Master trust agenda

Q4 2023

Sackers

This quarterly bulletin sets out current and future developments affecting Master Trusts, so you can check what should be on your agenda

Current issues	Actions
Evolving the regulatory approach: DWP's review of the Master Trusts authorisation and supervisory regime and the wider market (new) • The review notes that master trusts are key to the delivery of the Chancellor's Mansion House reforms, as well as wider policy initiatives such as the expansion of automatic enrolment and the establishment of a market for CDC. • Recommendations include TPR enhancing its focus on investment governance by, for example, seeking an increased flow of timely investment information and expecting appropriate levels of investment expertise on trustee boards, as well as on value and continuous improvement. • DWP is advised to take account of legislative changes, if necessary, including: – amending the authorisation regime to consider market withdrawal in mergers and acquisitions cases, ensuring it is appropriate for these circumstances and that TPR has proper oversight – adding the Chief Investment Officer to the list of persons required to undergo a "fit and proper" persons check – the introduction of risk notices, in line with CDC requirements – lifting the ban on pre-agreements to allow new market entrants the best opportunity to build scale and promote further market competition. • As scale in the market is built, and the VFM framework is embedded, the DWP intends to work with TPR to understand competition in the market and any further emerging risks resulting from scheme size.	• Master trust trustees should prepare for closer scrutiny of their investment governance by assessing their current systems and processes (and making improvements where appropriate), ensuring the focus is on value not just cost. • The current legislative framework is prescriptive and drafted on the basis that one of a limited number of "triggering events" must have occurred for a master trust to be able to transfer assets and liabilities to another master trust and wind-up. We welcome the proposal to amend the regime to provide greater flexibility for master-trust consolidation where there are corporate acquisitions or other commercial factors in play.
Supporting individuals in decumulation (updated) • The Government has published its response to its July 2023 consultation on a policy framework to support individuals using their pensions savings in decumulation. • The Government intends to legislate "at the earliest opportunity" to place a legal duty on trustees to offer a range of decumulation services and products to members at an appropriate quality and price, either in house or via a partnership with a third party, which are suitable for their members. • Members in trust-based schemes will need to be placed into a "default" decumulation solution by their pension scheme unless they make an active choice. • In the meantime, schemes will be encouraged to develop a voluntary decumulation offering or to enhance their existing provision. TPR has already announced that it will publish interim guidance on DC decumulation in 2024 which will "show how the objectives of these policies can be met without legislation, and to encourage innovation". • The response to the information, guidance and communications element of the summer 2022 call for evidence on "Helping savers understand their pension choices", is still awaited.	• Many master trusts already offer a full range of decumulation options and are looking to develop their propositions in this area further. As such, they are likely to be well placed when future guidance and legislation comes into effect in this space, although adaptations may well be needed. • Some master trusts are also partners for trust-based schemes seeking to offer a wide range of options to their members in decumulation and we expect this trend to accelerate as a result of the proposed new framework. Master trust trustees should consider how they wish to approach this prospect and, if appropriate, whether to extend or rework their decumulation offering. • Master trusts should keep an eye on what exactly is meant by the Government's proposals for schemes to offer a "default" decumulation option as this could impact significantly on the governance (and risk) attached to the provision of decumulation solutions from the master trust perspective. Clear communications to members will be important.

Current issues cont.

Extending opportunities for CDC schemes (updated)

- A consultation on draft regulations to enable whole of life unconnected multi-employer CDC schemes is planned for "early next year".
- The DWP continues to work with the pensions industry to explore how to establish an appropriate CDC decumulation model for the UK.
- The DWP is considering how CDC could form part of the decumulation solutions that trustees will be legally required to offer, including a default option and a "lifetime provider model" – see detail above.

Actions

- As master trusts act as an increasingly key decumulation vehicle for DC pension savers, and particularly given the Government has made it clear it sees CDC as forming a key part of future decumulation solutions, master trust trustees should have a view to this when considering decumulation solutions.
- We are aware that some providers are looking to explore CDC as part of their wider retirement solution proposition. Master trust trustees will need to understand their own provider's proposition developments in this space.

Deferred small pots (updated)

- The Government is pressing ahead with plans to introduce multiple default consolidators to support the consolidation of existing deferred, small DC pots. A central objective of this approach is a considerably more consolidated master trust market.
- Under the proposals:
  - a small number of schemes would be authorised to act as automated consolidators for deferred small pots, with a central "clearing house" acting as a central point to store and manage data and inform schemes where to transfer
  - pots of up to £1,000, that were created since the introduction of automatic enrolment, would become eligible for automatic consolidation 12 months after the last contribution is made, with the Secretary of State required to review the pot size limit at regular intervals.
- To reduce the risk of detriment to members whose pots are automatically transferred, consolidator schemes would need to meet certain authorisation criteria and members would be able to choose their designated consolidator or opt out if they wished.
- Taking account of various international examples, the Government is also looking into a "lifetime provider model" in place of the existing workplace pension framework, so as to reduce the number of individuals creating multiple new DC pots. A new call for evidence seeks views on how this might work and what central architecture, including data standards, would be needed. Any move to such a model would need to join up with other policy developments, such as dashboards, default consolidators and the development of CDC schemes. In particular, the Government is considering how a lifetime provider model could work with the development of CDC schemes.

Actions:

- The default consolidator proposals will significantly impact the master trust market given (i) the number and value of small pots in master trusts as a result of automatic enrolment and consolidation, (ii) the practical implications of administering the proposals, and (iii) the potential for market distortion if not carefully managed.
- Master trust trustees should discuss the practical implications of the default consolidator proposals with their providers. We understand that there is significant concern in the industry as to how workable the proposals are (particularly in relation to the operation of the clearing house given the issues with the dashboard programme to date) and as such we expect that it may be some time before any changes here are actually introduced. However, we suggest that master trusts continue to keep a watching brief on this issue.
- The "pot for life" proposals, if developed, would represent a complete shift from the current workplace pension model to pension schemes becoming a retail product. This could have fundamental consequences for master trusts, so trustees should ensure they keep a watching brief.

DWP's Taskforce on Social Factors publishes guide for consultation (new)

- The TSF is consulting on a draft guide on incorporating social factors into investment and stewardship decision-making.
- The guide makes recommendations for different stakeholders in the pensions sector, including that pension schemes should "ensure their asset managers consider social factors and integrate them into their investment strategy and stewardship". It also provides example mandate terms and questions to help monitor advisers.

Actions:

- Master trust trustees should consider how well social factors are currently being addressed as part of their investment and stewardship decisions, and whether any improvements could be made.

Current issues cont.	Actions

Value for money ("VFM") (updated)

- Over the last couple of years, the DWP, TPR and the FCA have been working closely to establish a common assessment framework for VFM across the DC market ("the Framework"), culminating in a joint consultation earlier this year.
- The joint response confirms that:
  - the Framework, which looks across the key elements of investment performance, costs and charges and quality of services, will be introduced broadly as originally proposed. There have been some easements which are particularly useful for master trusts, for example reporting investment returns gross, instead of net of cost, and collating charges information on a comparable cohort basis (both reducing the number of data points to disclose). However, the reforms will nonetheless require extensive public disclosures to be made by master trusts in Q1 of each year once introduced
  - implementation will be phased, starting with "active" default arrangements
  - comparisons against other schemes of sufficient scale will be required alongside a RAG assessment, and there will be tightly defined criteria to prevent gaming or comparison against poorly performing schemes
  - the current value for members assessment will be phased out as the Framework is introduced.
- For now, the chair's statement will remain. Consideration will be given to how its requirements can be managed down and ultimately phased out.
- The FCA intends to consult on draft rules on VfM for contract-based schemes in spring 2024. TPR is helping to develop these in anticipation of legislation for trust-based schemes, which will be brought forward "when parliamentary time allows". Trust-based schemes are encouraged to engage with the FCA consultation to ensure there are no barriers to implementing the framework in the trust-based environment.

Actions

- Whilst the exact date of introduction of these changes is not known yet, early thought will need to be given as to how the proposed data can be collated, disclosed and ultimately compared. Ensuring comparability of the data is the most challenging aspect of the changes.
- The FCA, TPR and the DWP are keen to engage with master trusts and other key stakeholders in relation to the proposed new VFM framework so it would be helpful if master trusts could provide any feedback from a practical perspective. We are liaising closely with the Regulators as well as other key stakeholders in the industry on this issue.

Trustee skills, capability and culture (updated)

- The Government has published its response to the July 2023 call for evidence on TKU standards, accreditation, and a trustee register.
- While the majority of trustees are regarded as "well-supported, knowledgeable, and hard-working", the Government believes there is "space for action" to ensure that all trustees are able to work effectively and that those making key decisions for pension savers do so based on the "best possible long-term outcomes".
- A key barrier to achieving better long-term outcomes is thought to be a "damaging and continual focus on cost and minimising all risks throughout the pensions industry". The new VFM framework should help, but the Government expects trustees, advisers, and employers to take "action now to ensure that they are not focusing on cost at the expense of value". This somewhat overlooks the possibility that existing legislation and regulation could be hindering schemes.
- In terms of "immediate actions", the Government will:
  - support TPR in taking forward a trustee register
  - "strongly encourage" professional trustee accreditation
  - work with TPR in engaging with employers on pension scheme selection.
- TPR is expected to issue updated investment guidance "by the end of the year", covering investment decisions and alternative assets, and a review of the trustee toolkit is underway.

Actions

- Many master trusts already have fully independent boards. Whilst boards typically include representatives from professional trustee firms, there are also a number of independent trustees who are affiliated to a professional trustee firm and/or who do not have specific accreditations. No timetable has been given for the introduction of any changes but, should changes be made, they may well be material for some master trust trustees. Affected trustees should keep a watching brief on developments.

Court of Appeal finds TPO is not a "competent court" for the purposes of recouping overpayments (new)

- Trustees may recoup overpayments provided certain statutory conditions are met including, where there is a dispute as to the amount, that the deduction must not be made unless the obligation "has become enforceable under an order of a competent court".
- The Court of Appeal has found that TPO is not a "competent court" for the purposes of recouping overpayments. As a result, where TPO determines a dispute about an overpayment, a County Court order will be needed to enforce TPO's decision.

Actions

- Master trust trustees should liaise with their legal advisers to revise their processes for managing overpayments accordingly.

Current issues cont.

Investment in illiquids including private markets (new)

- In his Mansion House speech, the Chancellor of the Exchequer, Jeremy Hunt, announced that some of the UK's largest pension providers had agreed to a voluntary "compact" to commit 5% of their DC scheme investments to private equity and early-stage business. It was estimated that this could potentially unlock up to £50 billion by 2030 if other DC schemes follow suit.
- Part of the Government's 2030 vision, as announced in the Autumn Statement, is to expand the range of quality investment vehicles to ensure sufficient opportunities to invest in high-growth UK companies.
- Several UK venture capital and growth equity fund managers have agreed the "Venture Capital Investment Compact", committing to develop a "long-term and constructive working relationship with UK pension investors". The firms will work with pension providers over the next 12 months to October 2024 to "increase UK pension scheme investment into venture, growth and other private capital funds as part of a diversified portfolio".
- Trustees must also now include their policy on investment in illiquids in their Statement of Investment Principals the first time it is updated after 1 October 2023.

Actions

- Encouraging investment in illiquids including private markets is a focus for the current Government, particularly in larger schemes as a result of DC consolidation. Master trust trustees should be considering their policies on investment in illiquids including private markets and what, if any, action they wish to take in terms of their investment strategy.

Removal of the LTA (updated)

- On 29 November 2023, the draft Finance Bill 2023-24 was published. It paves the way for the LTA's demise.
- While the drafting remains subject to change, key measures include:
  - the removal of the LTA regime and the introduction of two new tax-free lump sum allowances; the lump sum allowance and the lump sum death benefit allowance ("the Allowances")
  - the Allowances apply per person across all registered pension schemes. Lump sum payments over the Allowances will be taxed at an individual's marginal rate
  - the removal of the LTA excess lump sum and the introduction of a pension commencement excess lump sum.
- The Bill also aims to clarify the tax treatment of pension income, lump sums and application to existing protections, and sets out transitional arrangements and reporting requirements.
- HMRC published a newsletter summarising the proposals on 30 November 2023, and expects to provide further details in a future LTA newsletter.

Actions

- Master trust trustees should ensure detailed records are being kept of member and death benefit lump sums to avoid issues arising when the new statutory requirements are in force. In particular, individuals will need evidence of the amount of tax-free cash they have taken to date to be able to demonstrate whether they have any allowance remaining on / after 6 April 2024.
- Looking ahead, trustees should liaise with their sponsors and administrators, and consider how their own (sub-committee's) oversight processes will need to be updated.

Pensions dashboards (updated)

- Following the "reset" announcement earlier this year, a revised statutory deadline of 31 October 2026 has been introduced for all schemes to connect to the dashboards' ecosystem.
- A revised staging timetable will be set out in the connection guidance which is due to be published in draft shortly. The aim is for the final guidance to be published at least 12 months ahead of the first connection date. Trustees will need to "have regard" to the guidance when preparing to connect to the dashboards ecosystem and be able to demonstrate this was the case.

Actions

- Despite the delay to deadlines, we recommend master trust trustees continue to keep abreast of their sponsor / provider's progress with their dashboard readiness programmes. Many clients are finding it helpful to agree a position on key areas with their sponsor/ provider/ administrator, as well as continuing any data cleansing work.

Advice / guidance boundary review (updated)

- The FCA has published a consultation on proposals for addressing the advice gap.
- The policy paper specifically asks for feedback about how the support trust-based master trusts provide is affected by the advice boundary for non-authorised persons and notes that the FCA is looking to understand how the proposals may affect FCA-authorised firms sponsoring a master trust, including at an operational level.
- The consultation closes on 28 February 2024.

Actions

- We will be responding to the consultation. Please let us know if you would like to feed in any comments.

On the horizon

Extension of automatic enrolment

- A Bill on automatic enrolment has received Royal Assent. It contains regulation-making powers to abolish the lower earnings limit for statutory default DC contributions, and to reduce the age for being automatically enrolled.
- The then Pensions Minister, Laura Trott, confirmed that the Government hopes to consult on regulations implementing these changes "in the autumn".

Comments

Master trust trustees should keep an eye on these changes as, if they are introduced, they will impact significantly on the master trust market.