



2021 CHAPTER 6

PART 1

Master Trusts

Authorisation criteria

Fit and proper persons requirement

7.—(1) This section applies for the purposes of enabling the Regulator to decide whether it is satisfied that the persons involved in a Master Trust scheme are fit and proper persons (see section 5(3)(a)).

(2) The Regulator must assess whether each of the following is a fit and proper person to act in relation to the scheme in the capacity mentioned—

- (a) a person who establishes the scheme;
- (b) a trustee;
- (c) a person who (alone or with others) has power to appoint or remove a trustee;
- (d) a person who (alone or with others) has power to vary the terms of the trust under which the scheme is established (where the scheme is established under a trust);
- (e) a person who (alone or with others) has power to vary the scheme (where the scheme is not established under a trust);
- (f) a scheme funder;
- (g) a scheme strategist;
- (h) a person acting in a capacity specified in regulations made by the Department.

(3) The Regulator may also assess whether each of the following is a fit and proper person to act in relation to the scheme in the capacity mentioned—

- (a) a person who promotes or markets the scheme;
- (b) a person acting in a capacity specified in regulations made by the Department.

(4) In assessing whether a person is a fit and proper person to act in a particular capacity, the Regulator—

- (a) must take into account any matters specified in regulations made by the Department, and
- (b) may take into account such other matters as it considers appropriate (including, in particular, matters relating to a person connected with that person).

(5) For the purposes of this section, a person (“A”) is connected with another person (“B”) if—

- (a) A is an associate of B;
- (b) where B is a company, A is a director or shadow director of B or an associate of a director or shadow director of B;
- (c) A is a trustee of an occupational pension scheme established under a trust and—
 - (i) the beneficiaries of the trust include B or an associate of B, or
 - (ii) the terms of the trust confer a power that may be exercised for the benefit of B or an associate of B.

(6) In this section—

“associate” has the meaning given by Article 4 of the Insolvency (Northern Ireland) Order 1989;

“director” and “shadow director” have the meanings given by Article 5 of that Order.

(7) The first regulations that are made under subsection (4) are subject to the confirmatory procedure.

(8) Any subsequent regulations under subsection (4), and regulations under subsections (2) and (3), are subject to negative resolution.

Financial sustainability requirement

8.—(1) This section applies for the purposes of enabling the Regulator to decide whether it is satisfied that a Master Trust scheme is financially sustainable (see section 5(3)(b)).

(2) In order to be satisfied that a Master Trust scheme is financially sustainable, the Regulator must be satisfied—

- (a) that the business strategy relating to the scheme is sound, and
 - (b) that the scheme has sufficient financial resources to meet the costs mentioned in subsection (3).
- (3) The costs are—
- (a) the costs of setting up and running the scheme, and
 - (b) in the event of a triggering event occurring—
 - (i) the costs of complying with the duties in sections 20 to 33, and
 - (ii) the costs of continuing to run the scheme for such period (which must be at least six months and no more than two years) as the Regulator thinks appropriate for the scheme.
- (4) In deciding whether it is satisfied about the matters mentioned in subsection (2)(a) and (b), the Regulator must take into account any matters specified in regulations made by the Department.
- (5) The regulations may include provision specifying—
- (a) the information that the Regulator must take into account, such as—
 - (i) the scheme’s business plan and supporting documents and information (see section 9);
 - (ii) the scheme’s accounts and the accounts of a scheme funder;
 - (b) requirements to be met by the scheme or by a scheme funder relating to its financing, such as requirements relating to assets, capital or liquidity.
- (6) The first regulations that are made under this section are subject to the confirmatory procedure.
- (7) Any subsequent regulations under this section are subject to negative resolution.

Financial sustainability requirement: business plan

- 9.—**(1) A scheme strategist of a Master Trust scheme must prepare a business plan for the scheme.
- (2) The Department may make regulations setting out—
- (a) information that must be included in a business plan, and
 - (b) any other requirements with which a business plan must comply.
- (3) The scheme strategist must review the business plan at least once a year, and revise it if appropriate.
- (4) The scheme strategist must revise the business plan at any time if there is any significant change to the information included in it.
- (5) The business plan, and any revisions to it, must be approved by each scheme funder, any other scheme strategist and the trustees.

(6) The scheme strategist or the trustees must provide the Regulator with the most recent business plan, and any supporting information or documents required by the Regulator—

- (a) on application for authorisation (see section 4);
- (b) within three months of the plan being revised;
- (c) at any other time, on request from the Regulator.

(7) The first regulations that are made under this section are subject to the confirmatory procedure.

(8) Any subsequent regulations under this section are subject to negative resolution.

Scheme funder requirements

10.—(1) This section makes provision about the requirements that a scheme funder must meet in order for the scheme to meet the authorisation criterion mentioned in section 5(3)(c).

(2) The first requirement is that the scheme funder is a body corporate or a partnership that is a legal person under the law by which it is governed.

(3) The second requirement is that the scheme funder only carries out activities that relate directly to Master Trust schemes in relation to which it is a scheme funder or prospective scheme funder.

(4) The Department may make regulations providing for exceptions from the second requirement.

(5) The regulations may include provision excepting a scheme funder from the second requirement—

- (a) where the scheme funder meets additional requirements specified in the regulations (such as requirements relating to a scheme funder's financial position, its financial arrangements with the Master Trust scheme in question or its business activities);
- (b) where the scheme funder applies to the Regulator and provides the Regulator with information specified in the regulations, or such other information as the Regulator may require in order to satisfy the Regulator that the Master Trust scheme is financially sustainable.

(6) The Department may make regulations setting out requirements relating to a scheme funder's accounts.

(7) The regulations may include provision—

- (a) setting out requirements relating to the audit of accounts;
- (b) applying some or all of the provisions of Parts 15 and 16 of the Companies Act 2006 (accounts and reports; audit), with or without modifications.

(8) The first regulations that are made under subsection (4) are subject to the confirmatory procedure.

(9) Any subsequent regulations under subsection (4), and regulations under subsection (6), are subject to negative resolution.

Systems and processes requirements

11.—(1) This section applies for the purposes of enabling the Regulator to decide whether it is satisfied that the systems and processes used in running the scheme are sufficient to ensure that it is run effectively (see section 5(3)(d)).

(2) In deciding whether it is satisfied that the systems and processes used in running the scheme are sufficient for those purposes, the Regulator must take into account any matters specified in regulations made by the Department.

(3) Regulations about the systems used in running a scheme may include provision about—

- (a) the features and functionality required of the IT systems used in running the scheme;
- (b) standards that those IT systems must meet (for example, in relation to quality and security of data);
- (c) the maintenance of those IT systems.

(4) Regulations about the processes used in running a scheme may include provision about—

- (a) records management;
- (b) risk management;
- (c) resource planning;
- (d) processes relating to transactions and investment decisions;
- (e) processes relating to the appointment and removal of trustees, and their professional development;
- (f) processes relating to the roles and responsibilities of a scheme strategist and a scheme funder;
- (g) processes relating to the appointment, removal, roles and responsibilities of—
 - (i) persons (other than those mentioned in paragraphs (e) and (f)) involved in running the scheme, and
 - (ii) persons providing services in relation to the scheme.

(5) The first regulations that are made under this section are subject to the confirmatory procedure.

(6) Any subsequent regulations under this section are subject to negative resolution.

Continuity strategy requirement

12.—(1) This section applies for the purposes of enabling the Regulator to decide whether it is satisfied that a Master Trust scheme has an adequate continuity strategy (see section 5(3)(e)).

(2) A continuity strategy is a document addressing how the interests of members of the scheme are to be protected if a triggering event occurs in relation to the scheme (see section 21).

(3) A continuity strategy must be prepared by a scheme strategist.

(4) A continuity strategy must include a section setting out the levels of administration charges that apply in relation to members of the scheme.

(5) The strategy must set out those levels of charges in the manner specified in regulations made by the Department.

(6) A continuity strategy must—

(a) contain such other information as may be specified in regulations made by the Department, and

(b) be prepared in accordance with regulations made by the Department.

(7) A scheme strategist must keep the continuity strategy under review and revise it if appropriate.

(8) The continuity strategy, and any revisions to it, must be approved by each scheme funder, any other scheme strategist and the trustees.

(9) A scheme strategist or the trustees must provide the continuity strategy to the Regulator—

(a) on application for authorisation (see section 4),

(b) within three months of the strategy being revised, and

(c) at any other time, on request from the Regulator.

(10) The first regulations that are made under this section are subject to the confirmatory procedure.

(11) Any subsequent regulations under this section are subject to negative resolution.