Master trust agenda

Q1 2024

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
Spring Budget 2024 (new) • The Chancellor, Jeremy Hunt, delivered his Spring Budget on 6 March 2024. The pensions news this year centres on long-term growth and includes: – new requirements for certain DC schemes to disclose UK equities holdings. The FCA is expected to consult in spring 2024. It is not yet clear when, or whether, these requirements will also be introduced for trust-based occupational DC schemes – the FCA and TPR will be given powers, in relation to the new value for money ("VFM") framework, to prevent consistently poorly performing schemes from taking on new business from employers – see detail on VFM below – the Government confirmed its intention to explore a "lifetime provider model" for DC pension schemes in the long term – see detail on deferred small pots below.	• These proposals may impact master trusts, so trustees should ensure they keep a watching brief.
TPR's new general code of practice (new) • TPR published its long-awaited new general code of practice (the "Code") and consultation response on 10 January 2024. The Code, which is expected to come into force on 27 March 2024, brings together 10 of TPR's 16 current codes of practice into new "modules". It is intended to be clearer and more accessible than the existing codes, as well as including some additional detail and new expectations.	• While master trusts are exempt from the new requirement for an effective system of governance ("ESOG") and the corresponding own risk assessment ("ORA), now that the Code is final trustees should cross check their current systems and processes against the relevant sections and address any gaps or discrepancies.
Removal of the LTA (updated) • The Finance Act 2024 ("FA24"), which removes the LTA framework from 6 April 2024, received Royal Assent on 22 February 2024. • 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 – individuals holding a valid LTA protection will retain their rights to a higher level of tax-free lump sum, as well as to higher tax-free parts of lump sums and lump sum death benefits – the removal of the LTA excess lump sum and the introduction of a pension commencement excess lump sum ("PCELS"). • The Act also aims to clarify the tax treatment of pension income, lump sums and the application of protections and sets out transitional arrangements and reporting requirements. • On 14 March 2024, the Pensions (Abolition of Lifetime Allowance Charge etc) Regulations 2024 were laid before Parliament. They address various issues in the FA24, including the new PCELS and will introduce a statutory override to help scheme rules continue to operate as intended where they contain benefit limits based on the LTA. They come into force on 6 April 2024. • HMRC has already published various pieces of guidance to help the industry prepare and more is on its way, including an updated Pensions Tax Manual.	• Master trust trustees should consider with their legal advisers and scheme sponsor/funder if any rule amendments are needed in light of the changes (either prior to 6 April 2024 or in due course). • Master trust trustees should ensure detailed records are being kept by their administrator/sponsor 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, master trust trustees should liaise with their sponsors and administrators, and consider how their own sub-committee's oversight processes will need to be updated. • Member communications will need to be updated to reflect the changes being made.

Current issues cont.

Reporting cyber incidents (new)

- On 2 February 2024, TPR published a report which outlines how it worked with Capita to assess the risk to pension schemes and their members following a cyber security incident in 2023. It sets out some lessons learned, as well as the steps trustees should take in the event of a cyber security incident.
- TPR has also updated its cyber security guidance. The updated guidance asks trustees to report significant cyber incidents to TPR on a voluntary basis, in addition to any mandated reports (eg to the ICO), to help it build a better picture of cyber risk.
- A significant cyber incident is one likely to result in a significant loss of member data, major disruption to member services, or a negative impact on a number of other pension schemes or pension service providers.

Actions

- Master trust trustees should review their record-keeping and reporting processes in light of this new guidance.

Advice / guidance boundary review (updated)

- The FCA have consulted on proposals for addressing the advice gap. (See our response.)
- The policy paper sought feedback about how the support trust-based master trusts provide is affected by the advice boundary for non-authorised persons and noted that the FCA is looking to understand how the proposals may affect FCA-authorised firms sponsoring a master trust, including at an operational level.
- We hope that, in response to this consultation, the FCA and DWP/TPR will provide further clarity on when trustees could be straying into FCA regulated activity/financial promotion territory, particularly in the context of master trusts sponsored by FCA authorised firms.

Actions

- The topic of advice and guidance is particularly relevant in the context of master trusts offering decumulation solutions and advice and guidance services both to existing members and via a partnering arrangement, and in light of the DWPs proposal for there to be a legal duty for trustees to offer decumulation solutions, including a default option. Master trust trustees should ensure they seek legal input on any proposals from the sponsor in this area, particularly where the sponsor is an FCA regulated firm and offers a wider portfolio of other regulated products and services.

Supporting individuals 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, with TPR planning to publish interim guidance on DC decumulation this year.
- The response to the information, guidance and communications element of the call for evidence on “Helping savers understand their pension choices” (from summer 2022) is still awaited. (See our response.)

Actions

- Many master trusts already offer a full range of decumulation options and are looking to develop their propositions in this area further, and as such, 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 was expected "early" this 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 below.
- On 27 February 2024, PASA published a paper on "initial observations on CDC developments". It outlines recent policy and regulatory references to CDC arrangements and the likely impact on administration.

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 has launched the Small Pots Delivery Group to provide recommendations on how best to implement the proposed multiple default consolidator approach to managing the consolidation of existing deferred, small DC pots. The group is expected to address various aspects of the proposals, including the role and function of the clearing house, in late 2024.
- 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 call for evidence (which closed on 24 January 2024) sought views on how this might work and what central architecture, including data standards, would be needed. (See our response.)
- On 27 February 2024, the PPI published a report on how a lifetime provider model could impact members, employers and industry. The report sets out:
  - the potential impact on key stakeholders
  - the issues that may need to be considered if the policy were to be implemented, and
  - how the model could fit with other current policy developments, such as dashboards and the new VFM framework.

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).
- The "lifetime provider model", 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.

Current issues cont.

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:
  - engage with key stakeholders in spring 2024 on improving trusteeship, including the barriers to increasing accreditation and how to address them
  - support TPR in taking forward a trustee register
  - "strongly encourage" professional trustee accreditation (TPR's new general code identifies this as an expectation). The possibility of mandatory accreditation will be kept under review
  - 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 not 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.

VFM

- The response to the consultation on a common framework for VFM ("the Framework") 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.
- The consultation response explained that the parties intended to "develop a suite of regulatory tools that will ensure schemes comply with the framework". The Budget announcement made clear that these powers will include the ability to close a poorly performing scheme to new employer entrants or, where necessary, to wind it up.
- 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 yet known, 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 and we understand that the FCA will publish draft rules in spring 2024. Whilst these will not affect master trusts directly, our expectation is that the provisions will need to be mirrored by DWP in corresponding legislation.

Current issues cont.	Actions

Investment in illiquids including private markets (updated)

- 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 include their policy on investment in illiquids in their Statement of Investment Principals the first time it is updated after 1 October 2023.
- On 24 January 2024, TPR published new guidance for occupational pension scheme trustees who are considering investing in private markets. It calls on trustees to ensure they have an appropriate level of knowledge and understanding to be able to work with their advisers to fully consider how accessing private market assets may meet their needs.

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/underlying fund structures.
- Master trust trustees should assess whether their knowledge and understanding of private market assets is sufficient and, if not, seek appropriate training from both their investment and legal advisers.

Pensions dashboards programme ("PDP") (updated)

- The staging timeline guidance, which will set out when schemes are expected to connect to the dashboard architecture, is due this year.
- Work continues on the regulatory framework:
  - the Pensions Dashboards (Prohibition of Indemnification) Act 2023 came into force on 1 January 2024. It prohibits trustees and managers from being reimbursed out of scheme assets in respect of penalties imposed under pensions dashboards regulations, in line with the position for other areas of pensions legislation
  - the Order to make operating a commercial pensions dashboard service which connects to the MaPS architecture an FCA-regulated activity has been made, and came into force on 11 March 2024
  - the PDP will be launching a user testing and planning group "early" in the year, to help plan and co-ordinate user testing activity that will inform when dashboards may become publicly available.

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.

TPO competent court factsheet (new)

- In CMG, the Court of Appeal found that, where an overpayment is disputed by the member, a TPO determination alone is not sufficient for a pension scheme to recoup the overpayment and the trustees must apply to the County Court to enforce the determination.
- TPO has issued a factsheet which:
  - explains that the DWP intends to introduce legislation to formally empower TPO to bring an overpayment dispute to an end without the need for a County Court order, and
  - sets out guidance on managing overpayment disputes in the meantime, including a summary of the process that trustees should follow to apply to the County Court.

Actions:

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

Automatic enrolment (new)

- On 6 February 2024, the DWP published its annual review of the AE earnings trigger and qualifying earnings band for 2022/23, concluding that the existing earnings trigger threshold of £10,000 remains the correct level and will not change for 2024/25. As earnings grow, the DWP estimates that freezing the earnings trigger will bring private pension participation to 15.8 million.
- The current lower and upper earnings bands will also be maintained at the same level for 2024/25, at £6,240 and £50,270, respectively.
- A Bill on automatic enrolment has received Royal Assent. It contains regulation-making powers to abolish the lower earnings limit for contributions and to reduce the age for automatic enrolment. The Government intends to consult on implementing these changes, "at the earliest opportunity".

Actions:

- Master trust trustees should keep an eye on these changes to remove the lower earnings band and reduce the age for being automatically enrolled as, if they are introduced, they will impact significantly on the master trust market.

Current issues cont.	Actions
Stewardship (new) • The PLSA has published its latest annual Stewardship and Voting Guidelines, intended to provide a framework for trustees, and investors generally, to ensure that companies are "held to account on key issues". The guidelines take into account recent political and economic events and increased awareness and interest in topics such as cybersecurity, AI and biodiversity. They include new sections on social factors and workforce and developments in ESG, with areas to look out for in 2024. • Following its 2023 consultation, the Taskforce of Social Factors has published its guide on incorporating social factors into trustee investment and stewardship decision-making. • The Financial Reporting Council is undertaking a review of the UK Stewardship Code 2020 to make sure that it supports growth and the UK's competitiveness. The revised Code is likely to be published in early 2025.	Master trust trustees should take any necessary action in relation to the new guidelines.
International data transfers (new) • The ability to use transitional standard clauses for international transfers of personal data in relation to contracts concluded on or before 21 September 2022 ended on 21 March 2024.	Master trust trustees who are still relying on the transitional standard clauses should amend relevant contracts to include the new clauses by this date.