Pension Schemes Act 2017 (c. 17)
SCHEDULE 2 – Master Trusts operating before commencement: transitional provision
Document Generated: 2024-07-18

1

SCHEDULES

SCHEDULE 2   Section 37

MASTER TRUSTS OPERATING BEFORE COMMENCEMENT: TRANSITIONAL PROVISION

Overview of Schedule

1   (1) This Schedule modifies the application of Part 1 as it applies in relation to existing Master Trust schemes.

       (2) The modifications in paragraphs 2 to 7 have effect from the date on which this Act is passed.

       (3) The modifications in paragraphs 8 to 15 have effect from the commencement date.

       (4) In this Schedule—

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

               "existing Master Trust scheme" means a Master Trust scheme in operation before the commencement date.

Modifications having effect from the date on which this Act is passed

2   Section 20 (triggering event: duties of trustees) has effect as if—
       (a)   the existing text were numbered subsection (1);
       (b)   before that subsection there were inserted—

               "(A1) If a triggering event occurs in relation to an existing Master Trust scheme on or after 20 October 2016 but before the commencement date, the trustees must comply with the notification requirements applicable to them (see sections 22 and 25).";
       (c)   in subsection (1), for "a Master Trust scheme" there were substituted "an existing Master Trust scheme on or after the commencement date".

3   Section 21 (triggering events) has effect as if, in subsection (5)(b) after "resolved" there were inserted ", or, in a case where the Regulator is satisfied that the triggering event was resolved before the date on which this Act is passed, the date specified in that notification".

4   Section 22 (notification requirements) has effect as if—
       (a)   for subsection (7) there were substituted—

               "(7) A notification under this section must be given—
                       (a)   in a case where the triggering event occurs on or after 20 October 2016 but before the commencement date, before the end of the period of seven days beginning with the date on which the triggering event occurred;

2

Pension Schemes Act 2017 (c. 17)
SCHEDULE 2 – Master Trusts operating before commencement: transitional provision
Document Generated: 2024-07-18

Status: *This is the original version (as it was originally enacted).*

      (b)   in a case where the triggering event occurs on or after the commencement date, before the end of the period specified in regulations made by the Secretary of State.";

  (b)   in subsection (10), at the end there were inserted "including in the period between 20 October 2016 and the date on which this Act is passed".

5   Section 25 (continuity option 2: resolving triggering event) has effect as if—

  (a)   for subsections (1) and (2) there were substituted—

      "(1) Where—

      (a)   a triggering event occurs in relation to an existing Master Trust scheme on or after 20 October 2016 but before the commencement date, and

      (b)   the trustees consider that the triggering event has been resolved,

      the trustees must notify the Pensions Regulator that they consider that the triggering event has been resolved.

      (2) Where—

      (a)   a triggering event occurs in relation to an existing Master Trust scheme on or after the commencement date, and

      (b)   the trustees decide to pursue continuity option 2,

      the trustees must attempt to resolve the triggering event and must notify the Pensions Regulator when they consider that the triggering event has been resolved.";

  (b)   in subsection (3), for "The notification" there were substituted "A notification under subsection (1) or (2)";

  (c)   for subsection (4) there were substituted—

      "(4) The notification must be given—

      (a)   in a case where the trustees consider that the triggering event was resolved before the date on which this Act is passed, before the end of the period of 14 days beginning with that date (but the trustees may notify the Regulator before that date);

      (b)   in a case where the trustees consider that the triggering event was resolved on or after the date on which this Act is passed but before the commencement date, before the end of the period of 14 days beginning with the date on which the triggering event was, in the opinion of the trustees, resolved;

      (c)   in a case where the triggering event occurred before the commencement date and the trustees consider that it was resolved on or after that date, before the end of the period of 14 days beginning with the date on which the triggering event was, in the opinion of the trustees, resolved;

      (d)   in a case where the triggering event occurred on or after the commencement date, before the end of the period specified in regulations made by the Secretary of State.";

  (d)   in subsection (5) at the end there were inserted "and, in a case where the Regulator is satisfied that the triggering event was resolved before the date

Pension Schemes Act 2017 (c. 17)
SCHEDULE 2 – Master Trusts operating before commencement: transitional provision
Document Generated: 2024-07-18

3

Status: *This is the original version (as it was originally enacted).*

on which this Act is passed, must specify in the notification the date on which the Regulator considers that the triggering event was resolved.

6   Section 33 (prohibition on increasing charges etc during triggering event period) has effect as if—

    (a)   at the beginning there were inserted—

       "(A1) Subsections (B1) and (C1) apply where a triggering event occurs in relation to an existing Master Trust scheme on or after 20 October 2016 but before the commencement date.

       (B1) The trustees must, before the end of the period of seven days beginning with the date on which the triggering event occurred, provide the Pensions Regulator with a statement under subsection (1F).

       (C1) The trustees must not, during the triggering event period—

          (a)   impose any administration charges on or in respect of members at levels above those set out in the statement under subsection (1F),

          (b)   impose any new administration charges on or in respect of members, or

          (c)   impose any administration charges on or in respect of a member in consequence of the member leaving, or deciding to leave, the scheme during the triggering event period.";

    (b)   in subsection (1), for "a Master Trust scheme" there were substituted "an existing Master Trust scheme, where the triggering event occurred on or after the commencement date,";

    (c)   after that subsection, there were inserted—

       "(1A) Subsections (1B) to (1E) have effect where—

          (a)   a triggering event occurs in relation to an existing Master Trust scheme on or after 20 October 2016 but before the commencement date, and

          (b)   the accrued rights of members of that scheme (the "transferring scheme") have been transferred to one or more other Master Trust schemes under section 73(2)(a) of the Pensions Act 1993 (a "receiving scheme").

       (1B) The trustees of a receiving scheme must provide the Pensions Regulator with a statement under subsection (1F) and a statement under subsection (1G).

       (1C) In a case where the accrued rights are transferred before the date on which this Act is passed, the statements must be provided to the Pensions Regulator before the end of the period of seven days beginning with the date on which this Act is passed.

       (1D) In a case where the accrued rights are transferred on or after the date on which this Act is passed but before the commencement date, the statements must be provided to the Pensions Regulator before the end of the period of seven days beginning with the date on which the rights are transferred.

4

Pension Schemes Act 2017 (c. 17)
SCHEDULE 2 – Master Trusts operating before commencement: transitional provision
Document Generated: 2024-07-18

(1E) The trustees of a receiving scheme must not—

    (a)   impose any administration charges on or in respect of members at levels above those set out in the statement under subsection (1F), or

    (b)   impose any new administration charges on or in respect of members,

  for the purposes of meeting any of the costs mentioned in subsection (3).

(1F) A statement under this subsection must state the annual levels of administration charges that applied in relation to members of the scheme on 20 October 2016, for each arrangement or fund within the scheme.

(1G) A statement under this subsection is a statement explaining how the receiving scheme has complied with subsection (1E), and must include—

    (a)   an explanation of whether the receiving scheme is liable for the costs mentioned in subsection (3)(a) or (b), and

    (b)   in a case where the receiving scheme is so liable, how it is to meet those costs.";

  (d)   in subsection (2), at the beginning there were inserted "Where a triggering event occurs in relation to an existing Master Trust scheme on or after the commencement date,";

  (e)   in subsection (4)(b), after "subsection" there were inserted "(1E) or";

  (f)   in subsection (7)—

      (i) for "subsection (1)" there were substituted "subsection (B1), (C1), (1), (1B), (1E)";

      (ii) at the end there were inserted ", including in the period between 20 October 2016 and the date on which this Act is passed";

  (g)   in subsection (8), before the definition of "receiving scheme" there were inserted—

    ""arrangement" means an allocation of contributions towards an investment or investments according to a strategy adopted by the trustees;";

  (h)   in that subsection—

      (i) in the definition of "receiving scheme", before "means" there were inserted ", other than in subsections (1A), (1B) and (1E), and subsection (3) as it applies to subsection (1E),";

      (ii) in the definition of "transferring scheme", before "means" there were inserted ", other than in subsection (1A), and subsection (3) as it applies to subsection (1E),".

7   Part 1 applies in relation to an existing Master Trust scheme as if after section 33 there were inserted—

  "**33A Existing unauthorised schemes: liability for costs of winding up**

  (1) This section applies where—

Pension Schemes Act 2017 (c. 17)
SCHEDULE 2 – Master Trusts operating before commencement: transitional provision
Document Generated: 2024-07-18

5

Status: This is the original version (as it was originally enacted).

     (a)   a triggering event occurs on or after 20 October 2016 in relation to an existing Master Trust scheme that has not been authorised when the event occurs, and

     (b)   a decision is taken that the scheme should be wound up, or the trustees are required to secure that the scheme is wound up.

    (2) A scheme funder of the Master Trust scheme is liable for the costs incurred by the scheme during the triggering event period, to the extent that liability for those costs does not lie elsewhere (taking into account, in particular, the prohibitions in section 33)."

Modifications having effect from the commencement date

8   Section 3 (prohibition on operating a Master Trust scheme unless authorised) has effect as if for the existing text there were substituted—

"**3 Existing Master Trust schemes: need for authorisation**

    (1) A person may not operate an existing Master Trust scheme at any time after the end of the application period unless—

     (a)   the scheme is authorised, or

     (b)   the trustees have applied for authorisation of the scheme under section 4 and the decision on the application has not yet become final (see section 35).

    (2) Section 10 of the Pensions Act 1995 (civil penalties) applies to a person who breaches subsection (1).

    (3) The trustees of an existing Master Trust scheme must, before the end of the application period—

     (a)   apply for authorisation of the scheme under section 4, or

     (b)   decide to wind up the scheme.

    For the consequences of a decision to wind up the scheme, see sections 20 to 33A (as modified by paragraphs 2 to 7 of Schedule 2).

    (4) If—

     (a)   the Pensions Regulator becomes aware that an existing Master Trust scheme is operating after the end of the application period without authorisation, and

     (b)   the Regulator has not received either—

        (i) an application for authorisation, or

        (ii) a notification under section 22 of a decision to wind up the scheme,

    the Regulator must notify the trustees of the scheme that it is not authorised.

    (5) A notification under subsection (4) must include an explanation that it is a triggering event for the purposes of sections 20 to 33A, and of the trustees' duties under those sections.

    (6) The application period is the period of six months beginning with the commencement date.

(7) But if, before the end of that six month period, the trustees satisfy the Pensions Regulator that they have a good reason for needing an extension to the period, the Regulator may extend the application period by up to six weeks.

(8) For the purposes of this Part, a person "operates" a Master Trust scheme if the person—

    (a) accepts money from members or employers (or prospective members or employers), in respect of fees, charges, contributions or otherwise, in relation to the scheme, or

    (b) enters into an agreement with an employer that relates to the provision of pension savings for employees or other workers,

and references to a scheme that is "operating" or "in operation" are to be construed accordingly.

3A Existing Master Trust schemes: pause orders

(1) This section applies where the trustees of an existing Master Trust scheme have applied for authorisation of the scheme under section 4 and the decision on the application has not yet become final (see section 35).

(2) The Pensions Regulator may make a pause order in relation to the scheme if it is satisfied that—

    (a) there is, or is likely to be if a pause order is not made, an immediate risk to the interests of members under the scheme or the assets of the scheme, and

    (b) it is necessary to make a pause order to protect the interests of the generality of members of the scheme.

(3) A pause order under this section is to be treated as if it is made under section 31.

(4) But in its application to a pause order under this section, paragraph 2 of Schedule 1 is to be read as if sub-paragraph (3) were omitted."

9   Section 5 (decision on application) has effect as if at the end there were inserted—

"(7) In the case of a notification under subsection (5) relating to an existing Master Trust scheme, the notification must also include an explanation that the decision is a triggering event for the purposes of sections 20 to 33A, and of the trustees' duties under those sections.

(8) In relation to an application received under section 4 from the trustees of an existing Master Trust scheme, the functions of the Regulator under this section are to be exercised by the Determinations Panel on behalf of the Regulator.

(9) In subsection (8), "the Determinations Panel" means the committee established under section 9 of the Pensions Act 2004."

10   Section 21 (triggering events) has effect as if—

    (a) in subsection (2)—

        (i) after "2" there were inserted ", 2A";

        (ii) after "withdraw" there were inserted "or refuse";

Pension Schemes Act 2017 (c. 17)
SCHEDULE 2 – Master Trusts operating before commencement: transitional provision
Document Generated: 2024-07-18

7

Status: *This is the original version (as it was originally enacted).*

      (b)   in subsection (5)(c)—

          (i) after "2" there were inserted "or 2A";

          (ii) after "withdraw" there were inserted "or refuse";

          (iii) after "withdrawn" there were inserted "or refused";

      (c)   in the table in subsection (6), after the row for item 2 there were inserted—

| "2A. | The Pensions Regulator notifies the trustees of an existing Master Trust scheme of the Regulator's decision to refuse to grant the scheme authorisation. | The date on which the notification is given."; |

      (d)   in that table, in the triggering event described in item 3, for "3(3)" there were substituted "3(4)".

11   Section 23 (continuity options) has effect as if—

      (a)   in subsection (2)(a)—

          (i) after "2" there were inserted "or 2A";

          (ii) after "withdraw" there were inserted "or refuse";

      (b)   in subsection (3)(a), after "2" there were inserted ", 2A".

12   Section 26 (approval of implementation strategy) has effect as if—

      (a)   in subsection (2)—

          (i) after "2" there were inserted "or 2A";

          (ii) after "withdraw" there were inserted "or refuse";

      (b)   in subsection (3), after "2" there were inserted ", 2A".

13   Section 28 (duty to pursue continuity option) has effect as if, in subsection (3)(a), after "2" there were inserted ", 2A".

14   Section 34 (when it becomes clear that authorisation is not to be withdrawn) has effect as if—

      (a)   in subsection (1)—

          (i) after "2" there were inserted "or 2A";

          (ii) after "withdrawn" there were inserted "or refused";

      (b)   in the table in subsection (3), in the first column (triggering event) for "Item 1 or 2" (in both places) there were substituted "Item 1 or 2 or 2A (decision to refuse to authorise existing Master Trust scheme)";

      (c)   in that table, in the first row for item 1 or 2 or 2A, in the second column (circumstances)—

          (i) in point 1, after "determination" there were inserted "or decision";

          (ii) in point 2, after "withdrawn" there were inserted "or refused";

      (d)   in that table, in the second row for item 1 or 2 or 2A, in the second column (circumstances), in point 2, after "withdrawn" there were inserted "or refused";

      (e)   in subsection (4), at the end there were inserted—

          "(c)   section 6(2), in a case where that section applies.";

      (f)   in the section heading, at the end there were inserted "or refused".

15   Section 35 (when decision to withdraw authorisation becomes final) has effect as if—

      (a)   in subsection (1)—

                (i) after "2" there were inserted "or 2A";

                (ii) after "withdraw" there were inserted "or refuse";

        (b)   after subsection (1) there were inserted—

            "(1A) This section also applies for the purposes of determining the date
                  on which the decision on an application for authorisation of an
                  existing Master Trust scheme becomes final for the purposes of
                  section 3(1)(b).";

        (c)   in the table in subsection (3), after the row for item 2 there were inserted—

"Item 2A (notification of decision to refuse to grant authorisation to existing Master Trust scheme)	1. The Pensions Regulator decides to refuse to grant authorisation to an existing Master Trust scheme, and 2. there is no referral of the Regulator's decision to the Tribunal within the time period allowed for doing so.	The date of the Regulator's decision.";

        (d)   in that table—

                (i) in the first column, for "Item 1 or 2" (in both places) there were
                    substituted "Item 1 or 2 or 2A";

                (ii) in the first row for item 1 or 2 or 2A, in the second column, in point
                     2, after "withdrawn" there were inserted "or refused";

                (iii) in the second row for item 1 or 2 or 2A, in the second column, in
                      point 2, after "withdrawn" there were inserted "or refused";

        (e)   in subsection (4), at the end there were inserted—

            "(c)   section 6(2), in a case where that section applies.";

        (f)   in the section heading, after "withdraw" there were inserted "or refuse".