established as DB only, mostly at the privatisation of state-run industries, solely for people employed in the industry at that date. These schemes have a closed membership and have a statutory backing which limits their exposure to the risks faced by Master Trust schemes.
- DB schemes only offering money purchase as additional voluntary contributions for their active DB members<sup>2</sup>;
- DB schemes only offering money purchase to active DB members wishing to transfer in their pension rights from other schemes<sup>3</sup>; and

25. There are a small number of multiple employer schemes that offer both DB and money purchase benefits where the only scheme funders are the participating employers. In these circumstances, certain requirements that must be fulfilled by each scheme funder within the 2017 Act would be overly bureaucratic without necessarily assisting the Regulator's assessment of the scheme, including that each scheme funder:

- satisfies the fit and proper and scheme funder criteria,
- submits scheme funders' accounts,
- approves the business plan and continuity strategy and revisions of them.

Therefore, the draft regulations disapply these requirements to such existing schemes. These schemes will still need to be authorised and will have to satisfy the Regulator that other persons involved in the scheme are fit and proper, that they have appropriate systems and processes and that they are financially sustainable.

#### **b) Single member schemes and Small Self-Administered Schemes (SSASs)**

26. The 2017 Act deliberately did not set a limit on scheme size as this could have been used as a way for schemes to avoid having to go through the authorisation regime. This means some SSASs with multiple unconnected employers would fall within the Master Trust scheme definition. We do not, however feel it necessary for the regime to apply to these schemes as they are not exposed to the same risks as Master Trust schemes. The members of a SSAS are all trustees and therefore, could be said to be investing for themselves. SSASs frequently operate in small businesses and their membership is limited to no more than 11 members who are often company directors or senior staff, but they can be open to all employees and to their family members (who do not work for the same employer).

27. To ensure that a Master Trust scheme cannot be split into smaller schemes with common control to avoid Master Trust scheme authorisation, we are specifying that the members of a SSAS must make up the majority of trustees in order for authorisation requirements to be disapplied.

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<sup>2</sup> This includes schemes that continue to add investment growth value to the associated money purchase pots when those members become deferred members, so long as the member or any other party cannot pay in further contributions on their behalf.

<sup>3</sup> A DB scheme will be disapplied if it offers both AVCs and transfers in.

28. We also do not intend the regime to apply to any scheme which is only intended to be used by a single member. We are clarifying this as a single member scheme may fall within the definition of a Master Trust scheme if more than one employer is providing contributions on the member's behalf.

### **Regulation 28 - Including other pension schemes in the authorisation regime and treating two schemes as one [sections 40(1) (a) and 40(2)]**

29. The 2017 Act includes powers to apply some or all of its provisions to pension schemes with specified characteristics that do not fall within the definition of a Master Trust scheme and treat two or more pension schemes as one Master Trust scheme in specified circumstances.

30. These are broad and potentially significant powers. The draft regulations seek to extend the authorisation regime in two circumstances:

- 'Cluster schemes': This describes a model in which multiple schemes are set up so that they each only have a single or connected group of employers but are in reality subject to common rules or controlled in a common way.
- Parallel accumulation and decumulation schemes: This describes a model in which a scheme is set up so that it does not meet the definition in Section 1, but which provides retirement options for members of a Master Trust scheme with which it shares common rules or is under common control.

31. The reliance on the single controlling party, who is often operating for a profit, makes both these models liable to the same risks as a Master Trust scheme, for example operating without a single employer's engagement and potentially at considerable scale. Although the structures are legitimate, we think they should be subject to the same authorisation requirements as a Master Trust scheme in order to protect members.

## **Question**

- 1. The scope of the authorisation regime is intended to ensure that multiple employer, mixed benefit schemes are captured and that the members are protected by existing pension legislation in respect of any defined benefits and by the Master Trust scheme authorisation regime in respect of any money purchase benefits. Do the disapplications undermine this intention?**
- 2. For all the draft regulations in this section is it clear to the schemes concerned whether they are required to be authorised or not?**

## Chapter 2 Authorisation process

32. Under the 2017 Act, in order to continue to operate in the market, existing Master Trust schemes must apply to the Regulator for authorisation from October 2018 (when the authorisation regime commences). If a scheme decides not to apply for authorisation or authorisation is declined, the scheme would need to wind up and leave the market.
33. Authorisation will be a one off process and schemes will not have to be re-authorised. Once the Master Trust scheme has been authorised the Regulator will maintain a supervisory role to ensure it continues to meet the authorisation criteria in section 5(3) of the 2017 Act.
34. Any scheme established after October 2018 must apply and be authorised before it can begin to operate.

### **Regulation 4-Application for authorisation: other information to be included [section 4(5) (a)]**

35. This draft regulation sets out other information that should be included in an application for authorisation. The policy intention is to place the burden firmly on the scheme to demonstrate it meets the criteria to be a Master Trust scheme. However, to achieve this, and as good practice, it is sensible to establish a collaborative approach between the applicant and the Regulator.
36. Section 4(2) of the 2017 Act sets out the four documents that must be provided, including the business plan and continuity strategy required elsewhere in the 2017 Act (and accounts where available). The purpose of this regulation is to set out the additional information the Regulator requires to determine whether the application has met the authorisation criteria (covered in Chapter 3).
37. The Code of Practice will set out how the applicant can satisfy the Regulator that each of the authorisation criteria is met to support the information required in the application. It will also provide information to ensure that those involved in the application process can submit a credible business plan and continuity strategy.

### **Regulation 4(4) Application for authorisation: application fee [section 4(5) (b)]**

38. The 2017 Act specifies that a person cannot operate a Master Trust scheme unless that scheme is authorised. To support the application a fee will be required.
39. The fee is necessary to enable the Regulator to recover the costs of processing applications from Master Trust schemes without indirectly placing these costs on the wider pensions' community.
40. At the point when the fee is received with the complete application it will be considered a formal application and section 5(2) of the 2017 Act will apply.
41. There will be one bar for authorisation, which all schemes, regardless of size, must cross.
42. The exact amount of the application fee is still to be agreed. However, we anticipate it will take the following approach:
  - A flat fee for new Master Trust schemes of no more than £24,000
  - A flat fee for transitional Master Trust schemes of no more than £67,000.

43. Two fees have been chosen because it is expected that, on average, the work involved in processing an existing Master Trust application will be substantially higher than processing a new application, requiring a higher fee. The reasoning for this includes, for example, the Regulator's intention to have higher engagement with existing Master Trust schemes, reflecting market risk, known issues and the greater likelihood of additional information being required during the processing window.

## Chapter 3 Criteria for authorisation

44. As part of the authorisation process the Regulator must be satisfied that a Master Trust scheme meets the five criteria in section 5 of the 2017 Act:

- The persons involved in the scheme are fit and proper persons;
- The scheme is financially sustainable;
- Each scheme funder meets specific requirements;
- The scheme's systems and processes are sufficient to ensure that it is run effectively; and
- The scheme has an adequate continuity strategy.

45. The draft regulations are intended to give more detail about what Master Trust schemes must provide in order to satisfy the Regulator that they meet these criteria.

### **Regulation 5-Fit and proper persons requirement [section 7 4 (a) & (b)]**

46. The 2017 Act requires specified key people involved in the scheme to be assessed as to whether they are fit and proper to undertake their role. Schedule 1 introduced by draft regulation 5 draws extensively on similar existing requirements, particularly the occupational pension scheme provisions around trustee knowledge and understanding (TKU) and the Financial Conduct Authority's rules for financial institutions and financial advisors. They are also aligned with the existing requirement for money purchase schemes to provide an annual Chair's statement, which includes sections on the scheme's governance and TKU.

47. Section 7(2) of the 2017 Act sets out that the Regulator must assess if key individuals in the scheme are fit and proper to act in their roles. This includes people who establish the scheme, trustees and people who appoint them, people who can vary the terms of the trust, the scheme funder and scheme strategist. In addition, section 7(3) enables the Regulator to assess the fitness and propriety of further individuals in capacities mentioned in that subsection.

48. The draft regulations will create three tests:

- Integrity test - This test will be applied to persons in section 7(2) and (3). The Regulator will take into account evidence relevant to their honesty and propriety by checking the following:
  - bankruptcy (both individual and whether they have been involved in management of a company which has gone into insolvency, liquidation or administration)
  - unspent criminal records
  - appropriateness for being a trustee - whether pensions or otherwise (e.g. charitable trust) - and including any disqualification from being a Director
  - credit history
  - any adverse finding or any settlement in civil proceedings, particularly in connection with investment or financial misconduct
  - any contravention of the rules of the Regulator or any other regulatory authority
  - any information available from other regulators
- Conduct requirement - All people running a scheme will be expected to demonstrate their suitability through their actions. Therefore, the Conduct

requirement would allow the Regulator not only to take into account a person's previous behaviour, but also continue to monitor future conduct as part of their role supervising the scheme.

- Competency test - The Scheme Strategists and the Trustees would be subject to a test looking at each individual's experience, knowledge and qualifications to carry out their role. In the case of trustees this would include a basic knowledge of pensions and what is involved in being a trustee of an occupational pension scheme, based on the TKU requirements set out by the Regulator – in particular, the Trustee toolkit or equivalent learning. (We are considering whether experienced trustees should be able to prove that they have completed the toolkit).
- For the scheme strategist, there are no existing standards, so the test looks at their experience and qualifications. The test covers the competence and experience of all individuals involved in running the Master Trust scheme and would consider the balance across the piece. For example, less experienced member-nominated trustees joining an established board could be acceptable, but an inexperienced board of trustees is unlikely to be.

## Question

- 3. Is it clear who will fulfil the roles subject to the fit and proper assessment in your scheme? Have we captured the important roles?**
- 4. Are there any significant practical barriers to schemes meeting these requirements?**

### **Regulation 6 - Financial sustainability requirement [section 8(4)] and**

### **Regulation 7 - Financial sustainability requirement: business plan [section 9(2)]**

49. For Master Trust schemes to meet the financial sustainability requirement, the 2017 Act requires the Regulator to be satisfied that:

- The scheme has a sound business strategy;
- that there are sufficient financial resources to meet:
  - the costs of setting up and running the Master Trust scheme, and
  - the cost of resolving an event that could have a significant impact on a Master Trust scheme's ability to operate (referred to as a triggering event) which could include the associated costs of winding up scheme.

50. In deciding whether it is satisfied about a scheme's financial sustainability, Schedule 2, introduced by regulation 6, requires the Regulator's financial assessment to take account of a range of relevant matters, including the Master Trust scheme's objectives, its estimate of the above costs, its income, its plans to meet any shortfalls, the financial strength of any scheme funder, and the class and liquidity of any assets held to meet the costs.

51. Scheme strategists will be required to prepare, maintain and submit a business plan to the Regulator which will include the key financial information for its financial assessment. The detailed content of the business plan is set out in Schedule 3 of the attached draft Regulations.

52. These draft regulations aim to accommodate the range of Master Trust schemes and their financial arrangements including schemes with scheme funders that are insurance companies and those where the participating employers are responsible for the costs not covered by the administration



charge. The Regulator's financial assessment will be able to take account of the financial strength of scheme funders subject to the capital requirements of another financial regulatory regime and consider the specific circumstances of existing schemes that provide money purchase benefits alongside other benefits.

## Questions

5. **Are there any significant practical issues for Master Trust schemes in providing the information required for the business plan?**
6. **How can we improve the clarity, coherence and comprehensibility of the list of information to be included in the Business Plan across the spectrum of scheme models?**
7. **Should the detailed requirements in relation to the business plan be set out in The Regulator's Code of Practice rather than regulations?**

### **Regulation 8 - Scheme funder requirements [section 10(a)]**

53. The scheme funder is a person responsible for financing the Master Trust scheme where its administration charges are not enough to cover its costs, or who is entitled to receive profits where the scheme's income exceeds its expenditure.
54. Although there is no express legal requirement for a Master Trust scheme to have a scheme funder, it is expected in most Master Trust schemes there will be person(s) involved with its operation that come within that definition. When financially assessing a scheme, the Regulator will take into consideration the existence of a scheme funder that meets the requirements in the legislation.
55. However, schemes without a scheme funder will need to satisfy the Regulator that they have, or have access to, sufficient financial resources to be financially sustainable. To ensure that the financial arrangements between the scheme funder and the Master Trust scheme are sufficiently visible for the Regulator's financial assessment, the 2017 Act requires a scheme funder to be 1) a legal person who 2) only carries out activities that relate directly to the Master Trust scheme(s) of which it is the funder. These regulations will exempt scheme funders from the second requirement if they meet prescribed requirements relating to financial transparency and disclosure.

## Questions

8. **What, if any, other lines of business do scheme funders carry out that do not undermine the transparency of their financial arrangement with the scheme?**
9. **What, if any, disclosures of the matters in regulation 7, scheme funder requirements would be disproportionate to provide and why?**
10. **What, if any, alternatives could we consider to make the scheme funder's financial arrangements with the Master Trust scheme sufficiently transparent to the regulator for its financial assessment?**

### **Regulation 9 - Scheme funder requirements: accounts [section 10(7) (b)]**

56. These regulations will require scheme funders to provide the Regulator with full audited accounts irrespective of whether that is a requirement under the Companies Act 2006, to ensure that their financial reports are verified by an independent third party.

### **Pension Schemes Act 2017, Section 14, Requirement to submit annual accounts**

57. Section 14 requires scheme funders' accounts to be sent to the Regulator (a) no later than nine months after the end of the financial year to which they relate, or (b) within another period specified in regulations.

58. As we have not identified any scheme funders who would not be able to meet the nine-month deadline, and therefore we are not proposing to use this regulation making power.

## **Questions**

**11. Are there any circumstances where scheme funders would not be able to comply with the requirement to submit their accounts no later than nine months after the end of the financial year to which they relate and if so why?**

### **Regulation 10 - Systems and processes requirements [section 11(2)]**

59. The expectation is that Master Trust schemes will be well run. They will be expected to have the appropriate systems and processes for money purchase benefits and to enable them to meet the objectives set out in their business plan.

60. The 2017 Act contains a non-exhaustive list of the areas that may be included in the draft regulations setting out what the Regulator will take into account when assessing a Master Trust scheme's systems and processes. This includes the features and functionality of IT systems and processes relating to records, risk management and resource planning. Draft regulation 10 introduces Schedule 4 which is explicit that those are the matters that will be taken into account and sets out in more detail the minimum standards that schemes should demonstrate.

61. While existing accreditations, such as the Master Trust Assurance Framework will not automatically mean that a scheme will satisfy the systems and processes requirements, schemes that meet those standards may already have collected a lot of the information which will need to be provided to the Regulator. The Code of Practice will provide information about how schemes will be asked to demonstrate compliance.

### **Regulation 11 - Continuity strategy: administration charges [section 12(5)]**

62. The final criterion requires a Master Trust scheme to have an adequate continuity strategy showing that it has considered how its members will be protected if a triggering event occurs.

63. Section 12 (4) of the 2017 Act requires the continuity strategy to include a section setting out the levels of administration charges that apply in relation to members of the scheme.
64. These draft regulations give the details of the information about administration charges that a continuity strategy must include to be considered adequate.
65. This is intended to provide information that can be used to ensure no Master Trust scheme unlawfully increases administration charges following a triggering event contrary to section 33 of the 2017 Act.

**Regulation 12 - Continuity strategy: information [section 12(6)]**

66. Section 12 (6) of the 2017 Act requires the continuity strategy to contain “such other information” as may be specified in regulations.
67. This draft regulation gives more detail of what information trustees will need to provide in their scheme’s continuity strategy for the Regulator to consider it adequate.
68. It also sets the requirement that the continuity strategy must be prepared in writing and in accordance with the code.

## Chapter 4 Controls and Ongoing Monitoring

69. Once implemented, the regime will include a new supervisory function for the Regulator, to ensure that Master Trust schemes continue to meet the authorisation criteria. Where they do not, or are in danger of not doing so, these draft regulations will impose new requirements, intended to protect the interests of scheme members, on Master Trust schemes and the Regulator.
70. In advance of the full regime being implemented, a range of controls came into force for existing schemes when the 2017 Act received Royal Assent in April 2017. These include:
- Master Trust schemes must notify the Regulator if they experience a 'triggering event' (broadly, an event that could have a significant impact on a Master Trust's ability to operate); and
  - Once a Master Trust scheme has experienced a triggering event it must submit a statement of charges to the Regulator and not introduce new or increased charges until it has resolved the triggering event or wound up the scheme.

### **Regulation 13 – Supervisory return: contents [Section 15(2)]**

71. Section 15 of the 2017 Act gives the Regulator a new power enabling it to give written notice requiring the trustees of an authorised Master Trust scheme to submit a supervisory return. The notice must specify the information to be included in the return along with the manner and form in which the return must be submitted and the time period within which it must be provided.
72. The Regulator will use the supervisory return to inform its on-going risk assessment of schemes and to ensure a routine reporting requirement for all schemes involving at least annual contact.
73. This draft regulation identifies the information which may be required in a supervisory return and links to the authorisation criteria. The supervisory return will provide an opportunity for the Regulator to obtain progress on performance, the business plan and the schemes systems and processes. This will be defined in the Regulator's Code of Practice and subject to consultation.
74. It will be the role of the Regulator to determine the exact form of the supervisory return including the precise details of what it should cover. It is envisaged the supervisory return will be standardised, with all schemes required to provide the same information.

### **Regulation 14 - Significant events: duty to notify the Regulator [section 16(3)]**

75. The 2017 Act requires that the Regulator should be informed if a significant event has occurred. Regulation 14 sets out the events that, because of their potential impact, would constitute a significant event and, therefore be notified to the Regulator under section 16 of the Act.

### **Regulation 15 - Fixed Penalty [section 17(3)]**

76. Section 17 of the 2017 Act gives the Regulator the power to impose a fixed penalty on any person who has failed to provide information requested in a

notice under section 72 of the Pensions Act 2004. Subsection (3) provides that the penalty, which must not be more than £50,000, is to be determined in regulations. Regulation [13] specifies that the fixed penalty is £500. This figure is broadly consistent with other penalties which can be imposed by the Regulator.

**Regulation 15 - Escalating penalty [section 18(3)]**

77. Section 18 of the 2017 Act gives the Regulator a power to impose an escalating penalty on any person who has failed to provide information requested in a notice under section 72 of the Pensions Act 2004. Subsection (4) describes an escalating penalty as a penalty calculated in accordance with a daily rate. This daily rate must not exceed £10,000. Regulation [14] provides a table containing the amount of the daily rate and its cumulative effect relating to non-payment of the penalty.

**Regulation 16 - Triggering Events: notification requirements [section 22(6) (b), (7)]**

78. If a Master Trust scheme experiences a triggering event, the 2017 Act requires its trustees to notify the Regulator (other than for triggering events 1-3 in Section 21(6)) and employers using the scheme that one has occurred.

79. These draft regulations detail the “such other matters” to be included in the notification to employers. We believe that it is necessary for employers to be informed of the matters listed in order for them to be able to start thinking about what, if any, action they will need to take to protect their workers interests should a triggering event occur.

80. They also set a deadline of 7 days for the notifications to the Regulator and 14 days for notifications to employers. The 7 days is the same as the transitional provision for Master Trust schemes operating before commencement. The 14 days is intended to give trustees enough time for them to be able to provide the information to employers so they can start thinking about what, if any, action they need to take to protect their employees’ interests.

**Regulation 17- Implementation strategy: approval [section 26(5)]**

81. Section 26 (1) of the 2017 Act requires that trustees must submit an implementation strategy to the Regulator for approval if a triggering event occurs.

82. This draft regulation sets a deadline that they must do so within a 28 day period.

83. This deadline is aimed at giving trustees a reasonable amount of time to produce and submit an “adequate” (section 26(4)) implementation strategy setting out how the interests of members of the scheme will be protected.

**Regulation 18 - Implementation strategy: administration charges [section 27(4) and section 33(4) (a)]**

84. The 2017 Act requires that the implementation strategy includes a section setting out the levels of administration charges in the scheme which are to be calculated and set out in accordance with the draft regulations.

85. These draft regulations set out how trustees calculate and set out the levels of administration charges that will apply during the triggering event period (the

“fixed charge levels”). Essentially, the levels of administration charges in the scheme year in which the triggering event occurred will apply where levels have not changed. Where there has been a change, the lower levels of administration charges, as compared between the scheme year in which the triggering event occurred and the previous scheme year, will apply.

**Regulation 19 - Implementation strategy: content [section 27(6)]**

86. This draft regulation details the “such other information” that the trustees must include in the implementation strategy in order for the Regulator to be able to consider it adequate.
87. The requirement to provide this information is intended to ensure that in their implementation strategy trustees will provide a detailed action plan of the decisions and actions they will need to take in order to either resolve the triggering event that has occurred or transfer their members out and wind up.

**Regulation 20-Continuity option 1: transfer out and winding up [section 24 (4) (5)]**

88. Under section 24 of the 2017 Act, trustees of Master Trust schemes that are required to or decide to pursue continuity option 1 must arrange for the bulk transfer of scheme members to another authorised Master Trust scheme.
89. Regulation 30 introduces Schedule 5 which is aimed at ensuring that members are moved out as quickly and safely as possible.
90. Schedule 5 sets out in more detail the steps trustees must undertake as part of the process of transferring their members to another scheme and winding up. This includes ensuring that employers and members are kept informed and know what their options are, and for members, know where and when their rights have been transferred and which scheme they will be saving in in the future.
91. They also give the Regulator the power to direct the trustees to take certain actions if they consider members’ rights are being put at risk through failure to comply with these regulations.

**Regulation 21-Continuity option 2: resolving triggering event [section 25(4), schedule 2 para 5(c)]**

92. Section 25 of the 2017 Act states that where the trustees decide to pursue continuity option 2, they must notify the Regulator when they consider that the triggering event has been resolved.
93. This draft regulation sets a deadline of 14 days for them doing so. This deadline is aimed at giving a reasonable amount of time for trustees to provide the information the Regulator will need to be satisfied that the triggering event has been resolved.

**Regulation 22-Periodic reporting requirement [section 30(2), 4(b) and (c)]**

94. Section 30 of the 2017 Act requires trustees to submit periodic reports to the Regulator during a triggering event period showing the progress they have made in carrying out their approved implementation plan and any decisions they have made concerning a receiving scheme (if appropriate).
95. These draft regulations set the deadline of 14 days for the submission of the first periodic report and detail the “such other information” to be included in that and subsequent reports.

### **Regulation 23-Fraud Compensation [section 36]**

96. This draft regulation modifies the existing legislation on fraud compensation to change the way it applies to authorised Master Trust schemes.
97. The draft regulations permit an application from a Master Trust scheme for fraud compensation where: the Master Trust scheme is authorised; the scheme funder (rather than all the employers) has experienced an insolvency event (a triggering event within item 4 or 5 has occurred); and the scheme is pursuing continuity option 1. The draft regulations also allow for a lower rate of levy to be imposed on authorised Master Trust schemes and also remove NEST's exclusion from the fraud compensation regime.

### **Regulation 24 Pause Orders [section 31]**

98. Section 31 of, and Schedule 1 to, the 2017 Act create a new power for the Regulator to pause certain Master Trust scheme activities, once the scheme has experienced a triggering event specified in section 21 of the 2017 Act. A pause order could, for example, stop people joining the scheme; contributions being made into the scheme; benefits being paid from the scheme; refunds of any contributions already deducted from salaries to the members to whom they relate, and transfers of members' rights under the scheme rules. Regulation 26 requires the directions in the pause order to be carried out within specified time limits.

# Summary of Questions

We welcome your comments on the questions below which seek your views on specific aspects of the policy. We would also welcome your views on whether the draft regulations in Annex A effectively deliver the stated intended outcomes.

1. The scope of the authorisation regime is intended to ensure that multiple employer, mixed benefit schemes are captured and that the members are protected by existing pension legislation in respect of any defined benefits and by the Master Trust authorisation regime in respect of any money purchase benefits. Do the disapplications undermine this intention?
2. For all the regulations in this section is it clear to the schemes concerned whether they are required to be authorised or not?
3. Is it clear who will fulfil the roles subject to the fit and proper assessment in your scheme? Have we captured the important roles?
4. Are there any significant practical barriers to schemes meeting these requirements?
5. Are there any significant practical issues for Master Trust schemes in providing the information required for the business plan?
6. How can we improve the clarity, coherence and comprehensibility of the list of information to be included in the Business Plan across the spectrum of scheme models?
7. Should the detailed requirements in relation to the business plan be set out in code of practice rather than regulations?
8. What, if any, other lines of business do scheme funders carry out that do not undermine the transparency of their financial arrangement with the scheme?
9. What, if any, disclosures of the matters in regulation 7, scheme funder requirements would be disproportionate to provide and why?
10. What, if any, alternatives could we consider to make the scheme funder's financial arrangements with the Master Trust sufficiently transparent to the regulator for its financial assessment?
11. Are there any circumstances where scheme funders would not be able to comply with the requirement to submit their accounts no later than nine months after the end of the financial year to which they relate and if so why?



# **Annex A – Draft regulations**

**2018 No. \*\*\***

**PENSIONS**

**Occupational Pension Schemes (Master Trusts)  
Regulations 2018**

*Draft Regulations laid before Parliament under section 42(4) of the  
Pension Schemes Act 2017 for approval by resolution of each House of Parliament.*

*Made* - - - - **\*\*\***

*Laid before Parliament* **\*\*\***

*Coming into force* - - *1 October 2018*

The Secretary of State for Work and Pensions makes the following Regulations in exercise of the powers conferred by sections 1(3)(b), 4(5), 7(3)(b) and (4)(a), 8(4), 9(2), 10(4) and (6), 11(2), 12(5) and (6), 15(2), 16(3), 17(3)(a), 18(5)(a), 22(6)(b) and (7), 24(1)(b), (3) and (4)(a) and (c), 25(4), 26(5), 27(4) and (6), 28(2), 30(2) and (4)(b) and (c), 33(4), 36(1), 38(2), 39(5), 40(1) and (2) and 42 of, and paragraphs 1(6) of Schedule 1 and 5(c) of Schedule 2 to, the Pension Schemes Act 2017(a).

A draft of these Regulations has been laid before and approved by a resolution of each House of Parliament in accordance with sections 1(5), 7(7), 8(6), 9(7), 10(8), 11(5), 12(10), 16(7), 24(10), 38(4), 39(6), 40(4) and 42(5) of the Pension Schemes Act 2017.

**Citation and commencement**

1. These Regulations may be cited as the Occupational Pension Schemes (Master Trusts) Regulations 2018 and come into force on 1 October 2018.

**Interpretation**

2. In these Regulations—

“the 1993 Act” means the Pension Schemes Act 1993(b);

“the 1995 Act” means the Pensions Act 1995(c);

“the 2004 Act” means the Pensions Act 2004(d);

“the 2014 Act” means the Pensions Act 2014(e);

“the Act” means the Pension Schemes Act 2017;

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(a) 2017 c. 17.  
(b) 1993 c. 48.  
(c) 1995 c. 26.  
(d) 2004 c. 35.  
(e) 2014 c. 19.

“additional charge” means an administration charge for advice, a service or information provided to a member, including where the member requests a transfer to another pension scheme;

“the Administration Regulations” means the Occupational Pension Schemes (Scheme Administration) Regulations 1996**(a)**;

“arrangement” means an allocation of contributions to one or more investments according to a strategy adopted by the trustees;

“the Bankruptcy Act” means the Bankruptcy (Scotland) Act 2016**(b)**;

“the Charges and Governance Regulations” means the Occupational Pension Schemes (Charges and Governance) Regulations 2015**(c)**;

“Code” means a code of practice issued by the Regulator;

“the Companies Act” means the Companies Act 2006**(d)**;

“the DC Code” means code of practice 13 entitled “Governance and administration of occupational and trust-based schemes providing money purchase benefits”, published by the Regulator in July 2016;

“default arrangement” has the meaning given in regulation 3 of the Charges and Governance Regulations**(e)**;

“discounted level” means a lower level of an administration charge which applies on any particular basis, including—

- (a) where a lower level applies to members from a particular employer, or
- (b) where a lower level applies to a member according to the value of his or her rights in the scheme;

“FSMA” means the Financial Services and Markets Act 2000**(f)**;

“the Insolvency Act” means the Insolvency Act 1986**(g)**;

“receiving scheme” means a pension scheme to which (subject to Part 4ZA of the 1993 Act and to provision made by regulations under section 24(2)(b) and (4) of the Act) members’ accrued rights and benefits under the scheme are proposed to be transferred;

“the Regulator” means The Pensions Regulator;

“scheme year” means—

- (a) a year specified for the purposes of the scheme in any document comprising the scheme, or
- (b) if no year is specified under paragraph (a), a period of 12 months beginning on 1st April or on such other date as the trustees select;

“service provider” means a person providing advisory, administrative, investment or other services in respect of the scheme;

“third-party charge” means any administration charge imposed on or in respect of a member by a person other than the trustees;

“TUPE” means the Transfer of Undertakings (Protection of Employment) Regulations 2006**(h)**.

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**(a)** S.I. 1996/1715.

**(b)** 2016 asp 21.

**(c)** S.I. 2015/879.

**(d)** 2006 c. 46, as amended by S.I. 2013/3008 and 2015/980; there are other amending instruments but none is relevant.

**(e)** Regulation 3 was substituted by S.I. 2015/889.

**(f)** 2000 c. 8.

**(g)** 1986 c. 45.

**(h)** S.I. 2006/246.

### Connected employers

3.—(1) For the purposes of section 1(3)(b) of the Act, an employer (“A”) is connected with another employer (“B”)—

- (a) where A and B have separate legal identities but operate as a single business;
- (b) where one or more employees of A who are active scheme members were employed by A at a time when sub-paragraph (a) applied;
- (c) where A employs scheme members jointly with B, or with a group undertaking in relation to B;
- (d) in respect of active scheme members, following a transfer of those members to A from B or from a group undertaking in relation to B;
- (e) where A holds or controls, or in the previous six months has held or controlled, at least 33% of the voting power in B;
- (f) where B holds or controls, or in the previous six months has held or controlled, at least 33% of the voting power in A;
- (g) where A is, or in the previous six months has been, engaged in a joint venture with B, or with a group undertaking in relation to B.

(2) In paragraph (1)—

- (a) “group undertaking”, in relation to an undertaking, means an undertaking which is—
  - (i) a parent undertaking or subsidiary undertaking of that undertaking, or
  - (ii) a subsidiary undertaking of any parent undertaking of that undertaking;
- (b) where the transfer referred to in sub-paragraph (d) is not a relevant transfer as defined in regulation 3 of TUPE, A and B are connected for no more than six months beginning with the date of the transfer;
- (c) “joint venture” means an arrangement, contractual or otherwise, by which two or more parties undertake an economic activity that is subject to joint control.

### Application for authorisation

4.—(1) For the purposes of section 4(5)(a) of the Act, the other information to be included in an application, in relation to each person acting in a capacity mentioned in section 7(2) or (3) of the Act, is—

- (a) responses to a list of questions raised by the Regulator in that application, to assess whether the person is a fit and proper person; and
- (b) a criminal record certificate<sup>(a)</sup> obtained for the purposes of the application.

(2) For the purposes of section 4(5)(a) of the Act, the other information to be included in an application, in relation to a person acting in the capacity of a trustee, is—

- (a) in the case of an individual—
  - (i) the person’s full name;
  - (ii) the person’s date of birth;
  - (iii) the nature of the person’s role in relation to the scheme;
  - (iv) a description of that role; and
  - (v) the person’s address for correspondence, including any change to the address in the five years before the date of the application for authorisation;
- (b) in the case of a body corporate<sup>(b)</sup>—

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(a) A “criminal record certificate” is obtained in accordance with section 113A of the Police Act 1997 (c. 50).

(b) “Body corporate” is defined in section 1173(1) of the Companies Act.

- (i) the full name of each person who exercises a function which the body corporate has as trustee of the scheme;
- (ii) the date of birth of each such person who is an individual; and
- (iii) the correspondence address of each such person, including any previous addresses in the five years before the date of the application for authorisation.

(3) For the purposes of section 4(5)(a) of the Act, the other information to be included in an application, in relation to whether the systems and processes used in running the scheme are sufficient, is—

- (a) in the case of a scheme to which regulation 23 of the Administration Regulations applies, a statement provided in accordance with its requirements;
- (b) in the case of a scheme to which regulation 23 of the Administration Regulations does not yet apply, a document which describes how the scheme meets, or is intended to meet, the requirements set out in that regulation;
- (c) in cases where regulation 2 of the Occupational Pension Schemes (Investment) Regulations 2005(a) applies to a scheme, the most recent statement of investment principles(b) provided in accordance with its requirements; and
- (d) details of the systems and processes used, or intended to be used, in the running of the scheme, whether they have been devised, applied or maintained by the scheme or a service provider, and provided in accordance with Schedule 4.

(4) An application for authorisation must be accompanied by such fee as the Regulator may specify.

(5) A fee specified under paragraph (4) must be calculated on a cost-recovery basis and must not exceed—

- (a) £67,000 for an existing scheme, or
- (b) £24,000 for a scheme which is not an existing scheme.

### **Fit and proper persons requirement**

5. Schedule 1 sets out the matters that the Regulator must take into account in assessing, for the purposes of section 7 of the Act, whether a person involved in a Master Trust scheme is a fit and proper person.

### **Financial sustainability requirement**

6. Schedule 2 sets out the matters that the Regulator must take into account in deciding, for the purposes of section 8 of the Act, whether it is satisfied that a Master Trust scheme is financially sustainable.

### **Financial sustainability requirement: business plan**

7.—(1) A Master Trust scheme's business plan must be submitted—

- (a) in writing,
- (b) in the format set out in a Code, and
- (c) in accordance with any further requirements set out in a Code.

(2) The business plan must contain the information set out in Schedule 3.

(3) Except where Schedule 3 provides otherwise, the information in the business plan must be provided as at the effective date.

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(a) S.I. 2005/3378.

(b) "Statement of investment principles" is defined in section 35(2) of the 1995 Act.

(4) The effective date of a scheme's first business plan is a date chosen by the scheme strategist, but not earlier than six months before the date when the scheme's trustees applied to the Regulator for authorisation.

(5) The effective date of each subsequent business plan is the earlier of—

- (a) the first anniversary of the effective date of the previous business plan, or
- (b) where a business plan has been revised as a result of a significant change to the information contained in it, the date on which the significant change occurred.

(6) If a revised business plan is submitted in accordance with section 9(6) of the Act, the revisions must be separately identified to the Regulator.

(7) The Regulator may waive the requirement for a revised business plan to be submitted during a period when—

- (a) the scheme has experienced a triggering event,
- (b) the trustees are pursuing continuity option 1 or 2, and
- (c) the Regulator has approved an implementation strategy in respect of the scheme.

### **Scheme funder requirements: activities**

**8.—**(1) A current or prospective scheme funder which wishes to be exempted from the requirement in section 10(3) of the Act (that the scheme funder only carry out activities that relate directly to Master Trust schemes in relation to which it is a scheme funder) must submit the following information to the Regulator in the format required by the Regulator—

- (a) the reasons why the scheme funder wishes to be exempted from the requirement;
- (b) a description of those activities of the scheme funder which do not relate directly to the Master Trust scheme;
- (c) details of the legally enforceable financial support which the scheme funder will provide to the Master Trust scheme;
- (d) the following financial information in respect of the scheme funder—
  - (i) actual turnover, gross margin, overheads and operating profit for the previous 12 months;
  - (ii) cash at bank for the previous 12 months, including any undrawn overdraft facility or revolving credit facility;
  - (iii) forecast and actual profit and loss for the previous 12 months;
  - (iv) budget for the year to date and any variation against that budget;
  - (v) cash resources;
  - (vi) cash flow forecast for the following four quarters;
  - (vii) operating costs;
  - (viii) inter-company loans and other forms of funding;
  - (ix) any significant risks to which the scheme funder is exposed and its strategy for mitigating them;
- (e) such other information as the Regulator may require in order to be satisfied that the scheme funder is giving adequate financial support to the Master Trust scheme.

(2) If a current or prospective scheme funder cannot provide some or all of the financial information referred to in paragraph 1(d), it must give reasons for this to the Regulator.

(3) If the Regulator is satisfied—

- (a) that the Master Trust scheme is financially sustainable in accordance with regulation 6, and
- (b) that, on the basis of the information listed in the preceding paragraph, section 10(3) of the Act should not apply to the scheme funder,

the Regulator must notify the scheme funder to that effect, upon which the requirement in section 10(3) of the Act will not apply.

(4) The requirement in section 10(3) of the Act does not apply to the National Employment Savings Trust established by the National Employment Savings Trust Order 2010(a).

### **Scheme funder requirements: accounts**

**9.**—(1) The following provisions do not apply in respect of a scheme funder’s accounts—

- (a) in the Companies Act—
  - (i) section 382 (companies qualifying as small: general);
  - (ii) section 383 (companies qualifying as small: parent companies);
  - (iii) section 384A (companies qualifying as micro-entities);
  - (iv) section 393(1A) (accounts to give true and fair view: micro-entities);
  - (v) section 396(2A) and (6) (Companies Act individual accounts: micro-entities);
  - (vi) section 477 (small companies: conditions for exemption from audit);
  - (vii) section 479A (subsidiary companies: conditions for exemption from audit);
- (b) in the Limited Liability Partnerships (Accounts and Audit) (Application of Companies Act 2006) Regulations 2008(b), regulations 5 (LLPs subject to the small LLPs regime) and 34 (exemption from audit: small LLPs);
- (c) in the Overseas Companies Regulations 2009(c), the modification in regulation 38 (duty to prepare accounts) of section 396 of the Companies Act;
- (d) in the Limited Liability Partnerships, Partnerships and Groups (Accounts and Audit) Regulations 2016(d), regulation 5 (LLPs subject to the small LLPs regime).

(2) Where a scheme funder is a charity, its accounts must meet the requirements in the Act and in the Companies Act, as modified by these Regulations, notwithstanding the provisions of any other enactment.

(3) A scheme funder’s accounts must be accompanied by an auditor’s report in which the auditor confirms—

- (a) whether, in his or her opinion, the scheme funder is a going concern, and
- (b) whether the scheme funder is receiving financial support from another party.

(4) If a scheme funder has no audited accounts at the time when it becomes a scheme funder of a Master Trust, the Regulator may require a proportion, set out in a Code, of the assets required to meet the costs mentioned in section 8(3) of the Act to be—

- (a) deposited in a separate account in the name of the trustees kept with a deposit taker as defined in section 49(8A) of the 1995 Act, within three months from the date on which it becomes a scheme funder of a Master Trust, and
- (b) kept in that account until the date on which the scheme funder submits audited accounts to the Regulator.

### **Systems and processes requirements**

**10.** Schedule 4 sets out the matters which the Regulator must take into account when deciding whether it is satisfied that the systems and processes used in running a Master Trust scheme are sufficient to ensure that the scheme is run effectively.

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(a) S.I. 2010/917.  
(b) S.I. 2008/1911.  
(c) S.I. 2009/1801.  
(d) S.I. 2016/575.

### **Continuity strategy: administration charges**

**11.**—(1) The section of the continuity strategy setting out the levels of administration charges must set them out as follows.

(2) The section must set out all levels of administration charges in the current scheme year for each charge structure, including any discounted levels—

- (a) for each arrangement, including the default arrangement, and any different levels in relation to any one arrangement;
- (b) for any additional charges, including the basis for any such charge;
- (c) for any third-party charges, including the basis for any such charge;
- (d) for any other type of administration charge in the scheme, including the basis for any such charge.

(3) Where applicable, the levels must be set out on an annualised basis.

(4) Where there is a discounted level, the basis for the lower level must also be set out.

### **Continuity strategy: information**

**12.**—(1) The following information is specified for the purposes of section 12(6)(a) of the Act—

- (a) the steps the trustees would take to decide which continuity option to pursue (if applicable) and the timescales for taking those steps;
- (b) details of—
  - (i) the main decisions and actions that would need to be taken to protect members' interests during a triggering event period,
  - (ii) the person responsible for taking them, and
  - (iii) the timescales for taking them;
- (c) communications to the employer and member, including—
  - (i) the information to be provided in them, and
  - (ii) the stages at which they would take place;
- (d) communications to the Regulator;
- (e) if applicable, details of how the trustees would choose the receiving scheme;
- (f) if applicable, details of how the scheme's assets and members' personal data would be transferred to the receiving scheme;
- (g) details of how the integrity of members' records is to be maintained during a triggering event period;
- (h) details of how assets held at scheme level would be reconciled with assets held at member level;
- (i) details of how the trustees would comply with any legal requirements and meet any legal costs arising from a triggering event;
- (j) a plan for making decisions on investments when a triggering event occurs, and for dealing with scheme investments during a triggering event period;
- (k) a plan for dealing with any outstanding contributions due from employers and members;
- (l) details of how the scheme's administrative services would continue after a triggering event;
- (m) details of how service providers would be retained and paid for during a triggering event period;
- (n) details of how implementation of the continuity strategy would be funded.

(2) A continuity strategy must be prepared—

- (a) in writing,



- (b) in the format set out in a Code, and
- (c) in accordance with any further requirements set out in a Code.

**Supervisory return: contents**

**13.** The Regulator may require the following information to be included in a supervisory return, to the extent that it has not already been provided to the Regulator—

- (a) details of how trustees' competence is being maintained, with particular reference to their compliance with the knowledge and understanding requirements in sections 247, 248 and 249 of the 2004 Act<sup>(a)</sup>;
- (b) details of the professional development of the scheme strategist;
- (c) where the scheme is an ear-marked scheme as defined in regulation 1(2) of the Occupational Pension Schemes (Requirement to obtain Audited Accounts and a Statement from the Auditor) Regulations 1996<sup>(b)</sup>, the scheme's annual accounts, audited in accordance with those Regulations;
- (d) the scheme's most recent business plan;
- (e) details of the scheme's current position in relation to its objectives in the business plan;
- (f) any other information that is relevant to the authorisation criteria listed in section 5(3) of the Act.

**Significant events: notifying the Regulator**

**14.** The following are significant events which must be notified to the Regulator under section 16 of the Act—

- (a) a change or addition to the persons involved with the scheme in the capacities listed in section 7(2) and (3) of the Act, unless the change is a triggering event;
- (b) an individual who is involved with the scheme in a capacity listed in section 7(2) and (3) of the Act, or whose involvement in the running of the scheme has been suspended while the individual's appointment is being considered—
  - (i) is convicted of an offence;
  - (ii) enters bankruptcy;
  - (iii) has a County Court judgment registered, or in Scotland a decree of the Sheriff Court issued, against him or her;
  - (iv) is sanctioned by a regulator other than the Regulator;
  - (v) is disqualified as a company director;
  - (vi) has been subject of an adverse finding or settlement in civil proceedings, particularly in connection with investment or other financial business, misconduct, fraud or the formation or management of a body corporate;
  - (vii) has contravened any of the requirements and standards of a regulator, including the Regulator;
  - (viii) has a change of circumstances, through ill health or otherwise, which materially impairs his or her ability to operate;
  - (ix) has any other change of circumstances which may affect the Regulator's assessment under section 7 of the Act of whether the individual is a fit and proper person;
- (c) a significant change to the statement of investment principles;
- (d) a significant change that requires revision of the business plan under section 9(4) of the Act;

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<sup>(a)</sup> Section 248(8) was amended by S.I. 2009/1941.

<sup>(b)</sup> S.I. 1996/1975; regulation 1(2) was amended by S.I. 1997/786.

- (e) a significant failure to meet a key milestone, target, estimate or assumption in the business plan;
- (f) the scheme is unable or unlikely to meet its liabilities on demand;
- (g) the scheme is unable or unlikely to meet the level of assets or liquidity agreed with the Regulator and set out in the business plan;
- (h) a change to the financial reporting period to be used in the accounts of the scheme or scheme funder;
- (i) a change in the financial information which a scheme funder has supplied to the Regulator with an application for exemption under regulation 8(1);
- (j) a failure of the systems or processes used in running the scheme which has a significant adverse effect on the security or quality of data or on service delivery;
- (k) a significant change to the systems and processes used in running the scheme, or in any person responsible for delivering key services to the scheme;
- (l) an investigation of the scheme, or of a person involved in the scheme, by a regulator or other competent authority inside or outside the United Kingdom.

**Fixed and escalating penalties**

15.—(1) Where the Regulator issues a fixed penalty notice to a person under section 17(1) of the Act, the penalty is £500.

(2) Where the Regulator issues an escalating penalty notice to a person under section 18(1) of the Act, the daily rate is determined in accordance with the table.

(3) In the first column of the table, Day 1 is the day specified in the escalating penalty notice, in accordance with section 18(6)(d) of the Act, as being the date from which the penalty is payable, and subsequent days are numbered accordingly.

(4) The second column of the table shows the daily rate payable in respect of each day when the notice is in force.

(5) The table is—

<i>Day</i>	<i>Daily rate</i>
1	£1,000
2	£2,000
3	£3,000
4	£4,000
5	£5,000
6	£6,000
7	£7,000
8	£8,000
9	£9,000
10	£10,000
Each subsequent day	£10,000.

**Triggering events: notification requirements**

16.—(1) If a triggering event occurs in relation to a Master Trust scheme, the trustees must notify the employers of the following matters—

- (a) the nature of the triggering event;
- (b) that the trustees—
  - (i) will submit an implementation strategy to the Regulator by the date specified in regulation 17, and

- (ii) will make the implementation strategy available to the employers on request after it has been approved by the Regulator;
  - (c) the timetable for future communications with the employers.
- (2) Notifications under section 22 of the Act must be given before the end of—
- (a) seven days (in the case of notifications to the Regulator), or
  - (b) fourteen days (in the case of notifications to employers),
- beginning with the date on which the triggering event occurred.

### **Implementation strategy: approval**

17. Where trustees are required to submit an implementation strategy to the Regulator for approval, it must be submitted before the end of the 28 days beginning with the date on which—

- (a) the decision to withdraw authorisation has become final, in the case of a triggering event within item 1, 2 or 2A(a) of the table in section 21(6) of the Act; or
- (b) the triggering event occurs, in the case of a triggering event within any other item of the table in section 21(6) of the Act.

### **Implementation strategy: administration charges**

18.—(1) The levels which are to be set out in the section relating to administration charges in the implementation strategy (“fixed charge levels”) must be set out and calculated using the following method.

(2) Where the triggering event period is more or less than a full year, the fixed charge levels apply on a pro rata basis.

(3) The method comprises the steps in paragraphs (4), (5) and (6).

(4) The first step is for the trustees to set out the levels of administration charges in paragraph (7) for the scheme year in which the triggering event occurred.

(5) The second step is for the trustees to set out the levels of administration charges in paragraph (7) for the scheme year preceding the one in which the triggering event occurred.

(6) The third step is for the trustees to—

- (a) compare each level from the set of levels for the scheme year in paragraph (4) with the corresponding level from the set of levels for the scheme year in paragraph (5), and
- (b) take the lower of the two levels as the fixed charge level.

(7) For the scheme year under paragraphs (4) or (5), the trustees must set out all levels of administration charges for each charge structure, including any discounted levels—

- (a) for each arrangement, including the default arrangement, and any different levels in relation to any one arrangement;
- (b) for any additional charges, including the basis for any such charge;
- (c) for any third-party charges, including the basis for any such charge;
- (d) for any other type of administration charge in the scheme, including the basis for any such charge.

(8) Where applicable, the levels in paragraph (7) must be set out on an annualised basis.

(9) Where there is a discounted level, the basis for the lower level must also be set out.

### **Implementation strategy: content**

19.—(1) An implementation strategy must contain—

- 
- (a) Item 2A of the table is substituted for item 2 by paragraph 10(c) of Schedule 2 to the Act in respect of Master Trust schemes that were in operation before the date on which section 3 of the Act came into force.

- (a) details of—
    - (i) the main decisions and actions that will be taken, in relation to the continuity option being pursued, to address the triggering event that has occurred,
    - (ii) the person responsible for taking them, and
    - (iii) the timescales for taking them;
  - (b) a communications plan setting out to employers and members—
    - (i) the continuity option being pursued, and
    - (ii) key milestones and when they were achieved;
  - (c) a plan setting out how members' assets are to be transferred (if applicable);
  - (d) a plan setting out how the integrity of members' records will be maintained during the triggering event period;
  - (e) a plan setting out how assets held at scheme level are to be reconciled with assets held at member level;
  - (f) details of how the trustees will to comply with any legal requirements and meet any legal costs arising from the triggering event that has occurred and the continuity option being pursued;
  - (g) details of how scheme investments will be managed during the triggering event period;
  - (h) a plan for dealing with any outstanding contributions due from employers and members;
  - (i) details of how the scheme's administrative services will continue during the triggering event period and how they will implement the continuity option being pursued;
  - (j) details of how service providers are to be retained and paid during the triggering event period;
  - (k) details of how carrying out the steps identified in the implementation strategy is to be funded, with particular reference to the continuity option being pursued.
- (2) An implementation strategy must be prepared—
- (a) in writing,
  - (b) in the format set out in a Code, and
  - (c) in accordance with any further requirements set out in a Code.

(3) After approval by the Regulator, the implementation strategy must be made available to the employers within the seven days beginning with the date on which the Regulator notifies the trustees that the implementation strategy is approved.

### **Continuity option 1: transfer out and winding up**

**20.** Schedule 5 applies when the trustees of a Master Trust scheme—

- (a) are required, or decide, to pursue continuity option 1; and
- (b) propose to transfer members' accrued rights and benefits under the scheme.

### **Continuity option 2: resolving triggering event**

**21.** For the purposes of section 25(4) of the Act (or, where applicable, of section 25(4)(d) as substituted by paragraph 5(c) of Schedule 2 to the Act), the notification must be given before the end of the 14 days beginning with the date on which the triggering event was, in the trustees' opinion, resolved.

### **Periodic reporting requirement**

**22.—(1)** For the purposes of section 30(2) of the Act, the first report must be submitted before the end of the 14 days beginning with the date on which the Regulator notifies the trustees that the implementation strategy is approved.

(2) For the purposes of section 30(4)(b) of the Act, periodic reports must record decisions about the receiving scheme.

(3) The following information is specified for the purposes of section 30(4)(c) of the Act—

- (a) if the person preparing the periodic report is not an independent trustee appointed pursuant to section 23(1) of the 1995 Act (power to appoint independent trustees), the name and address of that person;
- (b) if an actuary is appointed under section 47(1)(b) of the 1995 Act (professional advisers), the name and address of the actuary;
- (c) a statement as to whether any of the scheme’s administrative services are being carried out by a person other than the trustees or managers<sup>(a)</sup>, including the name and address of that person;
- (d) the timescales for completing the steps identified in the implementation strategy;
- (e) details of whether any particular issues are affecting the trustees’ ability to pursue or complete the steps identified in the implementation strategy.

### **Fraud compensation**

**23.**—(1) This paragraph applies to a scheme when all the following conditions are met—

- (a) the scheme has been authorised by the Regulator;
- (b) there are one or more scheme funders and a triggering event within item 4 or 5 of the table in section 21(6) of the Act has occurred in relation to every scheme funder;
- (c) the scheme is pursuing continuity option 1; and
- (d) the trustees have submitted the implementation strategy to the Regulator.

(2) Where paragraph (1) applies, the following enactments have effect in relation to the scheme with the following modifications—

- (a) in the 2004 Act, omit—
  - (i) section 182(1)(c), (2) to (4), 6(a), (8) and (9) (insolvency of employers);
  - (ii) section 182(10) (definition of “relevant event”);
  - (iii) section 183 (board’s duties where employer unlikely to continue as a going concern);
  - (iv) section 185(5)(d) (board’s duty to give notice to the insolvency practitioner or the employer);
- (b) in the Occupational Pension Schemes (Fraud Compensation Payments and Miscellaneous Amendments) Regulations 2005<sup>(b)</sup>—
  - (i) omit regulation 2(1)(ka);
  - (ii) in regulation 5(3)—
    - (aa) in sub-paragraph (c), for “employer” substitute “scheme funder”;
    - (bb) for sub-paragraph (e), substitute “the date the triggering event occurred”;
- (c) in the Occupational Pension Schemes (Fraud Compensation Levy) Regulations 2006<sup>(c)</sup>—
  - (i) in regulation 3(3)(b), after “member” insert “subject to paragraph (3A)”;
  - (ii) after paragraph (3) insert—

“(3A) In the case of a member of a scheme which is authorised under the Pension Schemes Act 2017<sup>(d)</sup>, the levy payable shall not exceed 30 pence per member.”.

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(a) “Managers” is defined in section 124(1) of the 1995 Act.

(b) S.I. 2005/2184.

(c) S.I. 2006/558.

(d) 2017 c.17.

## Pause orders

**24.—**(1) Where a pause order containing a direction under section 31(5)(e) of the Act has effect in respect of a Master Trust scheme, section 99(2) of the 1993 Act (trustees' duties after exercise of option) has effect in relation to that scheme as if for paragraph (b) there were substituted—

“(b) in the case of an application that relates to money purchase benefits, by the later of—

- (i) the last day of the six months beginning with the date of the application, or
- (ii) where a pause order made under section 31(5) of the Pension Schemes Act 2017(a) and containing a direction under section 31(5)(e) of that Act has effect in relation to that scheme before the last day of the period referred to in sub-paragraph (i), the last day of the three months beginning with the date on which the pause order ceases to have effect.”.

(2) Regulation 13 of the Occupational Pension Schemes (Transfer Values) Regulations 1996(b) (extension of time limits for payment of cash equivalents) is amended as follows—

- (a) at the end of paragraph (ba) omit “or”;
- (b) after paragraph (ba) insert—

“(bb) the scheme is, or within the three months immediately before the end of that period has been, the subject of a pause order under section 31(5) of the Pension Schemes Act 2017(c) which contains a direction under section 31(5)(e) of that Act (no transfers etc of members' rights); or”;

- (c) in paragraph (c), for “(b) or (ba)” substitute “(b), (ba) or (bb)”.

## Application of Part 1 of the Pension Schemes Act 2017

**25.—**(1) The provisions of Part 1 of the Act do not apply to schemes which have all the following characteristics—

- (a) on 20 October 2016, the scheme—
  - (i) was providing non-money purchase benefits (whether alone or in conjunction with other benefits), and
  - (ii) was used, or intended to be used, by two or more employers;
- (b) membership of the scheme is limited to members, or former members, of a pension scheme established by statute for a specific occupational group, industry or profession;
- (c) the scheme ceased to accept new members on a date which is not later than six months after the commencement date.

(2) In paragraph (1)(c)—

- (a) “commencement date” means the date on which section 3 of the Act (prohibition on operating scheme unless authorised) came into force, and
- (b) a “new member” includes a person who was formerly a member of the scheme by virtue of a relationship with a previous employer, except where that person's employment contract was transferred to his or her current employer as a result of a relevant transfer as defined in regulation 3 of TUPE(d).

**26.—**(1) The provisions of Part 1 of the Act do not apply to pension schemes in respect of which one or more of the following paragraphs apply.

(2) This paragraph applies where—

- (a) the scheme has only one member,

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(a) 2017 c.17.

(b) S.I. 1996/1847.

(c) 2017 c.17.

(d) Regulation 3 was amended by S.I. 2014/16.

- (b) the member is employed by two or more employers which use the scheme, and
  - (c) none of those employers is connected with another.
- (3) This paragraph applies where—
- (a) the scheme is a relevant small scheme as defined in regulation 1(2ZB) of the Administration Regulations<sup>(a)</sup>, and
  - (b) 50% or more of the trustees are members of the scheme.
- (4) This paragraph applies where the only money purchase benefits provided by the scheme are attributable to one or both of the following—
- (a) additional voluntary contributions made by or on behalf of non-money purchase members of the scheme, in respect of a period when they were active members of the scheme;
  - (b) money purchase rights or benefits transferred from other pension schemes in respect of persons who, at the time of the transfer, were active non-money purchase members of the receiving scheme, where those rights or benefits are closed to future accrual.
- 27.—**(1) This paragraph applies to a scheme which—
- (a) was established before the commencement date,
  - (b) provides both money purchase and non-money purchase benefits, and
  - (c) has more than one scheme funder, each of which is a participating employer.
- (2) Where paragraph (1) applies to a scheme, Part 1 of the Act has effect in relation to that scheme as if the following provisions were omitted—
- (a) section 4(2)(b) (requirement to submit the latest accounts of each scheme funder);
  - (b) section 7(2)(f) (requirement for the Regulator to assess whether the scheme funder is a fit and proper person);
  - (c) the words “each scheme funder” in section 9(5) (requirement to approve the business plan and any revisions to it);
  - (d) section 10 (scheme funder requirements);
  - (e) the words “each scheme funder” in section 12(8) (requirement to approve the continuity strategy and any revisions to it);
  - (f) section 14(3) and (4) (requirement for the scheme funder to submit accounts to the Regulator);
  - (g) section 16(2)(e) (duty on a scheme funder to notify the Regulator of significant events);
  - (h) the words “scheme funders and” in paragraph 4(2)(b) of Schedule 1 (requirement for the Regulator to notify the scheme funders that an action that contravenes a pause order has been validated).
- 28.—**(1) Two or more pension schemes are treated as a single Master Trust scheme for the purposes of Part 1 of the Act when paragraph (2) or (3) applies.
- (2) This paragraph applies where—
- (a) none of the schemes is a Master Trust scheme;
  - (b) each scheme provides money purchase benefits (whether alone or in conjunction with other benefits);
  - (c) each scheme is used by one employer, or by two or more employers which are connected with each other; and
  - (d) the schemes are under common control.
- (3) This paragraph applies where—
- (a) one of the schemes is a Master Trust scheme;

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<sup>(a)</sup> Regulation 1(2ZB) was inserted by S.I. 2015/879.

- (b) the other schemes are primarily promoted to current or former members of that scheme for the purpose of providing decumulation options; and
  - (c) all the schemes are under common control.
- (4) For the purposes of this regulation, schemes are under common control where—
- (a) they have three of the following persons in common—
    - (i) a scheme funder;
    - (ii) a scheme strategist;
    - (iii) a scheme promoter;
    - (iv) a majority of trustees; or
  - (b) they have two of the persons listed in sub-paragraph (a) in common and the schemes are—
    - (i) provided by a common service provider, or
    - (ii) subject to the same rules.

#### **Amendment of the Pensions Act 1995**

**29.** In section 41 of the 1995 Act (provision of documents for members), after subsection (4)(d) insert—

“(e) the Pensions Regulator.”.

#### **Modification of the Pensions Act 2014**

**30.** In paragraph 1 of Schedule 18 to the 2014 Act, the definition of “administration charge” applies for the purposes of the Act as if it did not include—

- (a) costs incurred as a result of buying, selling, lending or borrowing investments;
- (b) where a court order provides for the recovery by the trustees or manager of costs incurred in complying with the order, the amount of those costs;
- (c) charges permitted by regulations made under section 24 or 41 of the Welfare Reform and Pensions Act 1999<sup>(a)</sup> (charges in respect of pension sharing costs);
- (d) costs solely associated with the provision of death benefits.

Signed by authority of the Secretary of State for Work and Pensions

*Guy Opperman*  
Parliamentary Under Secretary of State  
Department for Work and Pensions

Date

## SCHEDULE 1

Regulation 5

### FIT AND PROPER PERSONS REQUIREMENT

**1.** The Regulator must take account of the following matters when assessing whether a person is fit and proper to act in a capacity mentioned in section 7(2) or (3) of the Act—

- (a) whether, in England and Wales, the person has—
  - (i) made any arrangements with his or her creditors<sup>(b)</sup>;

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<sup>(a)</sup> 1999 c. 30.

<sup>(b)</sup> “Creditor” is defined in section 383(1) of the Insolvency Act.



- (ii) applied to an adjudicator for a bankruptcy order(a);
- (iii) had a bankruptcy petition(b) served on him or her;
- (iv) been adjudged bankrupt(c);
- (v) been the subject of a bankruptcy restrictions order (including an interim bankruptcy restrictions order)(d); or
- (vi) offered a bankruptcy restrictions undertaking(e);
- (b) whether, in Scotland, the person has—
  - (i) made any arrangements with his or her creditors;
  - (ii) made a debtor application to the Accountant in Bankruptcy for sequestration(f);
  - (iii) had a petition for sequestration served on him or her;
  - (iv) had an award of sequestration(g) made against him or her; or
  - (v) been the subject of a bankruptcy restrictions order (including an interim bankruptcy restrictions order)(h);
- (c) whether the person has been a director(i) or partner of, or concerned in the management of, a business that has gone into insolvency, liquidation or administration while the person was concerned with that business or within one year of their being so concerned;
- (d) whether the person has been convicted of any criminal offence, excluding convictions that are spent within the meaning of the Rehabilitation of Offenders Act 1974(j) and any offences that were dealt with by way of a fixed penalty notice;
- (e) whether the person has been the subject of any adverse finding or any settlement in civil proceedings, particularly in connection with investment or other financial business, misconduct, fraud or the formation or management of a body corporate;
- (f) whether the person has been subject to a disqualification order under section 1(1) of the Company Directors Disqualification Act 1986(k);
- (g) the person’s credit history;
- (h) whether the person has contravened any of the requirements and standards of—
  - (i) a regulator, including the Regulator, or
  - (ii) the registrar of companies(l);
- (i) any information received from—
  - (i) a regulator, or
  - (ii) the registrar of companies;
- (j) the person’s conduct in relation to, or arising out of or in connection with, any work he or she has carried out in one or more of the capacities specified in section 7(2) or (3) of the Act—
  - (i) in the five years before the date of the scheme’s application for authorisation; and

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(a) Bankruptcy applications to an adjudicator are made pursuant to section 263, and “adjudicator” and “bankruptcy order” are defined in sections 385(2) and 381(2) respectively, of the Insolvency Act.

(b) “Bankruptcy petition” is defined in section 381(3) of the Insolvency Act.

(c) “Bankrupt” is defined in section 381(1) of the Insolvency Act.

(d) A “bankruptcy restrictions order” and an “interim bankruptcy restrictions order” are made under paragraphs 1 and 5 respectively of Schedule 4A to the Insolvency Act.

(e) A “bankruptcy restrictions undertaking” is made under paragraph 7 of Schedule 4A to the Insolvency Act.

(f) “Debtor” and “debtor application” are defined in section 228(1), “the Accountant in Bankruptcy” in section 199(1), and “sequestration” in section 1 of the Bankruptcy Act.

(g) An award of sequestration is made in accordance with section 22 of the Bankruptcy Act.

(h) “Bankruptcy restrictions order” and “interim bankruptcy restrictions order” are defined in sections 155(1) and 160 respectively of the Bankruptcy Act.

(i) “Director” is defined in section 250 of the Companies Act.

(j) 1974 c. 53.

(k) 1986 c. 46.

(l) “Registrar of companies” is defined in section 1060(3) of the Companies Act.

- (ii) at any time since the date the scheme was authorised;
  - (k) whether the person has been prohibited from being a trustee of any trust, including any trust scheme<sup>(a)</sup>, under—
    - (i) section 3 of the 1995 Act (prohibition orders), or
    - (ii) any other legislation; and
  - (l) whether the person has been disqualified from being a trustee of any trust, including any trust scheme, under—
    - (i) section 29 of the 1995 Act (persons disqualified from being trustees), or
    - (ii) any other legislation.
2. For the purposes of section 7(3)(b) of the Act, the Regulator may assess whether a person who exercises a core function in respect of, or on behalf of, a person mentioned in section 7(2) or (3) of the Act is fit and proper to act in such a capacity.
3. For the purposes of section 7(4)(a) of the Act, the Regulator must take into account—
- (a) whether a person has successfully completed the Regulator’s on-line learning program known as the Toolkit, or an equivalent learning program, in assessing whether he or she is fit and proper to act in the capacity of a trustee of the scheme;
  - (b) the collective expertise and experience of persons acting together in the capacity of trustees, in assessing whether they are fit and proper to act in that capacity;
  - (c) a person’s relevant experience and professional competence, in assessing whether he or she is fit and proper to act in the capacity of a scheme strategist;
  - (d) the collective expertise and experience of persons acting together in the capacity of a scheme strategist, in assessing whether they are fit and proper to act in that capacity.

## SCHEDULE 2

Regulation 6

### FINANCIAL SUSTAINABILITY REQUIREMENT

1. The Regulator must take account of the following matters in deciding whether it is satisfied, for the purposes of section 8(2)(a) of the Act, that the business strategy relating to a Master Trust scheme is sound—
- (a) the scheme’s corporate objectives, including delivery milestones, and its target market, including any plans to acquire or merge with other schemes;
  - (b) the scheme’s strategy for achieving its corporate objectives;
  - (c) the robustness and prudence of the assumptions in the scheme’s business plan about membership, contributions, income, and costs;
  - (d) the scheme’s requirements for planned expenditure, its purpose, and how it will be funded;
  - (e) the terms, security and affordability of loans and other funding provided to the scheme, and the identity of each associated lender;
  - (f) information about the market in which the scheme operates or is to operate;
  - (g) the experience and professional competence of the individuals involved in running the scheme;
  - (h) any revisions to the business plan as a result of a significant change of information;
  - (i) whether the scheme has a scheme funder which is not a participating employer in the scheme;

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<sup>(a)</sup> “Trust scheme” is defined in section 124(1) of the 1995 Act.

- (j) where the scheme has a scheme funder which is engaged in activities which do not relate directly to the scheme, the scheme's position in any corporate group and any associated impact on the scheme's financial sustainability;
- (k) where the scheme has no scheme funder, the scheme's strategy for meeting the costs mentioned in section 8(3) of the Act;
- (l) any provision made by the trustees and each scheme funder to fund contingent liabilities in respect of the scheme.

**2.** The Regulator must take account of the following matters in deciding whether it is satisfied, for the purposes of section 8(2)(b) of the Act, that a Master Trust scheme has sufficient financial resources to meet the costs mentioned in section 8(3)(a) of the Act—

- (a) the scheme's corporate structure and business model;
- (b) the scheme's sources of income;
- (c) the estimated cost of setting up and running the scheme;
- (d) the trustees' strategy for meeting any shortfall between its income and the costs mentioned in section 8(3)(a) of the Act;
- (e) where the scheme has one or more scheme funders that is an employer, the financial position of each scheme funder that the Regulator considers relevant;
- (f) the security and enforceability of loans and other funding commitments provided to the trustees in respect of the scheme;
- (g) the scheme financing arrangements mentioned in the business plan and entered into between the trustees and each scheme funder that the Regulator considers relevant.

**3.** The Regulator must take account of the following matters in deciding whether it is satisfied, for the purposes of section 8(2)(b) of the Act, that a Master Trust scheme has sufficient financial resources to meet the costs mentioned in section 8(3)(b) of the Act—

- (a) the extent and manner in which the trustees have made provision to meet those costs;
- (b) the amount and classes of assets held by, or available to, the trustees to meet those costs;
- (c) the robustness and prudence of the estimates and strategy in the scheme's business plan;
- (d) the amount of the scheme's assets under management or administration;
- (e) the number of members and participating employers in the scheme;
- (f) whether the scheme rules impose liability for the costs of winding up the scheme, and if so the identity of those liable;
- (g) the alignment between the actions in the scheme's continuity strategy and the estimated cost of taking those actions as identified in the business plan;
- (h) any requirement imposed by a financial regulator for any scheme funder to hold prudential margins of capital;
- (i) any insurance held by the scheme, including any indemnity policy in relation to the trustees' legal costs;
- (j) the quality of the scheme's records and data;
- (k) whether the scheme requires, and has received, the sanction of the court under Part 7 of FSMA for any of its activities.

**4.** The Regulator must take account of the following information in deciding whether it is satisfied about the matters mentioned in section 8(2) of the Act—

- (a) the scheme's business plan, including any supporting documents and information;
- (b) the scheme's accounts;
- (c) the statement of investment principles prepared by the trustees in accordance with section 35 of the 1995 Act;

- (d) each scheme funder's accounts and any financial information provided under regulation 7;
- (e) other relevant documents set out in a Code.

5. A Master Trust scheme and each scheme funder must meet the following requirements in relation to the scheme's financing—

- (a) any assets held by the trustees or a scheme funder to meet the costs mentioned in section 8(3) of the Act must be—
  - (i) of the classes and in the proportions set out in a Code,
  - (ii) valued in accordance with any discounted rates set out in a Code, and
  - (iii) available to be used when the relevant cost falls due;
- (b) the scheme's trustees must have first call on the assets referred to in sub-paragraph (a);
- (c) any funding commitment made to the scheme by a scheme funder or an employer must be given in writing and duly executed by the party making the commitment;
- (d) where a scheme funder operates more than one Master Trust, the funds allocated to each scheme must be separately identified to the Regulator;
- (e) where the assets include cash in a greater proportion than that set out in a Code, the Regulator may require trustees to hold a proportion of the assets set out in a Code in a separate account kept with a deposit taker as defined in section 49(8A) of the 1995 Act.

6. (a) This paragraph applies in respect of a Master Trust scheme—

- (i) that was established before the commencement date,
- (ii) that provides both money purchase and non-money purchase benefits,
- (iii) that has financial resources that are insufficient to meet the costs mentioned in section 8(3) of the Act, and
- (iv) where employers are required to meet those costs.
- (b) Where this paragraph applies, the amount by which the scheme's financial resources are less than the costs mentioned in section 8(3) of the Act, as estimated in the business plan ("the shortfall") must be guaranteed from the following sources—
  - (i) as to no less than 25% of the shortfall, in the form of assets that are available to be used when the relevant cost falls due; and
  - (ii) as to a proportion of the shortfall determined by the Regulator, in the form of a binding guarantee from the participating employers; and
  - (iii) as to a proportion of the shortfall determined by the Regulator, in the form of assets that are available for use within a period agreed by the Regulator.

## SCHEDULE 3

Regulation 7(2)

### INFORMATION TO BE INCLUDED IN THE BUSINESS PLAN

#### *General*

1. The effective date of the business plan.
2. The period to which the business plan relates, to be no less than three years and no more than five years starting with the effective date (the "plan period").
3. In each case where this Schedule requires estimates to be provided—
  - (a) the assumptions used in reaching those estimates, and
  - (b) the circumstances in which, and the extent to which, the scheme's actual costs, income and scale may vary from the estimates.

4. The name of the person who prepared the business plan.
5. A statement, signed by the trustees, each scheme funder and, if different, each scheme strategist, confirming—
  - (a) that each scheme funder (or, in the absence of a scheme funder, the trustees) considers the business plan to give a true and fair representation of the matters to which it relates, and
  - (b) that the business plan, and any revisions to it, have been approved by the trustees, each scheme funder and, if different, each scheme strategist.

*Information about the Master Trust scheme*

6. The registered name of the scheme.
7. If different, any trading or brand name under which the scheme is promoted or marketed.
8. The date when the scheme was established.
9. The address of the scheme's registered office.
10. The name of—
  - (a) each scheme trustee,
  - (b) each scheme funder, and
  - (c) each scheme strategist.
11. The name and address of any scheme administrator.
12. The number of participating employers at the effective date.
13. The number of members at the effective date, broken down into active members, deferred members and pensioners.
14. The numbers of members joining, transferring from and leaving the scheme in the three years ending with the effective date.
15. The scheme's pension registry number.
16. The scheme's HMRC reference number.

*Information to be provided by schemes which provide non-money purchase benefits*

17. Whether the non-money purchase section of the scheme is open or closed to new members and accruals.
18. The benefits offered by the scheme, including non-money purchase benefits.
19. How any debt for which the employers may be liable under section 75 of the 1995 Act (deficiencies in assets) is to be apportioned in accordance with section 75A of that Act (deficiencies in assets: multi-employer schemes).

*The scheme's objectives and its strategy for meeting them*

20. The type of benefits offered by the scheme.
21. Whether the scheme is used for decumulation and, if so, the decumulation options offered to members.
22. Whether the scheme is, or is proposed to be, used for automatic enrolment.
23. The scheme's corporate objectives and target market, including delivery milestones and any plans to acquire or merge with other schemes.

**24.** The scheme's strategy for achieving its corporate objectives.

**25.** The market strategy, if one or more sections of the scheme are promoted or marketed to employers by commercial or non-commercial partners under a brand name that is different from the registered name.

**26.** The planned scale of the scheme, including the delivery milestones, assumptions, key dependencies and business risk associated with—

- (a) the number of members accruing money purchase benefits;
- (b) the income from contributions paid in respect of money purchase benefits;
- (c) the assets under management or administration in respect of money purchase benefits;
- (d) the income from charges on assets under management or administration in respect of money purchase benefits;
- (e) the income from charges paid by participating employers;
- (f) the number of participating employers offering money purchase benefits.

**27.** Whether the scheme requires, and has received, the sanction of the court under Part 7 of FSMA for any of its activities.

*Costs in relation to money purchase benefits.*

**28.** The estimated cost of setting up the Master Trust for schemes or sections of schemes established on or after the commencement date.

**29.** The estimated cost of running the Master Trust for each year of the plan period, including details of the financial and contractual arrangements between the trustees and any scheme funder, and of any contract between any of them and any person providing services to the scheme.

**30.** The estimated costs arising from the scheme's compliance with the duties in its continuity strategy, including—

- (a) a breakdown of the activities required to discharge the duties in the continuity strategy;
- (b) an estimate of the compliance cost for each activity identified;
- (c) the amount of assets required for the scheme to meet those costs.

**31.** The cost of running the scheme for the period agreed by the Regulator under section 8(3)(b)(ii) of the Act, including—

- (a) an estimate of the length of time needed to run the scheme in accordance with its continuity strategy after a triggering event;
- (b) an estimate of the monthly gross cash cost of running the scheme;
- (c) an estimate of the gross cash cost of running the scheme for six months (or, if longer, the period set out in the continuity strategy) after a triggering event;
- (d) the assumptions used in those estimates.

**32.** In respect of the assets held by the trustees or scheme funder to meet the costs in paragraphs 28 to 31—

- (a) a description, including values, of the assets at the effective date;
- (b) the percentage of the scheme's estimated costs to be met by the assets.

**33.** Details of the following costs incurred by the trustees, and the strategy for ensuring that the scheme's assets are sufficiently liquid to meet them as they fall due—

- (a) the estimated cost of the duties arising from the scheme's continuity strategy during a triggering event period;
- (b) the estimated cost of running the scheme after a triggering event.

**34.** Any provision made by the trustees and each scheme funder to fund contingent liabilities in respect of the scheme.

*Income in relation to money purchase benefits*

**35.** The sources of income of the scheme and each scheme funder (to the extent that the latter's income is available to the scheme), including the estimated income from each source for each year of the plan period.

**36.** The strategy for meeting any shortfall between the scheme's income and the costs referred to in paragraphs 28 to 31, such as an escrow agreement, bank guarantee, letter of credit or insurance policy.

**37.** Details of the expected cash flows into and out of the scheme and each scheme funder for each year of the plan period, to the extent that those cash flows affect the financing of the scheme.

**38.** The strategy for maintaining the short-term solvency of the business operations supporting the scheme, such as the scheme's ability to pay for services and loan interest as those liabilities fall due.

**39.** Details of any existing or expected borrowing by the trustees and each scheme funder, including the identity of the lender, the loan amount, the interest rate, the repayment date, and any security taken.

**40.** The text of any provision in the scheme's trust deed and rules which provides that trustees or employers must pay the costs referred to in paragraphs 28 to 31.

**41.** The text of any provision in the scheme's trust deed and rules which empowers trustees to change the rule about who is liable to meet the costs of the scheme.

*Profit and loss in relation to money purchase benefits.*

**42.** A model estimate of the profit or loss which the scheme's commercial operations are expected to yield for each year of the plan period, and by whom the profit or loss will be realised.

**43.** Where a loss is predicted, whether the person incurring that loss will experience a negative cash flow and how this will be managed.

**44.** The date at which the scheme is expected to generate a cash reserve after having met the costs referred to in section 8(3) of the Act.

**45.** Where the scheme is generating a cash reserve, an explanation of how the excess funds will be used.

*Information about scheme funders*

**46.** If a scheme funder has a single shareholder or is, in the Regulator's opinion, reliant on a single individual, details of the succession planning in the event that the shareholder or single individual ceases to be connected to the scheme funder.

**47.** Where section 10(3) of the Act applies to a scheme funder, a description of those of its activities which do not relate directly to the scheme.

**48.** Whether a scheme funder is regulated by a financial regulator other than the Regulator and, if so, the identity of that regulator.

**49.** If no scheme funder has been identified, the scheme's strategy for meeting the costs in paragraphs 28 to 31 where the scheme's income is not sufficient to meet those costs.

*Information about the scheme strategist*

**50.** A declaration as to the overall competence of the scheme strategist, with particular reference to the scheme strategist's experience, knowledge, professional qualifications, and plans to improve that competence by way of continuous professional development or otherwise.

*Information following a triggering event*

**51.** Where a triggering event has reduced the value of the assets available to the scheme, the plans and timetable for restoring the scheme's assets to a level likely to satisfy the Regulator that the scheme is financially sustainable.

**SCHEDULE 4** Regulation 10  
**SYSTEMS AND PROCESSES REQUIREMENTS**

*Features and functionality of IT systems*

- 1.** The IT systems have the capacity and capability—
  - (a) to process core financial transactions securely and accurately, including those described in regulation 24(2) of the Administration Regulations<sup>(a)</sup>;
  - (b) to make and receive electronic payments;
  - (c) to accept contributions from multiple sources;
  - (d) to exchange data with other IT systems, including those used by employers and service providers;
  - (e) to reconcile transaction data and produce reports on transactions so that activities can be monitored and transaction errors rectified promptly;
  - (f) to identify and categorise transactions and payments for authorisation and countersigning at the correct level;
  - (g) to be updated to reflect changes in the legal requirements affecting transactions, payments and records, including changes in tax thresholds, the annual allowance and the lifetime allowance.

*Standards required of IT systems*

- 2.** The IT systems—
  - (a) are of sufficient standard to allow the scheme to meet its objectives as set out in the business plan;
  - (b) are capable of being upgraded to reflect changes in required transactions and capacity;
  - (c) have restricted physical and electronic access, with firewalls and other appropriate protection against viruses and other threats;
  - (d) have a back-up system which allows data to be recovered if the main system fails.

*Maintenance of IT systems*

- 3.** The IT systems—
  - (a) are maintained at regular intervals, either automatically or by a person with the appropriate skills and experience;

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(a) Regulation 24 was inserted by S.I. 2015/879.



- (b) are backed up and updated regularly, including the maintenance of firewalls and other preventative systems;
- (c) are monitored to ensure that their capacity is sufficient for the scale of the scheme.

*Member records*

4. The scheme's systems and processes ensure that—
- (a) there is an accurate record of each member's details, including the contribution in respect of each active member for each pay period, on the relevant IT system;
  - (b) any unpaid contribution in respect of active members can be explained to the Regulator and remedied;
  - (c) members' records are reviewed regularly for completeness and accuracy and updated promptly with changes of information;
  - (d) errors in members' records can be identified and addressed, and any financial impact of such errors on members can be rectified;
  - (e) records are maintained in respect of each member in decumulation for each financial year including—
    - (i) the method of decumulation,
    - (ii) the total amount withdrawn and the amount which was free from income tax, and
    - (iii) the amount of pension income received.

*Trustees and others*

5. There are systems and processes—
- (a) for the fair and transparent recruitment, appointment, resignation and removal of trustees;
  - (b) for determining and recording that persons involved in the scheme in the capacities listed in section 7(2) and (3) of the Act are, and remain, fit and proper;
  - (c) for monitoring and recording trustees' learning and development, and for ensuring that it is appropriate to the scheme's activities;
  - (d) in relation to meetings of trustees, including—
    - (i) the intervals at which meetings of trustees are to take place;
    - (ii) the number of trustees required to authorise decisions on risk management, resource planning and investments;
    - (iii) the process for managing the scheme's business between meetings of the trustees;
  - (e) for recording, maintaining and managing all documents relating to the trustees in an accessible, intelligible and durable medium;
  - (f) for managing the scheme's business if one or more trustees are absent.

*Contracts and service providers*

6. There are systems and processes—
- (a) for ensuring that trustees and the scheme strategist are properly informed about service providers, and appropriately involved in decisions about them;
  - (b) for establishing and recording that service providers are, and remain, fit and proper;
  - (c) for informing the trustees about the appointment, removal, roles and responsibilities of service providers;
  - (d) for informing the trustees of—
    - (i) any failure by service providers to deliver services;
    - (ii) any actions or omissions by service providers which may prejudice—

- (aa) the effective running of the scheme, or
- (bb) the ability to meet the objectives set out in the scheme's business plan;
- (e) for recording, maintaining and managing all documents relating to service providers in an accessible, intelligible and durable medium.

*Risk management*

7. There are systems and processes—
- (a) for identifying, managing and monitoring operational, financial, regulatory and compliance risks;
  - (b) for recording and documenting risks in an appropriate and durable format;
  - (c) for ensuring that risks are managed in a timely manner by the appropriate persons;
  - (d) for informing the trustees about risks that have arisen and the steps being taken to manage them.

*Security*

8. There are systems and processes—
- (a) for preventing unauthorised access to sensitive records and infrastructure, including those containing member information, financial details or investment information;
  - (b) for monitoring and recording electronic and physical access to sensitive records and infrastructure;
  - (c) for ensuring the secure transfer of physical and electronic data and the secure conduct of transactions.

*Resource planning*

9. There are processes for ensuring that there are sufficient human resources with the skills, qualifications and capacity necessary to comply with the requirements of Part 1 of the Act and, in particular—
- (a) to run and maintain the scheme's systems and processes,
  - (b) to meet the objectives in the scheme's business plan, and
  - (c) to send appropriate and timely notifications, information and documents to the Regulator, including information about the scheme's systems and processes.

*Investments*

10. There are systems and processes—
- (a) for investing contributions in a timely manner in accordance with members' instructions or, in the absence of instructions, with the scheme's default investment policy;
  - (b) for recording investment decisions and the associated instructions from members, or confirmation that a decision has been made without instructions;
  - (c) for managing the scheme's interaction with investment managers, and recording key decisions;
  - (d) for recording, managing and reviewing the risks associated with investment decisions;
  - (e) for informing trustees about questions, decisions and risks relating to investments;
  - (f) for ensuring that members receive timely and appropriate investment information and prompt replies to their enquiries and correspondence.

*Member communication*

11. There are systems and processes—

- (a) for facilitating members' engagement with the scheme;
- (b) for bringing members' views to the attention of the trustees;
- (c) for directing members' complaints to the correct channels for resolution.

SCHEDULE 5

Regulation 20

CONTINUITY OPTION 1: TRANSFER OUT AND WINDING UP

*Interpretation*

1.—(1) In this Schedule—

“applicable scheme” means whichever of the employer default scheme or the trustee default scheme was included in the notice sent to members under paragraph 6(3);

“employer default scheme” means the alternative scheme nominated by an employer in accordance with paragraph 5(1);

“receiving scheme” means the trustee default scheme, the employer default scheme or an alternative scheme to which member benefits are to be transferred;

“transfer date” means the date on which the accrued rights and benefits of members of the transferring scheme are transferred to a receiving scheme;

“transferring scheme” means the Master Trust scheme referred to in regulation 20;

“trustee default scheme” means the pension scheme identified by the trustees under section 24(1)(a) of the 2017 Act.

(2) Notices given under this Schedule must be sent—

- (a) in writing, by post or email,
- (b) to the addressee's last known address, and
- (c) in accordance with any further requirements set out in a Code.

(3) For the purposes of sub-paragraph (2), a person's email address is—

- (a) any email address published for the time being by that person as an address for contacting that person; or
- (b) if there is no such published address, any email address by means of which the sender reasonably believes that the notice will come to the attention of that person or (where that person is a body corporate) any director or other officer of that body corporate.

(4) A notice under this Schedule sent to a person by email is taken to have been received by that person 48 hours after it is sent.

*Calculation of cash equivalent*

2.—(1) In this Schedule, a “cash equivalent” of any benefits to which a member is entitled is the realisable value of those benefits at the date of calculation.

(2) A cash equivalent must be calculated—

- (a) in accordance with these Regulations and with the rules of the scheme to which it relates;
- (b) in a manner which is approved by the trustees;
- (c) as an estimate at the date when the members are informed of the transfer date under paragraph 9; and
- (d) as a final figure as at the transfer date.

(3) In calculating a cash equivalent, account must be taken of any surrender, commutation or forfeiture of the whole or part of a member's pension.

#### *Trustees' powers*

3.—(1) The trustees of a scheme that is pursuing continuity option 1 may provide—

- (a) for a member's accrued rights and benefits (including any transfer credits allowed under the scheme) to be transferred, or
- (b) for a transfer payment in respect of a member's rights to be made,

without the member's consent to a trustee default scheme or an employer default scheme in accordance with this Schedule with a view to acquiring transfer credits for the member under the other scheme.

(2) A transfer payment made under sub-paragraph (1)(b) must be of an amount at least equal to the cash equivalent of the member's rights under the scheme, calculated in accordance with paragraph 2.

(3) The trustees of a scheme that is pursuing continuity option 1 may, where appropriate, decline a member's request for a drawdown pension (as defined in paragraph 4 of Schedule 28 to the Finance Act 2004(a)) in the transferring scheme.

#### *Trustees' first notice to employers and members*

4.—(1) When the trustees have identified the trustee default scheme, they must send a notice to each participating employer and each member.

(2) A notice under this paragraph must be sent within 14 days beginning with—

- (a) the date on which the trustees identify the trustee default scheme, or
- (b) if later, the date on which the Regulator notifies the trustees that the implementation strategy has been approved.

(3) A notice sent to a member under this paragraph must include information about—

- (a) where the member can obtain guidance about the proposed transfer;
- (b) the member's right to choose whether his or her accrued rights and benefits in the transferring scheme are transferred to—
  - (i) a default scheme, or
  - (ii) an alternative scheme selected by the member;
- (c) the member's right to require the cash equivalent of his or her accrued rights and benefits to be used to buy one or more policies as set out in paragraph 7(1)(b); and
- (d) the timetable for future communication with the member.

(4) A notice sent to an employer under this paragraph must include information about—

- (a) the trustee default scheme, including its name, terms and conditions;
- (b) the date on which the transferring scheme will stop accepting contributions;
- (c) the employer's options for complying with its automatic enrolment duties when the transferring scheme has stopped accepting contributions;
- (d) where the employer can obtain guidance about the proposed transfer;
- (e) the employer's option to nominate an employer default scheme in respect of workers who are active members of the transferring scheme;
- (f) the fact that if the employer does not nominate an employer default scheme, active members will be transferred to the trustee default scheme; and
- (g) the timetable for future communication with the employer.

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(a) 2004 c. 12.

*Employer's response to trustees*

5.—(1) Each employer which receives a notice under paragraph 4 must inform the trustees of whether it accepts the choice of trustee default scheme in relation to members then employed by it, or opts to nominate an alternative scheme as the employer default scheme for those members.

(2) A notice to the trustees under this paragraph must be sent within ten weeks beginning with the date when the employer received the notice under paragraph 4.

(3) If the trustees receive no notice from an employer under this paragraph, the employer will be deemed to have accepted the trustee default scheme as the default scheme for members then employed by it.

*Trustees' second notice to members*

6.—(1) After the period allowed for employers to send notice to the trustees under paragraph 5, the trustees must send a second notice to each member of the transferring scheme.

(2) A notice under this paragraph must be sent within three months beginning with the day on which the trustees sent notice to members and employers under paragraph 4.

(3) A notice under this paragraph must contain information about—

- (a) the proposed transfer date;
- (b) if the member's employer has not nominated an employer default scheme—
  - (i) the fact that the member will be transferred to the trustee default scheme unless he or she specifies otherwise; and
  - (ii) the name, terms and conditions of—
    - (aa) the trustee default scheme, and
    - (bb) the default arrangement in that scheme;
- (c) if the member's employer has nominated an employer default scheme—
  - (i) the fact that the member will be transferred to the employer default scheme unless he or she specifies otherwise; and
  - (ii) the name, terms and conditions of—
    - (aa) the employer default scheme, and
    - (bb) the default arrangement in that scheme;
- (d) the member's ability to obtain information about arrangements from the applicable default scheme;
- (e) the fact that the member's funds will be allocated to the default arrangement unless he or she specifies otherwise;
- (f) where the member can obtain guidance about the proposed transfer;
- (g) the member's right to choose whether his or her accrued rights and benefits in the transferring scheme are transferred to—
  - (i) the applicable default scheme, or
  - (ii) an alternative scheme selected by the member;
- (h) the member's right to require the cash equivalent of his or her accrued rights and benefits to be used to buy one or more policies as set out in paragraph 7(1)(b);
- (i) the consequences for the member of his or her choice of receiving scheme, with particular reference to its effect on payment of contributions by the member's employer; and
- (j) the timetable for future communication with members.

*Member's notice to trustees*

7.—(1) A member who has received notice from the trustees under paragraph 6 may give notice to the trustees requiring them—

- (a) to transfer his or her accrued rights and benefits in the transferring scheme to—
  - (i) the applicable default scheme, or
  - (ii) an alternative scheme selected by the member; or
- (b) to use the cash equivalent of his or her accrued rights to buy one or more policies from one or more insurers authorised by the Financial Conduct Authority for carrying on long-term insurance business in the United Kingdom.

(2) A notice under this paragraph must be sent within three months beginning with the day when the member received notice from the trustees under paragraph 6 (“the option period”).

(3) The alternative scheme selected by the member must be—

- (a) a Master Trust scheme authorised under the Act, or
- (b) a personal pension scheme.

*Trustees' duty to transfer*

8.—(1) If the trustees receive notice from a member under paragraph 7, they must—

- (a) arrange for the member's accrued rights and benefits to be transferred, or the member's cash equivalent applied, as specified in the notice;
- (b) notify each member not yet receiving benefits under the transferring scheme of the value of the cash equivalent of his or her accrued rights; and
- (c) notify each member receiving benefits under the transferring scheme of the value of his or her remaining benefits.

(2) If the trustees do not receive notice from a member under paragraph 7, the member's accrued rights and benefits must be transferred to the applicable default scheme.

(3) A transfer under this paragraph must be made within three months beginning with the end of the option period.

*Notice of transfer date*

9. Not less than one month before the transfer date, the trustees must notify each member and participating employer of the transfer date.

*Transfer requirements: choice of arrangements*

10.—(1) The receiving scheme must contact each member whose accrued rights or benefits are to be transferred to that scheme and must invite them to select an arrangement of the receiving scheme into which those rights or benefits are to be transferred.

(2) The accrued rights or benefits of members who do not respond to the receiving scheme within eight weeks after the date on which they received notice under paragraph (1) must be allocated to an arrangement which meets the conditions for use as the default arrangement of the receiving scheme.

*Requirements to be met by receiving scheme*

11.—(1) A receiving scheme must be—

- (a) a Master Trust scheme authorised under the Act, and

- (b) an automatic enrolment scheme in relation to the members being transferred, as defined in section 17 of the Pensions Act 2008<sup>(a)</sup>.

(2) The application of Part 2 of the Charges and Governance Regulations (restrictions on charges) in respect of a member's accrued rights in a scheme, including rights accrued as a result of additional voluntary contributions made to the scheme, is not affected by any transfer of such rights to another scheme, or from one fund or arrangement to another, which is made without the member's express consent.

#### *Trustees' power to transfer otherwise than to a scheme*

**12.**—(1) Where the trustees cannot identify a receiving scheme which they consider appropriate for use as a default scheme in respect of a member of the transferring scheme, the trustees may make arrangements to transfer that member's accrued rights and benefits to a vehicle which will secure suitable benefits for the member that are comparable to those in the transferring scheme.

(2) Arrangements permitted by sub-paragraph (1) include the purchase of one or more policies from one or more insurers authorised by the Financial Conduct Authority for carrying on long-term insurance business in the United Kingdom.

#### *Administration charges*

**13.**—(1) For the purposes of section 24(5)(i) of the Act, the document to be provided by the receiving scheme must set out the administration charges in accordance with the following provisions.

(2) The document must set out all levels of administration charges for each charge structure, including any discounted levels, as at the date on which the scheme's most recent continuity strategy was approved by the Regulator—

- (a) for each arrangement, including the default arrangement, and any different levels in relation to any one arrangement;
- (b) for any additional charges, including the basis for any such charge;
- (c) for any third-party charges, including the basis for any such charge; and
- (d) for any other type of administration charge in the scheme, including the basis for any such charge.

(3) Where applicable, the levels must be set out on an annualised basis.

(4) Where there is a discounted level, the basis for the lower level must also be set out.

(5) The document must include a statement explaining—

- (a) how the receiving scheme has complied with section 33(2) of the Act,
- (b) whether the receiving scheme is liable for the costs mentioned in section 33(3) of the Act, and
- (c) if the receiving scheme is liable for those costs, how it is to meet them.

#### *Future contributions*

**14.** The trustees of a scheme that is pursuing continuity option 1 may—

- (a) arrange for the future contributions of employers and active members to be paid to the trustee default scheme from a date to be decided by the trustees, and
- (b) arrange for any contributions received from employers and active members after the date referred to in sub-paragraph (a) to be forwarded to the trustees of the trustee default scheme.

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(a) 2008 c. 30.

### *Cessation of accruals*

**15.—**(1) On the date which is one month before the transfer date, the trustees are discharged from any obligation to receive contributions from members or maintain arrangements for the accrual of rights to benefits in respect of them.

(2) When the accrued rights and benefits of members of the transferring scheme have been transferred to a receiving scheme, the trustees are discharged from any obligation to provide benefits to those members.

(3) This paragraph does not apply in respect of members who are transferring out of the scheme in accordance with Part 4ZA of the 1993 Act.

### *Winding up*

**16.** The Regulator may direct the trustees to wind up the scheme where continuity option 1 is being pursued.

### *Regulator's power to direct*

**17.** The Regulator may direct the trustees to do anything permitted or required by this Schedule.

### *Civil penalties*

**18.** Section 10 of the 1995 Act (civil penalties) applies to a person who fails to comply with a requirement imposed by this Schedule.

## **EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations implement the new authorisation and supervisory regime for Master Trust pension schemes under the provisions of the Pension Schemes Act 2017 (“the Act”).

Regulation 3 sets out when one employer is treated as connected with another employer for the purpose of section 1(3)(b) of the Act.

Regulation 4 sets out the information to be included in a Master Trust scheme’s application for authorisation by the Pensions Regulator (“the Regulator”) under section 4 of the Act.

Regulation 5 introduces Schedule 1, which sets out the matters that the Regulator must take into account in assessing whether a person involved in a Master Trust scheme is a fit and proper person.

Regulation 6 introduces Schedule 2, which sets out the matters that the Regulator must take into account in deciding whether it is satisfied that a Master Trust scheme is financially sustainable.

Regulation 7 and Schedule 3 contain requirements in relation to the business plan which a Master Trust scheme must submit to the Regulator under section 9 of the Act.

Regulation 8 sets out the requirements on scheme funders which are applying for exemption from the requirement, in section 10(3) of the Act, that they only carry out activities that relate directly to Master Trust schemes that they are, or will be, funding.

Regulation 9 contains requirements in respect of a scheme funder’s accounts.

Regulation 10 introduces Schedule 4, which sets out the matters that the Regulator must take into account in deciding whether it is satisfied that the systems and processes used in running a Master Trust scheme are sufficient to ensure that it is run effectively.

Regulation 11 contains requirements in respect of the section of a Master Trust scheme’s continuity strategy which sets out the levels of administration charges imposed by the scheme.



(The continuity strategy is a document addressing how members' interests will be protected if a triggering event occurs in relation to the scheme.)

Regulation 12 specifies the information which the continuity strategy must contain, and how it must be prepared.

Regulation 13 sets out the information which the Regulator may require to be included in the supervisory return (a document which it may require schemes to submit in writing).

Regulation 14 lists the significant events in relation to the scheme which must be notified to the Regulator.

Regulation 15 sets out the fixed and escalating penalties that the Regulator can impose on a person that has not complied with a request for information.

Regulation 16 contains the matters which the trustees of a scheme must notify to employers who use the scheme when a triggering event occurs in relation to the scheme.

Regulation 17 provides the deadlines for a scheme's implementation strategy to be submitted when it requires approval by the Regulator.

Regulation 18 states how a scheme's administration charges must be calculated and set out in the implementation strategy.

Regulation 19 stipulates what a scheme's implementation strategy must contain and how it must be prepared and made available to employers.

Regulation 20 introduces Schedule 5, which sets out the procedure to be followed when a triggering event has occurred and the scheme's trustees are pursuing continuity option 1, under which members' accrued rights and benefits are transferred out of the scheme and the scheme is wound up.

Regulation 21 prescribes the deadline for a scheme's trustees to notify the Regulator when they believe that a triggering event has been resolved.

Regulation 22 prescribes the deadline for a scheme's trustees to submit their first periodic report to the Regulator during a triggering event period, and specifies the information which reports must contain in addition to that required by the Act.

Regulation 23 modifies sections 182, 183 and 185 of the Pensions Act 2004 on fraud compensation, as they apply to Master Trust schemes or other schemes to which Part 1 of the Act applies. Consequential modifications are also made to the Occupational Pension Schemes (Fraud Compensation Payments and Miscellaneous Amendments) Regulations 2005 and the Occupational Pension Schemes (Fraud Compensation Levy) Regulations 2006.

Regulation 24 modifies section 99 of the Pension Schemes Act 1993 (trustees' duties) as it applies to a Master Trust scheme in respect of which the Regulator has made a pause order under section 31 of the Act. Consequential modifications are also made to the Occupational Pension Schemes (Transfer Values) Regulations 1996.

Regulation 25 provides that the authorisation and regulatory regime in Part 1 of the Act does not apply to hybrid schemes whose membership is limited to members or former members of a statutory pension scheme and which are closed to new members.

Regulation 26 provides that the regime in Part 1 of the Act does not apply to schemes whose only member is employed by two or more unconnected employers; to small self-administered schemes; or to schemes where the only money purchase benefits provided are those attributable to additional voluntary contributions made by non-money purchase members or to transfers from other schemes in respect of those members.

Regulation 27 modifies Part 1 of the Act to disapply the requirements relating to scheme funders in respect of existing hybrid schemes which have more than one scheme funder, each of which is a participating employer.

Regulation 28 provides that two or more pension schemes under common control are treated as a single Master Trust scheme for the purposes of Part 1 of the Act if they are money purchase or hybrid schemes, each of which is used by one employer or multiple connected employers, or if they comprise a Master Trust scheme and its associated decumulation-only scheme.

Regulation 29 makes a consequential amendment to section 45 of the Pensions Act 1995 to add the Regulator to the list of parties to whom the trustees or managers of a pension scheme may be required in regulations to provide audited scheme accounts, the auditor's statement about contributions under the scheme, and the actuary's valuation of the scheme.

Regulation 30 modifies the definition of "administration charge" in Schedule 18 to the Pensions Act 2014 as it applies for the purposes of the Act.

An impact assessment of the effect that this instrument will have on the costs of business is published with the Explanatory Memorandum alongside this instrument on the UK Legislation website and the gov.uk website, and copies can be obtained from the Department for Work and Pensions, First Floor, Caxton House, Tothill Street, London SW1H 9NA.

## **Annex B – Stakeholders we have engaged with in the development of these draft regulations**

- AJ Bell
- Association of British Insurers
- Association of Pension Lawyers
- Aviva
- BAE systems
- Baptist Pension Scheme
- Burges Salmon LLP (Catrin Young)
- Burges Salmon LLP (Wildlife Trust)
- CAPITA
- Church of England schemes (CEFPS and CAPFS)
- Financial Conduct Authority
- Financial Reporting Council
- Hogan Lovells
- ITB Pension Funds
- MNOPF and Ensign Retirement Plan
- NAMES Group
- Oxford Staff Pension Scheme (OSPS)
- Pension Protection Fund
- Pensions and Lifetimes Savings Association
- Pensions Law Firm
- Peoples Pension
- Pilots' National Pension Fund (PNPF) and other related NAMES
- Professional Footballers' Pension Scheme & Football League Limited Pension and Life Assurance Scheme
- Share Action
- Standard Life
- The Church of England Pensions Board
- Towers Watson
- Unilever UK Pension Fund
- Universities Superannuation Scheme (USS)
- Willis Towers Watson