This Statutory Instrument supersedes the draft of the same title which was laid before Parliament and published on 4th May 2018 (ISBN 978-0-11-116926-1). It is being issued free of charge to all known recipients of that Statutory Instrument.

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

D R A F T S T A T U T O R Y I N S T R U M E N T S

2018 No. ***

PENSIONS

The Occupational Pension Schemes (Master Trusts) Regulations 2018

Made - - - - ***

Coming into force in accordance with regulation 1

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), (6) and (7)(b), 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), (4)(a) and (c) and (5), 25(4), 26(5), 27(4) and (6), 28(2), 30(2) and (4)(b) and (c), 33(4), 36(1), 38(2) and (3), 39(5), 40(1) and (2) and 42(2) 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 section 42(4) of the Pension Schemes Act 2017(**b**).

The Secretary of State has exercised her discretion under section 42(5) of the Pension Schemes Act 2017 to make regulations subject to affirmative resolution procedure which would otherwise be subject to negative resolution procedure.

Citation and commencement

1.—(1) These Regulations may be cited as the Occupational Pension Schemes (Master Trusts) Regulations 2018.

(2) These Regulations, with the exception of regulation 23(2)(b)(i) and (ii), come into force on 1st October 2018.

(3) Regulation 23(2)(b)(i) and (ii) comes into force on 1st April 2019.

(**a**) 2017 c. 17.

(**b**) Regulations made under sections 1(3), 7(4), 8(4), 9(2), 10(4), 11(2), 12(5) and (6), 16(3), 24(2)(b) and (4), 38(2) (to the extent that they contain provision mentioned in subsection (3)(a)), 39(5) and 40(1) and (2) of the Act are stated to be subject to affirmative resolution procedure.

Interpretation and notices

2.—(1) In these Regulations—

"the 1993 Act" means the Pension Schemes Act 1993(**a**);

"the 1995 Act" means the Pensions Act 1995(**b**);

"the 2004 Act" means the Pensions Act 2004(**c**);

"the Act" means the Pension Schemes Act 2017;

"additional charge" means an administration charge for advice, information or a service 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(**d**);

"active member" has the meaning given by section 124(1) of the 1995 Act;

"arrangement" means an allocation of contributions to one or more investments;

"the Charges and Governance Regulations" means the Occupational Pension Schemes (Charges and Governance) Regulations 2015(**e**);

"Code" means a code of practice issued by the Regulator;

"commencement date" means the date on which section 3 of the Act (prohibition on operating scheme unless authorised) comes into force for all purposes;

"the Companies Act" means the Companies Act 2006(**f**);

"default arrangement" has the meaning given in regulation 3 of the Charges and Governance Regulations(**g**);

"discounted level" means a lower level of an administration charge which applies in particular circumstances, including—

(a) a lower level which applies to members from a particular employer, or

(b) a lower level which applies to a member according to the value of the member's rights in the scheme;

"financial regulator" means the Financial Conduct Authority or the Prudential Regulatory Authority;

"receiving scheme", except in Schedule 5, means a pension scheme to which (subject to Part 4ZA of the 1993 Act(**h**) (transfers and contribution refunds) 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;

(**a**) 1993 c. 48.
(**b**) 1995 c. 26.
(**c**) 2004 c. 35.
(**d**) S.I. 1996/1715.
(**e**) S.I. 2015/879.
(**f**) 2006 c. 46, amended by S.I. 2013/3008 and 2015/980; there are other amending instruments but none is relevant.
(**g**) Regulation 3 was amended by S.I. 2008/393, 2013/1970, 2015/889, 2016/649 and 2017/516.
(**h**) Part 4ZA was amended, and the part heading inserted, by the Pension Schemes Act 2015 (c. 8), Schedule 4, Part 1, paragraph 4(2)(a).

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

"the TUPE Regulations" means the Transfer of Undertakings (Protection of Employment) Regulations 2006(**a**).

(2) Except where paragraph 1 of Schedule 5 provides otherwise, sections 303 and 304 of the 2004 Act (service of notifications and other documents) are treated as applying to notices and notifications issued under these Regulations.

Connected employers

3.—(1) For the purposes of section 1(3)(b) of the Act (Master Trust schemes: definition), an employer ("A") is connected with another employer ("B"), and an employer which is a group undertaking of A is connected with an employer which is a group undertaking of B—

(a) where A and B have separate legal identities but are structured so that the economic position of the shareholders of each is, as far as practicable, the same as if they held shares in a single company comprising the combined businesses of A and B;

(b) where A employs scheme members jointly with B;

(c) in respect of active members of the scheme, following a transfer of those members to A from B (but see paragraph (3));

(d) where A holds or controls, or in the previous six months has held or controlled, at least 33% of the voting power in B;

(e) where A is, or in the previous six months has been, engaged in a joint venture with B.

(2) In paragraph (1)—

(a) "employer" means a person who employs or engages persons who are members of the scheme;

(b) "group undertaking" has the meaning given by section 1161(5) of the Companies Act;

(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.

(3) Where the transfer referred to in paragraph (1)(c) is not a relevant transfer as defined in regulation 2 of the TUPE Regulations(**b**), A and B (and their respective group undertakings) are connected for no more than six months beginning with the date of the transfer.

Application for authorisation

4.—(1) The following provisions of this regulation apply for the purposes of section 4(5)(a) of the Act (application for authorisation).

(2) 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 (fit and proper persons requirement), is—

(a) in the case of an individual—

(i) the person's full name;

(ii) the person's date of birth;

(iii) the title and description of the person's role in relation to the scheme;

(iv) the person's residential address and address for correspondence, if different, including any change to the residential address in the five years before the date of the application for authorisation;

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

(**b**) There are further provisions about relevant transfers in regulation 3 of the TUPE Regulations, which was amended by S.I. 2014/16.

(v) a criminal conviction certificate obtained by means of an application in accordance with section 112(1) of the Police Act 1997(**a**) or, in relation to the law of a country outside the United Kingdom, any equivalent document;

(b) in the case of a body corporate within the meaning given by section 1173(1) of the Companies Act—

(i) the full name of each person who exercises a function in respect of or on behalf of the body corporate acting in such a capacity;

(ii) the date of birth of each such person who is an individual;

(iii) the residential address and address for correspondence, if different, including any change to the residential address in the five years before the date of the application for authorisation;

(c) in the case of any person, responses to a list of questions raised by the Regulator in the application to assess whether the person is a fit and proper person.

(3) 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 in respect of which an annual statement of governance has been prepared as required by regulation 23 of the Administration Regulations(**b**), the most recent statement prepared in accordance with that regulation;

(b) in the case of a scheme in respect of which an annual statement of governance as required by regulation 23 of the Administration Regulations has not previously been prepared, a document which contains, as far as practicable, the information which would be required to be included in a document prepared under that regulation in respect of the scheme;

(c) in cases where a statement of investment principles(**c**) has been prepared in respect of a scheme in accordance with regulation 2 of the Occupational Pension Schemes (Investment) Regulations 2005(**d**), the most recent statement prepared in accordance with that regulation;

(d) detail of the systems and processes used, or intended to be used, in the running of the scheme, and whether they have been devised, applied or maintained by the scheme or a service provider, including details of the matters set out in Schedule 4.

(4) An application for authorisation must be accompanied by a fee of—

(a) £41,000 for an existing scheme, or

(b) £23,000 for a scheme which is not an existing scheme.

(5) In paragraph (4), "existing scheme" means a Master Trust scheme which was in operation before the commencement date.

(6) The Regulator must pay fees received under paragraph (4) to the Secretary of State, unless the Secretary of State with the consent of the Treasury directs otherwise.

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 (fit and proper persons requirement), whether a person involved in a Master Trust scheme is a fit and proper person.

(**a**) 1997 c. 50; section 112(1) was amended by the Policing and Crime Act 2009 (c. 26), section 97(2) and Schedule 8, Part 8, the Protection of Freedoms Act 2012 (c. 9), section 80(1), and S.I. 2012/3006.

(**b**) Regulation 23 was inserted by S.I. 2015/879 and amended by S.I. 2016/427.

(**c**) "Statement of investment principles" is defined in section 35(2) of the 1995 Act; section 35 was substituted by the 2004 Act, section 244.

(**d**) S.I. 2005/3378.

Financial sustainability requirement

6.—(1) Part 1 of Schedule 2 sets out the matters that the Regulator must take into account in deciding, for the purposes of section 8 of the Act (financial sustainability requirement), whether it is satisfied that a Master Trust scheme is financially sustainable.

(2) Part 2 of Schedule 2 sets out the requirements to be met by a Master Trust scheme and each scheme funder relating to its financing.

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 listed in Part 1 of Schedule 3 (but see paragraph (6)).

(3) The business plan must comply with the requirements set out in a Code in relation to the matters listed in Part 2 of Schedule 3 (but see paragraph (6)).

(4) The information in the business plan must be provided as at the later of—

(a) a date chosen by the scheme strategist, but not earlier than six months before the date when the scheme's trustees apply to the Regulator for authorisation, and

(b) where the 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.

(5) If a revised business plan is submitted in accordance with section 9(6) of the Act (financial sustainability requirement: business plan), the business plan must indicate which parts of it have been revised.

(6) The Regulator may give notice to the scheme's trustees stipulating that a revised business plan submitted during a period when the circumstances in paragraph (7) apply—

(a) must state that those circumstances apply, and

(b) need not comply with paragraphs (2) and (3).

(7) The circumstances are—

(a) that the scheme has experienced a triggering event,

(b) that the trustees are pursuing continuity option 1 or 2, and

(c) that 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 should 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 financial support which the scheme funder will provide to the Master Trust scheme;

(d) the following financial information in respect of the scheme funder as at the date on which the information is submitted to the Regulator under this paragraph—

(i) actual turnover, gross margin, overheads and operating profit for the previous 12 months;

(ii) a cash flow statement 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 previous 12 months 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) whether the scheme funder is regulated by a financial regulator and, if so—

(i) the identity of that regulator, and

(ii) the basis on which the scheme funder's financial arrangements with the Master Trust scheme have been accounted for in any capital reserves which the financial regulator requires the scheme funder to hold;

(f) 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) A current or prospective scheme funder may provide financial information in addition to that referred to in paragraph (1)(d) if it considers that the information would assist the Regulator in assessing the scheme funder's request for exemption from the requirement in section 10(3) of the Act.

(4) If the Regulator is satisfied—

(a) that the scheme funder's arrangements for giving financial support to the scheme are sufficiently transparent, and

(b) that, on the basis of the information listed in paragraph (1) and any additional information provided under paragraph (3), 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 does not apply.

(5) The requirement in section 10(3) of the Act does not apply to the trustee corporation established by section 75 of the Pensions Act 2008(**a**).

Scheme funder requirements: accounts

9.—(1) Where a scheme funder is a charity, its accounts must meet the requirements in the Companies Act notwithstanding the provisions of any other enactment.

(2) If a scheme funder has no audited accounts at the time when it becomes a scheme funder of a Master Trust scheme, 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 (financial sustainability requirement) 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(**b**) (other responsibilities of trustees, etc) within three months from the date on which it becomes a scheme funder of a Master Trust scheme, and

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(**a**) 2008 c. 30.

(**b**) Section 49(8A) was inserted by S.I. 2001/3649 and amended by the Financial Services Act 2012 (c. 21), Schedule 18, Part 2, paragraph 82(1) and (2) and by S.I. 2007/3014.

(b) kept in that account until the date on which the scheme funder submits audited accounts to the Regulator.

(3) Regulations 4 and 8 to 10 of the Partnerships (Accounts) Regulations 2008(**a**) apply, and regulation 7 of those Regulations does not apply, to a scheme funder that is—

(a) a Scottish partnership which is a limited partnership,

(b) a Scottish partnership which is not a limited partnership, or

(c) a comparable undertaking incorporated in a country or territory outside the United Kingdom,

irrespective of whether it is a qualifying partnership as defined in regulation 3 of those Regulations.

(4) The provisions of Part 16 of the Companies Act (audit) listed in paragraph (5) apply to a scheme funder which is—

(a) an undertaking formed or incorporated under the law of a country or territory outside the United Kingdom, and

(b) not otherwise subject to a requirement to produce audited accounts.

(5) The provisions are—

(a) Chapter 1 (requirement for audited accounts);

(b) section 495 (auditor's report on company's annual accounts);

(c) section 496 (auditor's report on strategic report and directors' report);

(d) section 498 (duties of auditor);

(e) section 499 (auditor's general right to information);

(f) section 503 (signature of auditor's report);

(g) section 504 (senior statutory auditor);

(h) section 505 (names to be stated in published copies of auditor's report);

(i) section 506 (circumstances in which names may be omitted).

(6) The provisions listed in paragraph (5) apply for the purposes of that paragraph with any necessary modifications to take account of the corporate structure of the scheme funder.

(7) An auditor may be appointed for the purposes of the provisions listed in paragraph (5) only by the members of the scheme funder.

(8) In the provisions listed in paragraph (5) (as they apply for the purposes of that paragraph) and in paragraph (7), a reference to "members" is a reference to the persons within that undertaking who are comparable to members within the meaning given by section 112 (1) and (2) of the Companies Act.

(9) If a triggering event within item 4, 5 or 6 of the table in section 21(6) of the Act has occurred in relation to a scheme, the Regulator may give notice to the scheme funder specifying the period within which the scheme funder must submit its accounts.

(10) A scheme funder that is partly or wholly funded by an undertaking must provide to the Regulator the accounts of that undertaking, produced in accordance with the Companies Act.

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.

(**a**) S.I. 2008/569; regulation 4 was amended by S.I. 2013/2005 and regulation 9 was amended by S.I. 2016/649.

Continuity strategy: administration charges

11.—(1) For the purposes of section 12(5) of the Act, 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 a default arrangement, and any different levels in relation to any one arrangement;

(b) for any additional charges, including the reason for imposing them;

(c) for any third-party charges, including the reason for imposing them;

(d) for any other type of administration charge in the scheme, including the reason for imposing it.

(3) The levels must be set out on an annualised basis.

(4) Where there is a discounted level, the reason for charging 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 (continuity strategy requirement)—

(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) details of strategies for communicating with employers and members, including—

(i) the information to be provided, and

(ii) the stages at which communication would take place;

(d) details of strategies for communicating with 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 members' records are 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. For the purposes of section 15(2) of the Act, 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(**a**);

(b) details of the scheme strategist's professional development;

(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(**b**)—

(i) the most recent accounts published in relation to each insurance company with which the trustees or managers of the scheme hold policies of insurance or annuity contracts falling within the description in that definition, and

(ii) where any such insurance company is part of a group in respect of which there is a duty to prepare group accounts under section 399 of the Companies Act(**c**), the most recent such accounts which have been published;

(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 (decision on application).

Significant events: notifying the Regulator

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

(a) a change or addition to the persons involved with the scheme in the capacities listed in section 7(2) or (3) of the Act (fit and proper persons requirement), unless the change or addition is a triggering event;

(b) an individual who is involved with the scheme in a capacity listed in section 7(2) or (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 the subject of an adverse judgment or has reached a settlement in civil proceedings, particularly in connection with investment or other financial business, misconduct, fraud or the formation or management of a body corporate;

(**a**) Section 248(8) was amended by S.I. 2009/1941.
(**b**) S.I. 1996/1975; the definition of "ear-marked scheme" was amended by S.I. 1997/786.
(**c**) Section 399 was amended by S.I. 2015/980 and 2016/1245.

(vii) has contravened any of the requirements or standards of a regulator, including the Regulator;

(viii) has a change of circumstances, through ill health or otherwise, which materially impairs the individual's ability to operate in a capacity listed in section 7(2) or (3);

(ix) has any other change of circumstances which the person required to give notice considers likely to 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(**a**);

(d) a change that requires revision of the business plan under section 9(4) of the Act;

(e) a 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) except where regulation 28(1) applies to a scheme, 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—

Day	*Daily rate*
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

(**a**) "Statement of investment principles" is defined in section 35(2) of the 1995 Act; section 35 was substituted by the 2004 Act, section 244.

10	£10,000
Each subsequent day	£10,000.

Triggering events: notification requirements

16.—(1) For the purposes of section 22(6)(b) of the Act, 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) except where regulation 27(3) applies to the scheme, that the trustees—

(i) have submitted an implementation strategy to the Regulator and the date on which they did so, or

(ii) will submit an implementation strategy to the Regulator by the date specified in regulation 17; and

(iii) in either case, will make the implementation strategy available to the employers 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 (notification requirements) 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 specified in paragraph (3).

(3) The specified date is—

(a) the date on which the triggering event occurred (in the case of notifications made under section 22(2) or (6) of the Act), or

(b) the date on which the person under the duty to notify the Regulator became aware that the event had occurred (in the case of notifications made under section 22(4) of the Act).

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 refuse or withdraw authorisation became 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 occurred, 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 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.

(**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 in operation before the commencement date.

(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) and (5), the trustees must set out all levels of administration charges for each charge structure, including any discounted levels—

(a) for each arrangement, including a default arrangement, and any different levels in relation to any one arrangement;

(b) for any additional charges, including the reason for imposing them;

(c) for any third-party charges, including the reason for imposing them;

(d) for any other type of administration charge in the scheme, including the reason for imposing it.

(8) The levels in paragraph (7) must be set out on an annualised basis.

(9) Where there is a discounted level, the reason for charging the lower level must also be stated.

Implementation strategy: content

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

(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 what information will be communicated to employers and members and when, including information about—

(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 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 the trustees 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 (continuity option 2: resolving triggering event) (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 (periodic reporting requirement), 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—

(a) decisions made by the trustees and participating employers about the receiving scheme, and

(b) decisions made by the trustees in relation to arrangements under paragraph 12 of Schedule 5.

(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(**a**) (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, 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.

(4) This regulation does not apply to a scheme to which regulation 27(3) applies.

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 under section 5 of the Act;

(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.

(**a**) Section 23 was substituted by section 36(3) of the 2004 Act.

(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) the words "the later of" in section 182(6);

(iii) the definition of "relevant event" in section 182(10);

(iv) section 183 (board's duties where employer unlikely to continue as a going concern);

(v) section 185(5)(d) (board's duty to give notice to the insolvency practitioner or the employer) and the "and" before it;

(vi) paragraph 21 of Schedule 9 (issue of a notice under section 183);

(b) in the Occupational Pension Schemes (Fraud Compensation Payments and Miscellaneous Amendments) Regulations 2005(**a**)—

(i) omit regulation 2(1)(ka)(**b**);

(ii) in regulation 2(2), for "(ka)" substitute "(k)";

(iii) in regulation 5(3)—

(aa) in sub-paragraph (c), for "employer" substitute "each scheme funder (as defined in section 39(1) of the Pension Schemes Act 2017)";

(bb) for sub-paragraph (e), substitute—

"(e) the date the triggering event (as defined in section 39(1) of the Pension Schemes Act 2017) occurred;";

(c) in the Occupational Pension Schemes (Fraud Compensation Levy) Regulations 2006(**c**)—

(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(**d**), the levy payable shall not exceed 30 pence per member.

(3B) For the purposes of paragraph (3A), a scheme which is authorised under the Pension Schemes Act 2017 during the financial year ending with 31st March 2020 is treated as if it had been so authorised on 1st April 2019.".

Pause orders

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

(**a**) S.I. 2005/2184.
(**b**) Regulation 2(1)(ka) was inserted, and regulation 2(2) amended, by article 2 of the National Employment Savings Trust (Consequential Provisions) Order 2010 (S.I. 2010/9).
(**c**) S.I. 2006/558.
(**d**) 2017 c.17.
(**e**) Section 99(2) was substituted by the Pension Schemes Act 2015 (c. 8), Schedule 4, Part 1, paragraph 13.

(2) Regulation 13(1) of the Occupational Pension Schemes (Transfer Values) Regulations 1996(**a**) (extension of time limits for payment of cash equivalents) is amended as follows—

(a) at the end of sub-paragraph (ba) omit "or";

(b) after sub-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 which contains a direction under section 31(5)(e) of that Act (no transfers etc of members' rights); or";

(c) in sub-paragraph (c), for "(b) or (ba)" substitute "(b), (ba) or (bb)".

Administration charges

25. The administration charges that apply in relation to members of a Master Trust scheme must 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 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(**b**) (charges by pension arrangements in relation to earmarking orders and charges in respect of pension sharing costs);

(d) costs solely associated with the provision of death benefits.

Application of Part 1 of the Pension Schemes Act 2017

26.—(1) Part 1 of the Act does not apply to schemes which have all the following characteristics—

(a) on 20th 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 "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 the person's current employer as a result of a relevant transfer as defined in regulation 2 of the TUPE Regulations.

27.—(1) Part 1 of the Act does not apply to schemes to which one or more of the following paragraphs apply.

(2) This paragraph applies where—

(a) the scheme has only one member, and

(b) the member is, or has been, employed by all the employers which use the scheme.

(3) This paragraph applies where the scheme is a relevant small scheme as defined in regulation 1(2ZB) of the Administration Regulations(**c**), and—

(**a**) S.I. 1996/1847. Regulation 13(1) was amended by S.I. 2016/200, and sub-paragraph (ba) was inserted by S.I. 2005/686; there are other amending instruments but none is relevant.

(**b**) 1999 c. 30; section 24 was amended by section 263(10)(b) of, and paragraph 158(2) of Schedule 27 and Schedule 30 to, the Civil Partnership Act 2004 (c. 33), and by article 2(2) of S.I. 2005/3175.

(**c**) Regulation 1(2ZB) was inserted by S.I. 2015/879.

(a) the scheme has only one member, or

(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 more 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—

(i) they are active members of the scheme, or

(ii) they have ceased to be active members of the scheme because they have reached a maximum service limit in relation to 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;

(c) pension credits created pursuant to section 29 of the Welfare Reform and Pensions Act 1999 (creation of pension debits and credits).

28.—(1) This paragraph applies to a Master Trust scheme which—

(a) was established before the commencement date,

(b) provides both money purchase benefits 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(1), (2) and (3) (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) section 39(3) (reference in section 10(3) to activities that relate directly to Master Trust schemes);

(i) 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).

(3) This paragraph applies to a scheme where—

(a) paragraph (1) applies to the scheme,

(b) a triggering event within item 4, 5, 6 or 7 of the table in section 21(6) of the Act has occurred in relation to the scheme, and

(c) the trustees of the scheme have decided to pursue continuity option 2.

(4) Where paragraph (3) applies to a scheme—

(a) Part 1 of the Act has effect in relation to that scheme as if the following provisions were omitted—

(i) section 20(c) (duty to comply with section 26);

(ii) section 26 (approval of implementation strategy);

(iii) section 27 (content of implementation strategy);

(iv) section 28 (duty to pursue continuity option);

(v) section 30(4)(a) (periodic reporting requirement);

(vi) section 32 (prohibition on new employers during triggering event period);

(vii) section 33 (prohibition on increasing charges etc during triggering event period);

(viii) the definition of "implementation strategy" in section 39(1);

(b) section 31 of the Act has effect in relation to the scheme as if—

(i) in subsection (2), for "either of the following two conditions" there were substituted "the following condition";

(ii) subsection (3) were omitted; and

(iii) in subsection (4), for "Condition 2" there were substituted "The condition";

(c) regulation 22(3) does not apply, and the following provisions apply for the purposes of section 30(2) and (4)(c) of the Act (periodic reporting requirement)—

(i) the first report must be submitted before the end of the 28 days beginning with the date on which the triggering event occurred;

(ii) if the person preparing the periodic report is not an independent trustee appointed pursuant to section 23(1) of the 1995 Act(**a**) (power to appoint independent trustees), the report must contain the name and address of that person;

(iii) if an actuary is appointed under section 47(1)(b) of the 1995 Act (professional advisers), the report must contain the name and address of the actuary;

(iv) the report must contain a statement as to whether any of the scheme's administrative services are being carried out by a person other than the trustees, including the name and address of that person;

(v) the report must state the actions being taken by the trustees in the absence of an implementation strategy, the timescales for completing them, and details of any particular issues affecting the trustees' ability to pursue or complete them.

29.—(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 (4) applies.

(2) This paragraph applies where—

(a) none of the schemes is a Master Trust scheme;

(b) none of the schemes has any of the characteristics set out in paragraph (3);

(c) each scheme provides money purchase benefits (whether alone or in conjunction with other benefits);

(d) each scheme is used by one employer, or by two or more employers which are connected with one another within the meaning given by section 1(3)(a) of the Act or regulation 3; and

(e) the schemes are under common control.

(3) The characteristics are—

(a) the scheme has only one member;

(b) the scheme is a relevant small scheme as defined in regulation 1(2ZB) of the Administration Regulations and 50% or more of the trustees are members of the scheme;

(c) the only money purchase benefits provided by the scheme are attributable to one or both of the following—

(i) additional voluntary contributions made by or on behalf of non-money purchase members of the scheme, in respect of a period when—

(aa) they are active members of the scheme, or

(**a**) Section 23 was substituted by the 2004 Act, section 36(3).

(bb) they have ceased to be active members of the scheme because they have reached a maximum service limit in relation to the scheme;

(ii) 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;

(d) the Regulator has appointed a trustee to the scheme pursuant to section 7 of the 1995 Act(**a**) (appointment of trustees) and the scheme is closed to future contributions; or

(e) all the employers using the schemes are connected with one another within the meaning given by section 1(3)(a) of the Act or regulation 3.

(4) This paragraph applies where—

(a) one of the schemes is a Master Trust scheme;

(b) each other scheme is primarily promoted to current or former members of the Master Trust scheme for the purpose of providing decumulation options; and

(c) all the schemes are under common control.

(5) For the purposes of this regulation, schemes are under common control where—

(a) they have at least three of the following persons in common—

(i) a scheme funder (or a person who would be a scheme funder if the scheme were a Master Trust scheme);

(ii) a scheme strategist (or a person who would be a scheme strategist if the scheme were a Master Trust scheme);

(iii) a person who promotes or markets the scheme;

(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 Companies Act 2006

30.—(1) The Companies Act is amended as follows.

(2) In section 384(**b**) (companies excluded from the small companies regime)—

(a) in subsection (1)—

(i) omit "or" at the end of paragraph (b)(i); and

(ii) after paragraph (b)(ii) insert—

"(iii) is a scheme funder of a Master Trust scheme within the meanings given by section 39(1) of the Pension Schemes Act 2017 (interpretation of Part 1), or";

(b) in subsection (2)—

(i) omit "or" at the end of paragraph (d);

(ii) insert "or" at the end of paragraph (e); and

(iii) after paragraph (e) insert—

"(f) a scheme funder of a Master Trust scheme within the meanings given by section 39(1) of the Pension Schemes Act 2017 (interpretation of Part 1).".

(**a**) Section 7 was amended by the 2004 Act, section 35(1), Schedule 12, paragraph 36, and Schedule 13, paragraph 1; the Pensions Act 2014 (c. 19), Schedule 19, paragraph 3; and the Pensions Act 2008 (c. 30), section 131(1).

(**b**) Subsections (1) and (2) were amended by S.I. 2007/2932 and 2015/980; subsection (2) was also amended by the Financial Services Act 2012 (c. 21), Schedule 18, paragraph 111, and S.I. 2013/2005.

(3) In section 467(**a**) (companies excluded from being treated as medium-sized)—

(a) in subsection (1)—

(i) omit "or" at the end of paragraph (b)(i);

(ii) insert "or" at the end of paragraph (b)(ii); and

(iii) after paragraph (b)(ii) insert—

"(iii) is a scheme funder of a Master Trust scheme within the meanings given by section 39(1) of the Pension Schemes Act 2017 (interpretation of Part 1), or";

(b) in subsection (2)—

(i) omit "or" at the end of paragraph (d);

(ii) insert "or" at the end of paragraph (e); and

(iii) after paragraph (e) insert—

"(f) a scheme funder of a Master Trust scheme within the meanings given by section 39(1) of the Pension Schemes Act 2017 (interpretation of Part 1).".

(4) In section 478(**b**) (companies excluded from small companies exemption), in paragraph (b)—

(a) omit "or" at the end of sub-paragraph (i); and

(b) after sub-paragraph (ii) insert—

"(iii) is a scheme funder of a Master Trust scheme within the meanings given by section 39(1) of the Pension Schemes Act 2017 (interpretation of Part 1), or".

(5) In section 479B(**c**) (companies excluded from the subsidiary companies audit exemption), in paragraph (b)—

(a) omit "or" at the end of sub-paragraph (i); and

(b) after sub-paragraph (ii) insert—

"(iii) is a scheme funder of a Master Trust scheme within the meanings given by section 39(1) of the Pension Schemes Act 2017 (interpretation of Part 1), or".

Amendment of the Limited Liability Partnerships (Accounts and Audit) (Application of Companies Act 2006) Regulations 2008

31.—(1) The Limited Liability Partnerships (Accounts and Audit) (Application of Companies Act 2006) Regulations 2008(**d**) are amended as follows.

(2) In regulation 5 (LLPs subject to the small LLPs regime), in modified section 384 of the Companies Act(**e**) (LLPs excluded from the small LLPs regime)—

(a) in subsection (1)—

(i) omit "or" at the end of paragraph (b)(i); and

(ii) after paragraph (b)(ii) insert—

"(iii) is a scheme funder of a Master Trust scheme within the meanings given by section 39(1) of the Pension Schemes Act 2017 (interpretation of Part 1), or";

(b) in subsection (2)—

(i) omit "or" at the end of paragraph (d);

(ii) insert "or" at the end of paragraph (e); and

(iii) after paragraph (e) insert—

(**a**) Subsections (1) and (2) were amended by the Financial Services Act 2012 (c. 21), Schedule 18, paragraph 113, and S.I. 2013/2005; subsection (2) was also amended by S.I. 2007/2932, 2008/393 and 2015/980.
(**b**) Paragraph (b) was amended by S.I. 2007/2932.
(**c**) Section 479B was inserted by S.I. 2012/2301 and amended by S.I. 2015/980.
(**d**) S.I. 2008/1911.
(**e**) Section 384, as modified by regulation 5, was amended by S.I. 2013/2005 and 2016/575.

"(f) a scheme funder of a Master Trust scheme within the meanings given by section 39(1) of the Pension Schemes Act 2017 (interpretation of Part 1).".

(3) In regulation 26 (medium-sized LLPs), in modified section 467 of the Companies Act(**a**) (LLPs excluded from being treated as medium-sized)—

(a) in subsection (1)—

(i) omit "or" at the end of paragraph (b)(i); and

(ii) after paragraph (b)(ii) insert—

"(iii) is a scheme funder of a Master Trust scheme within the meanings given by section 39(1) of the Pension Schemes Act 2017 (interpretation of Part 1),";

(b) in subsection (2)—

(i) omit "or" at the end of paragraph (d);

(ii) insert "or" at the end of paragraph (e); and

(iii) after paragraph (e) insert—

"(f) a scheme funder of a Master Trust scheme within the meanings given by section 39(1) of the Pension Schemes Act 2017 (interpretation of Part 1).".

(4) In regulation 34 (exemption from audit: small LLPs), in modified section 478 of the Companies Act (LLPs excluded from small LLPs exemption), in paragraph (b)—

(a) omit "or" at the end of sub-paragraph (i); and

(b) after sub-paragraph (ii) insert—

"(iii) is a scheme funder of a Master Trust scheme within the meanings given by section 39(1) of the Pension Schemes Act 2017 (interpretation of Part 1), or".

(5) In regulation 34A(**b**) (exemption from audit: qualifying subsidiaries), in modified section 479B(**c**) of the Companies Act (LLPs excluded from the subsidiary LLPs audit exemption), in paragraph (a)—

(a) omit "or" at the end of sub-paragraph (i); and

(b) after sub-paragraph (ii) insert—

"(iii) is a scheme funder of a Master Trust scheme within the meanings given by section 39(1) of the Pension Schemes Act 2017 (interpretation of Part 1), or".

Amendment of the Overseas Companies Regulations 2009

32.—(1) The Overseas Companies Regulations 2009(**d**) are amended as follows.

(2) In regulation 38 (duty to prepare accounts), in the introductory text, after "read as follows" insert—

"(save that the modification of section 396 does not apply in relation to a company which is a scheme funder of a Master Trust scheme within the meanings given by section 39(1) of the Pension Schemes Act 2017 (interpretation of Part 1))".

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

Name
Parliamentary Under Secretary of State
Department for Work and Pensions

Date

(**a**) Section 467, as modified by regulation 26, was amended by S.I. 2013/2005 and 2016/575.
(**b**) Regulation 34A was inserted by S.I. 2012/2301.
(**c**) Section 479B, as modified by regulation 34A, was amended by S.I. 2016/575.
(**d**) S.I. 2009/1801.

SCHEDULE 1

Regulation 5

FIT AND PROPER PERSONS REQUIREMENT

1. For the purposes of section 7(4)(a) of the Act, 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 arrangement with the person's creditors;

(ii) applied to an adjudicator under section 263H of the Insolvency Act(**a**) for a bankruptcy order within the meaning given by section 381(2) of the Insolvency Act(**b**);

(iii) been served with a bankruptcy petition within the meaning given by section 381(3) of the Insolvency Act;

(iv) been made bankrupt within the meaning given by section 381(1) of the Insolvency Act(**c**);

(v) been the subject of a bankruptcy restrictions order made under paragraph 1 of Schedule 4A to the Insolvency Act (including an interim bankruptcy restrictions order made under paragraph 5 of that Schedule); or

(vi) offered a bankruptcy restrictions undertaking made under paragraph 7 of Schedule 4A to the Insolvency Act;

(b) whether, in Scotland, the person has—

(i) made any arrangement with the person's creditors;

(ii) made a debtor application to the Accountant in Bankruptcy for sequestration;

(iii) been served with a petition for sequestration;

(iv) been the subject of an award of sequestration in accordance with section 22 of the Bankruptcy Act; or

(v) been the subject of a bankruptcy restrictions order within the meaning given by section 155(1) of the Bankruptcy Act (including an interim bankruptcy restrictions order within the meaning given by section 160 of that Act;

(c) whether, in Northern Ireland, the person has—

(i) made any arrangement with the person's creditors;

(ii) petitioned the court for a bankruptcy order;

(iii) been served with a bankruptcy petition;

(iv) been adjudged bankrupt;

(v) been the subject of a bankruptcy restrictions order made under paragraph 1 of Schedule 2A to the Insolvency Order (including an interim bankruptcy restrictions order made under paragraph 5 that Schedule; or

(vi) offered a bankruptcy restrictions undertaking made under paragraph 7 of Schedule 2A to the Insolvency Order;

(d) whether the person has been a director(**d**) or partner of, or otherwise 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;

(e) whether—

(**a**) Section 263H was inserted by the Enterprise and Regulatory Reform Act 2013 (c. 24), Schedule 18.
(**b**) Section 381(2) was amended by the Enterprise and Regulatory Reform Act 2013, Schedule 19, paragraph 52.
(**c**) Section 381(1) was amended by the Enterprise and Regulatory Reform Act 2013, Schedule 19, paragraph 52.
(**d**) "Director" is defined in section 250 of the Companies Act.

(i) in Great Britain, the person has been convicted of any criminal offence, excluding convictions that are spent within the meaning of the Rehabilitation of Offenders Act 1974(**a**); or

(ii) in Northern Ireland, the person has been convicted of any criminal offence, excluding convictions that are spent within the meaning of the Rehabilitation of Offenders (Northern Ireland) Order 1978(**b**).

(f) whether there has been a judgment against the person or the person has reached a settlement in civil proceedings, particularly in connection with investment or other financial business, misconduct, fraud or the formation or management of a body corporate;

(g) whether—

(i) in Great Britain, the person has been subject to a disqualification order under section 1(1) of, or a disqualification undertaking under section 1A(1) of, the Company Directors Disqualification Act 1986(**c**); or

(ii) in Northern Ireland, the person has been subject to a disqualification order under Article 3(1) of, or a disqualification undertaking under Article 4(1) of, the Company Directors Disqualification (Northern Ireland) Order 2002(**d**);

(h) whether the person has contravened any of the requirements or standards of—

(i) a regulator, including the Regulator, or

(ii) the registrar of companies(**e**);

(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 the person 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 application for authorisation of the scheme; and

(ii) at any time since the date of the application for authorisation of the scheme;

(k) whether—

(i) in Great Britain, the person has been prohibited from being a trustee of any trust, including any trust scheme within the meaning of section 124(1) of the 1995 Act (interpretation of Part 1), under—

(aa) section 3 of the 1995 Act(**f**) (prohibition orders), or

(bb) any other legislation; or

(ii) in Northern Ireland, the person has been prohibited from being a trustee of any trust, including any trust scheme within the meaning of Article 121(1) of the Pensions (Northern Ireland) Order 1995(**g**) (interpretation of Part 2), under—

(aa) Article 3 of the Pensions (Northern Ireland) Order 1995(**h**) (prohibition orders), or

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(**a**) 1974 c. 53.
(**b**) S.I. 1978/1908 (N.I. 27).
(**c**) 1986 c. 46; section 1(1) was amended by section 5(1) of the Insolvency Act 2000 (c. 39) and section 204(1) and (3) of the Enterprise Act 2002 (c. 40). Section 1A was inserted by section 6(1) and (2) of the Insolvency Act 2000 and amended by section 111 of, and paragraphs 1 and 3(1), (2) and (3) of Part 1 of Schedule 7 to, the Small Business, Enterprise and Employment Act 2015 (c. 26).
(**d**) S.I. 2002/3150 (N.I. 4). Article 3(1) was amended by Article 4(3) of S.I. 2005/1454 (N.I. 9).
(**e**) "Registrar of companies" is defined in section 1060(3) of the Companies Act.
(**f**) Section 3 was substituted by section 33 of the 2004 Act and amended by S.I. 2010/22.
(**g**) S.I. 1995/3213 (N.I. 22).
(**h**) Article 3 was substituted by Article 29 of S.I. 2005/255 (N.I. 1).

(bb) any other legislation;

(l) whether—

(i) in Great Britain, the person has been disqualified from being a trustee of any trust, including any trust scheme within the meaning of section 124(1) of the 1995 Act, under—

(aa) section 29 of the 1995 Act(**a**) (persons disqualified from being trustees), or

(bb) any other legislation; or

(ii) in Northern Ireland, the person has been disqualified from being a trustee of any trust, including any trust scheme within the meaning of Article 121(1) of the Pensions (Northern Ireland) Order 1995 (interpretation of Part 2), under—

(aa) Article 29 of the Pensions (Northern Ireland) Order 1995(**b**) (persons disqualified from being trustees), or

(bb) 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 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) the knowledge and skills gained from a person's significant experience as a trustee, in assessing whether the person is fit and proper to act in that capacity;

(b) 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 the person is fit and proper to act in the capacity of a trustee of the scheme;

(c) 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;

(d) a person's relevant experience and professional competence, in assessing whether the person is fit and proper to act in the capacity of a scheme strategist;

(e) 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.

4.—(1) In this Schedule—

"arrangement" means a voluntary agreement entered into by an individual with their creditors;

"the Bankruptcy Act" means the Bankruptcy (Scotland) Act 2016(**c**);

"core function" includes a strategic, executive or management role carried out in respect of, or on behalf of, a person mentioned in section 7(2) or (3) of the Act;

"the Insolvency Act" means the Insolvency Act 1986(**d**);

"the Insolvency Order" means the Insolvency (Northern Ireland) Order 1989(**e**).

(2) In paragraph 1(a)—

"adjudicator" has the meaning given by section 385(1) of the Insolvency Act(**f**);

"creditor" has the meaning given by section 383(1) of the Insolvency Act 1986(**g**).

(3) In paragraph 1(b)—

(**a**) Section 29 was amended by paragraph 45 of Schedule 12, and Schedule 13, to the 2004 Act and S.I. 2004/1941, 2006/1722, 2009/1941, 2012/2404 and 2016/481.
(**b**) Article 29 was amended by S.I. 2002/3150 (N.I. 1) and S.R. 2008/94 and 2016/108.
(**c**) 2016 asp 21.
(**d**) 1986 c. 45.
(**e**) S.I. 1989/2405 (N.I. 19).
(**f**) Section 385(1) was amended by the Enterprise and Regulatory Reform Act 2013, Schedule 19, paragraph 55(a).
(**g**) Section 383(1) was amended by the Criminal Justice Act 1988 (c. 33), Schedule 16, and the Enterprise and Regulatory Reform Act 2013 (c. 24), Schedule 19, paragraph 53.

"the Accountant in Bankruptcy" has the meaning given by section 199(1) of the Bankruptcy Act;

"creditor" has the meaning given by section 383(1) of the Insolvency Act 1986(**a**);

"debtor application" has the meaning given by section 228(1) of the Bankruptcy Act;

"sequestration" has the meaning given by section 1 of the Bankruptcy Act.

(4) In paragraph 1(c)—

"bankrupt", "bankruptcy order", "bankruptcy petition" have the meanings given in Article 9(1) of the Insolvency Order;

"court" is defined in rule 0.2 of the Insolvency Rules (Northern Ireland) 1991(**b**);

"creditor" has the meaning given in Article 9(1) of the Insolvency Order.

SCHEDULE 2

Regulation 6

FINANCIAL SUSTAINABILITY REQUIREMENT

PART 1

Matters which the Regulator must take into account

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 structure of the scheme and its target market, including any plans to acquire or merge with other schemes;

(b) the objectives for the scheme and the strategy for achieving them, including delivery milestones;

(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;

(j) where regulation 27(1) does not apply to the scheme and 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;

(**a**) Section 383(1) was amended by the Criminal Justice Act 1988 (c. 33), Schedule 16, and the Enterprise and Regulatory Reform Act 2013 (c. 24), Schedule 19, paragraph 53.

(**b**) S.R. 1991 No. 364.

(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 structure of the scheme and the business strategy relating to it;

(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;

(h) where the scheme has an arrangement with a service provider under which the service provider accepts the risk that its costs will exceed any fee paid to it, the provisions made to secure this service and any limitations on the service provider's liability for those costs;

(i) any insurance held by the scheme or the scheme funder in respect of the costs mentioned in section 8(3)(a) of the Act, including details of—

(i) the insurance provider;

(ii) the policy holder;

(iii) the beneficiary of the policy;

(iv) any limitations on the insurer's liability.

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 for meeting those costs 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 on any persons 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 or otherwise to have made provision for its financial liabilities to the scheme;

(i) any requirement imposed by a financial regulator for any service provider to hold prudential margins of capital or otherwise to have made provision for its financial liabilities to the scheme;

(j) any insurance held by the scheme or the scheme funder in respect of the costs mentioned in section 8(3)(a) of the Act (financial sustainability requirement), including details of—

(i) the insurance provider;

(ii) the policy holder;

(iii) the beneficiary of the policy;

(iv) any limitations on the insurer's liability;

(k) the quality of the scheme's records and data;

(l) whether the scheme requires, and has received, the sanction of the court under Part 7 of Financial Services and Markets Act 2000(**a**) for any of its activities;

(m) whether the members are eligible for compensation in the event of a scheme failure and, if so, details of—

(i) the compensation provider;

(ii) the basis on which the compensation is payable;

(iii) any limits on the amount of compensation payable.

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(**b**) (investment principles);

(d) each scheme funder's accounts and any financial information provided under regulation 8;

(e) other relevant documents set out in a Code.

PART 2

Requirements to be met by Master Trust schemes and scheme funders

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 scheme, 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(**c**) (other responsibilities of trustees, etc).

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

(**a**) 2000 c. 8.

(**b**) Section 35 was substituted by section 244 of the 2004 Act.

(**c**) Section 49(8A) was inserted by S.I. 2001/3649 and amended by paragraph 82(2) of Schedule 18 to the Financial Services Act 2012 (c. 21) and S.I. 2007/3014.

(a) that was established before the commencement date,

(b) that provides both money purchase benefits and non-money purchase benefits,

(c) that has financial resources that are insufficient to meet the costs mentioned in section 8(3) of the Act, as estimated in the business plan, and

(d) where employers are required to meet those costs.

(2) 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—

(a) 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;

(b) as to a proportion of the shortfall determined by the Regulator, in the form of a binding guarantee from the participating employers; and

(c) 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

THE BUSINESS PLAN

PART 1

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 or a Code requires estimates to be provided in connection with the business plan—

(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 size 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, the scheme strategist, confirming—

(a) that each scheme funder considers (or, in the absence of a scheme funder, the trustees consider) 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, the scheme strategist,

but this paragraph does not apply to scheme funders of schemes to which regulation 27(1) applies.

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 (except where regulation 27(1) applies to the scheme), and

(c) each scheme strategist.

11. The name and address of any scheme administrator.

12. The number of participating employers.

13. The number of members, broken down into active members, deferred members and pensioner members.

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 HM Revenue & Customs reference number.

Information about scheme funders

17. 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.

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

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

Information about the scheme strategist

20. 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

21. 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.

PART 2

Requirements relating to the business plan to be set out in a Code

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

23. The scheme's objectives and its strategy for meeting them.

24. Costs in relation to money purchase benefits.

25. Assets and liquidity in relation to costs.

26. Income in relation to money purchase benefits.

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

SCHEDULE 4

Regulation 10

SYSTEMS AND PROCESSES REQUIREMENTS

Features and functionality of IT systems

1. Whether the IT systems have the capacity and capability—

(a) to process financial transactions securely and accurately, including the core transactions described in regulation 24(2) of the Administration Regulations(**a**) (requirements for processing financial transactions);

(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 data on transactions and produce reports so that those activities can be monitored and transaction errors rectified promptly;

(f) to identify and categorise transactions and payments for authorisation and countersigning at an appropriate level of authority;

(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. Whether 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. Whether the IT systems—

(a) are maintained at regular intervals, either automatically or by a person with the appropriate skills and experience;

(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 size of the scheme.

Member records

4. Whether the scheme's systems and processes ensure that—

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

(a) there is an accurate record of each member's details, including the contributions made 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 from the scheme and the amount taken as free from income tax, and

(iii) the amount of pension income received.

Trustees and others

5. Whether 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 (fit and proper persons requirements) 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. Whether 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. Whether 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. Whether 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. Whether there are systems and 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. Whether 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. Whether 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;

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

"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 Act (continuity option 1: transfer out and winding up).

(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 provided for the time being by that person as an address for contacting that person; or

(b) if no such address has been provided, 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.

(5) This Schedule overrides any provision of the Master Trust scheme to the extent that there is a conflict.

Calculation of cash equivalent

2.—(1) In this Schedule, a "cash equivalent" of any rights and benefits to which a member is entitled is the realisable value of those rights and benefits.

(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 as at the date when the employers 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, without members' consent, provide—

(a) for either—

(i) a member's accrued rights and benefits (including any transfer credits allowed under the scheme) to be transferred, or

(ii) a transfer payment in respect of a member's rights to be made,

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 that scheme; or

(b) for arrangements to be made in accordance with paragraph 12 (trustees' power to transfer otherwise than to a scheme).

(2) A transfer payment made under sub-paragraph (1)(a)(ii) 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**)) (drawdown pension) in the transferring scheme.

(4) A transfer, transfer payment or alternative arrangement under this paragraph is prescribed for the purposes of section 73(4)(b) of the 1993 Act (form of short service benefit and its alternatives).

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, each member and the trustees of the trustee default scheme.

(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 scheme selected by the trustees or, where applicable, the member's employer, 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;

(b) the expected 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 its 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.

(**a**) 2004 c. 12.

(5) A notice sent to the trustees of the trustee default scheme under this paragraph must state that the trustee default scheme has been selected under section 24(1)(a) of the Act (continuity option 1: transfer out and winding up).

Employer's response to trustees

5.—(1) Each employer which receives a notice under paragraph 4 must give notice to the trustees of whether—

(a) it accepts the choice of trustee default scheme in relation to members then employed by it, or

(b) it opts to nominate an alternative scheme (the trustees of which are able and willing to accept the transfer) as the employer default scheme for those members, in which case it must state the name of that scheme and inform the trustees of that scheme that it has been so nominated.

(2) Each employer that has opted to nominate an alternative scheme as the employer default scheme must give notice of that nomination to those of its workers who are active members of the transferring scheme.

(3) A notice to trustees or workers under this paragraph must be sent within eight weeks beginning with the date when the employer received the notice under paragraph 4.

(4) If the trustees receive no notice from an employer under this paragraph, the employer is 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 state—

(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 the member specifies otherwise; and

(ii) the name of, and information about—

(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 the member specifies otherwise; and

(ii) the name of, and information about—

(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 scheme;

(e) the fact that the member's funds will be allocated to the default arrangement unless the member specifies otherwise;

(f) where the member can obtain guidance about the proposed transfer;

(g) the member's right to choose whether the member's accrued rights and benefits in the transferring scheme are transferred to—

(i) the applicable scheme, or

(ii) an alternative scheme selected by the member;

(h) the requirement for a member who has selected an alternative scheme to send the trustees of the transferring scheme a notice that meets the requirements of paragraph 7(2);

(i) the member's rights under Part 4ZA of the 1993 Act (transfers and contribution refunds);

(j) the member's right to require the cash equivalent of the member's accrued rights and benefits to be used to buy one or more policies as set out in paragraph 7(1)(b);

(k) 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;

(l) the timetable for future communication with members.

Member's response 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 the member's accrued rights and benefits in the transferring scheme to—

(i) the applicable scheme, or

(ii) an alternative scheme selected by the member, the trustees of which are able and willing to accept the transfer; or

(b) to use the cash equivalent of the member's accrued rights and benefits to purchase one or more policies from one or more insurers authorised by the Financial Conduct Authority(**a**) for carrying on long-term insurance business in the United Kingdom.

(2) A notice under this paragraph—

(a) must be sent within three months beginning with the day when the member received notice from the trustees under paragraph 6 ("the option period"); and

(b) must contain sufficient information about the alternative scheme referred to in sub-paragraph (1)(a)(ii) or the destination of the cash equivalent referred to in sub-paragraph (1)(b), including bank account details, necessary for the trustees to comply with paragraph 8(1).

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

(a) a Master Trust scheme authorised under the Act, or

(b) a personal pension scheme as defined in section 1 of the 1993 Act (categories of pension schemes).

Trustees' duty to transfer

8.—(1) If the trustees receive notice from a member in accordance with 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 the member of the value of the cash equivalent of his or her accrued rights if the member is not yet receiving benefits under the transferring scheme; and

(c) notify the member of the value of his or her remaining benefits if the member is receiving benefits under the transferring scheme.

(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 scheme.

(**a**) The Financial Conduct Authority is described in section 1A of the Financial Services and Markets Act 2000 (c. 8) ("FSMA"), substituted by the Financial Services Act 2012 (c. 21), section 6(1); Part 3 of FSMA contains provisions on authorisation.

(3) Any transfer of a member's rights and benefits, and any application of a member's cash equivalent, under this paragraph must be made within three months beginning with the end of the option period referred to in paragraph 7(2)(a).

Notice of expected transfer date

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

Transfer requirements: choice of arrangements

10.—(1) The trustees of the applicable scheme must, as soon as reasonably practicable, 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 applicable scheme into which those rights or benefits are to be transferred.

(2) The accrued rights of members who do not respond to the applicable scheme within eight weeks after the date on which they received the invitation referred to in sub-paragraph (1) must remain in an arrangement which—

(a) meets the conditions for use as the default arrangement of the applicable scheme, and

(b) complies with Chapter 1 of Part 2 of the Charges and Governance Regulations (restrictions on charges: default arrangements).

Requirements to be met by default schemes

11. The trustee default scheme and any employer default scheme must each 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(**a**) (automatic enrolment schemes), or a scheme which would be an automatic enrolment scheme if the members being transferred were jobholders as defined in section 16(1) of that Act.

Trustees' power to transfer otherwise than to a scheme

12.—(1) Where the trustees cannot identify a 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) Before making arrangements under sub-paragraph (1), the trustees must notify the members to whom the arrangements relate of their intention to do so.

(3) The arrangements permitted by sub-paragraph (1) are 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.

(4) A transfer under sub-paragraph (1) is prescribed for the purposes of section 73(4)(b) of the 1993 Act (form of short service benefit and its alternatives).

Administration charges

13.—(1) For the purposes of section 24(5)(i) of the Act (continuity option 1: transfer out and winding up), the trustees of an applicable scheme must provide to the Regulator a document setting out the administration charges in accordance with the following provisions.

(2) The document must be provided within 28 days beginning with—

(**a**) 2008 c. 30.

(a) in the case of the trustee default scheme, the date on which the trustees received notice from the trustees of the transferring scheme under paragraph 4(1), or

(b) in the case of an employer default scheme, the date on which the trustees received notice from the employer under paragraph 5(1)(b).

(3) The document must set out all levels of administration charges for each charge structure, including any discounted levels—

(a) for each arrangement, including a default arrangement, and any different levels in relation to any one arrangement;

(b) for any additional charges, including the reason for imposing them;

(c) for any third-party charges, including the reason for imposing them; and

(d) for any other type of administration charge in the scheme, including the reason for imposing it.

(4) The charges must be set out as at the most recent date, not falling within a triggering event period in relation to the transferring scheme, on which the applicable scheme submitted a continuity strategy to the Regulator.

(5) The levels must be set out on an annualised basis.

(6) Where there is a discounted level, the reason for charging the lower level must also be set out.

(7) The document must include a statement explaining—

(a) how the applicable scheme has complied with section 33(2) of the Act (prohibition on increasing charges during triggering event period);

(b) whether the applicable scheme is liable for the costs mentioned in section 33(3) of the Act; and

(c) if the applicable 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 applicable scheme.

Cessation of accruals

15.—(1) On the transfer date, the trustees of the transferring scheme 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 of the transferring scheme 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 (transfers and contribution refunds).

Winding up

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

Regulator's power to direct

17. The trustees of a Master Trust scheme must comply with a direction issued by the Regulator requiring them 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, including where the requirement is contained in a direction made under it.

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, and specifies the application fee payable to the Regulator.

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 should 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 and auditing, and requirements in respect of any undertaking funding a scheme funder.

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 sets the deadlines for a scheme's implementation strategy to be submitted when it requires approval by the Regulator (the implementation strategy is a document setting out how members' interests are to be protected after a triggering event has occurred in relation to the scheme).

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 various sections 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 sets out the types of costs that must not be included in the administration charges that apply in relation to the members of a Master Trust.

Regulation 26 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 27 provides that the regime in Part 1 of the Act does not apply to schemes whose only member is employed by two or more 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 28 modifies Part 1 of the Act to disapply certain 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 29 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 30 amends the Companies Act 2006 to exclude scheme funders of Master Trust schemes from the less stringent regime available to small and medium-sized companies, and certain subsidiaries, under that Act.

Regulation 31 amends the Limited Liability Partnerships (Accounts and Audit) (Application of Companies Act 2006) Regulations 2008 to exclude scheme funders which are limited liability

partnerships from the less stringent regime available to small and medium-sized LLPs, and certain subsidiaries, under those Regulations.

Regulation 32 amends the Overseas Companies Regulations 2009 to exclude scheme funders of Master Trust schemes which are registered outside the UK from the less stringent accounting requirements which would otherwise apply to such overseas companies.

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, www.legislation.gov.uk, and at www.gov.uk/government/publications. Paper copies can be obtained from the Department for Work and Pensions, First Floor, Caxton House, Tothill Street, London SW1H 9NA.

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