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Master Trust Authorisation

From October 2018, master trusts will have to apply to the Pensions Regulator for authorisation.

More than half of people who have been automatically enrolled into a workplace pension scheme by their employer are in a master trust scheme. Master trusts have today got nearly 10 million members with £16 billion of savings.

As master trusts have become increasingly popular for pension savings it was inevitable that the government would seek to impose stricter rules on them.

The Department for Work and Pensions has now published the response to the public consultation it ran last year. Alongside that, the Regulator has consulted on a draft code of practice, which is expected to be laid before Parliament in July 2018.

Existing master trusts will have six months to apply for authorisation from October 2018. If a master trust is not authorised, it cannot operate and will be required to wind up and transfer any members it may have.

Background

Back in 2010 there were only 270,000 master trust members. By the start of 2018 this had risen to nearly 10 million, as more and more employers turned to master trusts to meet their automatic enrolment requirements.

With so many members, the government was concerned about the lack of regulation for these schemes. It wanted to ensure members' benefits were protected and that the administration of master trusts was being properly carried out.

The government, therefore, turned to the Pensions Regulator to both supervise existing master trusts and authorise their operation in the pensions market.

From 1 October 2018, existing master trusts will have six months to apply to the Regulator for authorisation and there is a flat fee of £41,000 for the cost of the authorisation. New master trusts will have a lower flat fee of £23,000, as the government considers there will be less work involved in processing new applications.

What is a master trust?

The law defines a master trust scheme as an occupational pension scheme which:

1. provides money purchase benefits (whether alone or in conjunction with other benefits);
2. is used, or intended to be used, by two or more unconnected employers; and
3. is not a relevant public service pension scheme.

The government has deliberately made the definition a broad one, to ensure it covers all existing structures as well as alternative structures which may develop over time.

A number of types of pension scheme have been specifically excluded from the definition. The exclusions include:

- Schemes where all the participating employers are connected.
- Mixed benefit schemes, where the only money purchase benefits are attributable to additional voluntary contributions.
- Defined benefit schemes.
- Small self-administered schemes.

Where a mixed benefit scheme meets the definition of a master trust scheme, trustees only need to apply for authorisation in respect of the money purchase benefits of the scheme. Should authorisation be refused, then the money purchase section(s) of the scheme will need to be wound up. If there is no power to wind up just the money purchase sections, then the master trust will need to cease operating the scheme in so far as it provides money purchase benefits.

Authorisation Criteria

The law requires master trusts to meet five authorisation criteria:

1. All individuals being assessed must be able to clearly demonstrate they are fit and proper and meet standards of honesty, integrity and knowledge appropriate to their role.
2. Schemes must have sufficient IT systems and processes in place to run efficiently, and have robust processes to effectively govern the scheme and comply with all the relevant requirements.
3. A continuity strategy must be in place. Schemes will need a sound business strategy, underpinned by robust financial planning and a strategy to manage triggering events should they arise.
4. Any scheme funder must be a body corporate or partnership, and only carry out activities relating directly to master trusts. An exception to this second requirement is available if the scheme funder’s arrangements for financing the scheme meet the financial transparency and disclosure requirements as set out in the legislation.
5. Financial support needs to be in place to ensure the scheme can be set up and operate on a day-to-day basis and to cover the costs subsequent to a triggering event without increasing the cost to members.

Triggering Events

The continuity strategy, which each master trust must have in place, must show how members’ benefits will be protected following trigger events. A triggering event may indicate that a master trust cannot continue to operate. Triggering events must be notified to the Regulator within seven days and notified to employers within 14 days, beginning with the earlier of the date on which the event occurred or when the notifier becomes aware of the event. If the triggering event is resolved the Regulator must be notified within 14 days of the date the trustees, in their opinion, consider it to be resolved.

Triggering event	Date event occurs	Who must report
A scheme funder has an insolvency event.	The date of the insolvency event.	Scheme funder.
A scheme funder becomes unlikely to continue as a going concern.	The earlier of the date the scheme funder tells the Regulator or the date the trustees or scheme strategist become aware of the event.	Scheme funder.
A scheme funder decides to end the relationship with the scheme.	The date of the decision.	Scheme funder.
A scheme funder ends the relationship or arrangement with the scheme.	The earlier of the date the scheme funder tells the Regulator or the date the trustees or scheme strategist become aware of the event.	Scheme funder.
A scheme funder, scheme strategist or the trustees decide that the scheme should be wound up (where the person making the decision has the power to do so under the scheme rules).	The date of the decision.	Decision maker.
An event occurs which is required or permitted by the scheme rules to result in the winding up of the scheme.	The date on which the event occurs.	Trustees / scheme funder / scheme strategist.
The trustees decide that the scheme is at risk of failure and cannot continue in its current state.	The date of the decision.	Trustees.

A reminder of the terms used above

The **scheme funder** must be constituted as a corporate body or a partnership and does some or all of the following:

- Is liable to provide funds to enable the master trust to continue to run if it cannot meet its running costs from member charges; or
- May be entitled to receive profits from the scheme where member charges exceed running costs.
- Is liable to pay for the cost of running the master trust following a continuity option if there is a triggering event.
- Agrees the business plan and continuity strategy with the trustees and strategist.

The **scheme strategist** is a person or group of people who do the following:

- Make commercial / business / strategic decisions about how the master trust will be run, which could include decisions such as which market segments the master trust is open to, the benefits that are offered and the staffing levels needed to operate.
- Produce and maintain the business plan (which sets out the master trust's objectives and how they will be achieved) and continuity strategy.

Applying for Authorisation

The trustees of existing and new master trusts must apply for authorisation to the Regulator. Applications in respect of existing master trusts will be decided by the Regulator's Determinations Panel, a committee of the Regulator, which operates separately from other parts of the organisation. The decision on new master trusts will be decided by a member of the Regulator's staff, who has delegated authority to make this decision.

When an application is received by the Regulator an authorisation team made up of Regulator staff will assess the information. They may ask for further information, conduct site visits and even decide to meet with relevant individuals. This assessment will normally be completed in four months, following which a preliminary recommendation letter will be issued to the decision maker and the master trust.

If the decision maker decides that a master trust does not meet the five criteria for authorisation, a date for an oral hearing will be notified to the master trust. The decision maker will invite the master trust to make written representations in response to the authorisation team's preliminary recommendation letter. The master trust will normally have two weeks from receiving the preliminary letter to make written submissions.

The burden of proving the criteria are met rest on the master trust.

Comment

The government's desire to ensure master trusts are caught by the regulatory regime is understandable and possibly well overdue. The Regulator's draft code of practice puts flesh on the bones of the legislation and government consultation. It answers many of the questions that the pensions industry was asking.

It will be interesting to see how the Regulator copes with the initial influx of applications for existing master trust authorisation in the six month window between October 2018 and April 2019. Any delays in authorisation could have reputational implications for the schemes concerned.

Concern has been expressed over the fact that the flat authorisation fee for existing master trusts is far higher than for new master trusts. Whilst there is some argument that there is more to look at with an ongoing scheme, a higher flat fee may be difficult to justify for schemes which are operating professionally, and have a proven track record.

The cost of authorisation, added to the requirement for adequate financial reserves and the ongoing cost of the Master Trust Assurance Framework may make some master trust sponsors decide to leave the market and others to look for growth through acquisition.

To authorise some, whilst delaying in making decisions on others, may unfairly influence the market whereby schemes where authorisation is delayed, may be speculated to be a risk.

We expect master trusts to continue to be a dominant force in the UK DC market, however participating employers would be wise to monitor how their master trust is preparing for authorisation.

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