PROPOSED ASSEMBLY PENSION SCHEMES BILL
BRIEFING FOR THE COMMITTEE FOR COMMUNITIES

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SYNOPSIS

1. The Pension Schemes Bill makes provision for NI corresponding to the Pension Schemes Act 2017 (the '2017 Act'). It proposes reform and regulation of Master Trusts (a type of multi-employer pension scheme). It also makes provision relating to a ban on member-borne commission charges and a cap on early exit charges in occupational pension schemes.

2. The measures outlined in the Bill were subject to consultation carried out in GB and NI. The Government carried out a consultation which ran from 30 July to 21 October 2015 which sought to gather stakeholders' and consumers' views on whether early exit charges applied by schemes were preventing consumers from accessing their pension savings. A separate consultation, ran between 26 May and 16 August 2016, which outlined proposals to introduce a cap on early exit charges imposed by providers of occupational pension schemes.

3. In 2017.approval was given by the then Executive to introduce the Pension Schemes Bill, however, due to suspension, the Bill was not able to proceed as intended.

4. An Equality Impact Assessment (EQIA) examined corresponding NI proposals in the context of the promotion of equality of opportunity and good relations as required by section 75 of the NI Act 1998. The EQIA found that none of the proposed measures were expected to have an adverse impact on any of the section 75 groups. A consultation exercise was carried out from 16 December 2016 to 9 February 2017. Two substantive responses were received both of which agreed with the findings of the EQIA.

5. The 2017 Act only applies to GB. Section 87 of the NI Act 1998 places a statutory duty on the Secretary of State and the Minister responsible for social security in NI to seek to secure single systems of social security, child support and pensions across NI and GB. There has for many years, in effect, been a single system of pensions across the UK. Many private pension schemes operating in NI are UK-wide schemes. Additionally, the Pensions Regulator (TPR) operates on a UK-wide basis. Therefore it is highly desirable that the same regulatory framework is in place in NI to facilitate compliance and enforcement.

Master Trust authorisation

6. Since the introduction of automatic enrolment, Master Trusts have become a popular vehicle for employers, particularly small and micro-employers, seeking to enrol employees into an occupational pension scheme. A Master Trust is a form of multi-employer occupational pension scheme for unconnected employers where instead of the employer setting up their own pension scheme, the scheme will be provided by an external organisation which runs a pension scheme for numerous employers.

7. In 2010, across GB and NI there were around 0.2 million members in Master Trust schemes. By the end of November 2019 there were 16 million members in 37 Master Trust schemes holding more than £36 billion in assets.

8. Although these schemes can offer good value for members and employers, the current legislative framework is not considered appropriate. Master Trusts are currently regulated by TPR and occupational pensions legislation. However, that legislation was developed mainly with single-employer pension schemes in mind. As Master Trusts have different structures and dynamics, a stronger regulatory framework is required.

9. The Bill provides that:

- an authorisation and supervision regime for Master Trusts, so that Master Trusts would have to demonstrate to TPR that they meet certain key criteria on establishment, and then continue to do so;
- existing Master Trusts will be brought into the regime and required to meet the new criteria;
- requirements will be placed on Trustees to act in certain ways in the event of wind up or closure of a Master Trust to protect members in those circumstances; and
- TPR is provided with greater powers to take action where the key criteria are not met.

Capping early exit charges

10. Following the coming into force of the pension freedoms in April 2015, many members of pension schemes aged 55 and over were able to access their retirement savings more flexibly. The Westminster Government sought to protect these people from excessive exit charges through the Bank of England and Financial Services Act 2016, which gave the Financial Conduct Authority powers in this respect from April 2017. This Bill seeks to provide members of occupational pension schemes with a level of protection equivalent to that of members of personal pension schemes.

Banning member-borne commission charges

11. Member-borne commissions are arrangements agreed between a service provider and an adviser, or an employer and an adviser, where the charge is passed onto members who are required to pay for advice and services they may not use or may not benefit from. It is proposed to ban member-borne commission charges arising under existing arrangements in certain occupational pension schemes. Member-borne commission charges under new arrangements were banned from April 2016.

BRIEFING NOTE

BACKGROUND

1. The Pension Schemes Bill makes provision for NI corresponding to the Pension Schemes Act 2017 (the '2017 Act'). It proposes reform and regulation of Master Trusts (a type of multi-employer pension scheme). It also makes provision relating to a ban on member-borne commission charges and a cap on early exit charges in occupational pension schemes.

2. .Bill aims to build on reforms such as automatic enrolment in workplace pensions. Since completion of the roll-out of automatic enrolment in 2018, 10.2 million people are newly saving or saving more for their retirement. This Bill seeks to ensure that savers are appropriately protected, regardless of the sort of pension scheme they are saving in, by increasing the regulation of Master Trusts.

3. Since the introduction of automatic enrolment, Master Trusts have become a popular vehicle for employers, particularly small and micro-employers, seeking to enrol employees into an occupational pension scheme. In 2010 across the UK, there were around 0.2 million members in Master Trust schemes. By the end of November 2019 there were 16 million members in 37 Master Trust schemes holding more than £36 billion in assets.

4. A Master Trust is a form of multi-employer occupational pension scheme for unconnected employers where instead of the employer setting up their own pension scheme, the scheme will be provided by an external organisation which runs a pension scheme for numerous employers.

5. Although these schemes can offer good value for members and employers, the current legislative framework is not considered appropriate. Master Trusts are currently regulated by the Pensions Regulator (TPR) and occupational pensions legislation. However, that legislation was developed mainly with single-employer pension schemes in mind. As Master Trusts have different structures and dynamics a stronger regulatory framework is required.

6. Following the coming into force of the pension freedoms in April 2015, many members of pension schemes aged 55 and over were able to access their retirement savings more flexibly. The Westminster Government sought to protect these people from excessive exit charges through the Bank of England and Financial Services Act 2016, which gave the Financial Conduct Authority powers in this respect from April 2017. The Bill seeks to provide members of occupational pension schemes with a level of protection equivalent to that of members of personal pension schemes.

7. In May 2014, TPR published a Master Trust assurance (MTA) framework. Accreditation enabled schemes to demonstrate that adequate standards of governance and administration have been met and, in turn, TPR signposted

employers to such schemes. Such accreditation schemes were voluntary and TPR had no power to compel Trusts to meet MTA standards. Consequently a large number of Master Trusts were not accredited or seeking accreditation.

8. In May 2016, the House of Commons Work and Pensions Committee published a report examining the introduction of auto-enrolment. It found that the Master Trust model was a "good fit" with auto-enrolment because such Trusts could provide the "ongoing oversight of investments provided by a Trustee board at lower operating costs than single employer schemes". However, the Work and Pensions Committee noted the concerns expressed by a number of bodies that the level of regulatory scrutiny was not sufficient. TPR stated that it was "not able to exercise stronger regulation". It highlighted that the Financial Conduct Authority (FCA) had the authority to enforce rigorous standards and "act as barriers to entry" for contract-based pensions, as well as powers to "issue legally binding rules to support its regulatory functions". However, TPR stated that they "just learn about a Master Trust being set up through the Revenue" and rely on "non-binding guidance". The Work and Pensions Committee recommended that legislation should be introduced to provide TPR with stronger regulatory powers over the establishment and supervision of Master Trusts.

9. The measures outlined in the Bill were consulted on in NI as part of the Westminster consultation process and the details are outlined below.

10. The consultation, "*Pension transfers and early exit charges*", which ran between 30 July and 21 October 2015, sought to gather stakeholders' and consumers' views on whether early exit charges applied by schemes were preventing consumers from accessing their pension savings.

11. A separate consultation, "*Capping early exit charges for members of occupational pension schemes*", which ran between 26 May and 16 August 2016, outlined proposals to introduce a cap on early exit charges imposed by providers of occupational pension schemes when a member leaves the scheme early in order to access their pensions flexibly. The response document "*Government response to the consultation on capping early exit charges for members of occupational pension schemes*" was published in November 2016.

12. An Equality Impact Assessment (EQIA) examined corresponding NI proposals in the context of the promotion of equality of opportunity and good relations as required by section 75 of the NI Act 1998. The EQIA found that none of the proposed measures were expected to have an adverse impact on any of the section 75 groups. A consultation exercise was carried out from 16 December 2016 to 9 February 2017. Two substantive responses were received both of which agreed with the findings of the EQIA that there were no adverse impacts.

13. The Pensions Schemes Act 2017 received Royal Assent on 27 April 2017 with a number of provisions coming into force on that day. The 2017 Act

makes provision for the authorisation and supervision of Master Trusts, a cap on exit charges and a ban on member-borne commission charges. The Act only applies to GB.

14. This means that, since April 2017, TPR has been able to take certain enforcement actions against schemes in GB but does not have full recourse to the same regulatory toolkit for schemes in NI. The new regulatory system for Master Trusts has been operative in GB since October 2018.

15. Progress on the proposed Bill was delayed due to the lack of a sitting NI Assembly from January 2017 to January 2020.

16. Section 87 of the NI Act 1998 places a statutory duty on the Secretary of State and the Minister responsible for social security in NI to seek to secure single systems of social security, child support and pensions across NI and GB. There has for many years, in effect, been a single system of pensions across the UK underpinned by bodies such as TPR, Pensions Ombudsman, Pension Protection Fund and Financial Assistance scheme, etc. which operate across the UK. In addition, many pension schemes operate across the UK. Therefore it is highly desirable that the same regulatory framework is in place in NI to facilitate compliance and enforcement. The proposed Bill corresponds to the 2017 Act.

BILL OVERVIEW

17. The Bill has three parts:

- Part 1 (which includes Schedules 1 to 3) provides for an authorisation and supervision regime for Master Trusts.

- Part 2 provides for a cap on early exit charges in certain occupational pensions schemes and for a ban on member borne commission charges arising under the existing arrangements in certain occupational pensions.

- Part 3 contains provision in respect of regulations, interpretation, the commencement of provisions in the Bill and the short title of the Bill.

SUMMARY OF MAIN PROVISIONS

PART 1: MASTER TRUSTS

Definition of a Master Trust

18. The Bill defines a Master Trust scheme specifically for the purposes of the new authorisation regime. This is necessary as there is currently no definition of the term Master Trust in legislation.

19. A Master Trust is an occupational pension scheme, which offers money purchase benefits, either alone or in conjunction with other benefits, and is used or intended to be used by two or more employers that are not connected with each other. Relevant public service pension schemes are excluded.

20. In general terms money purchase benefits are derived from a pot of contributions, together with investment returns on those contributions.

21. Where a scheme offers a combination of money purchase and other benefits, then the requirements of the Bill generally apply to the scheme to the extent to which it provides money purchase benefits.

22. The definition is intentionally broad to discourage schemes that may seek to change their structure in order to avoid authorisation.

23. In order to ensure that regulation is proportionate, regulation-making powers set out later in the Bill provide the flexibility to disapply some authorisation requirements for schemes with certain characteristics where this would be considered appropriate.

Authorisation

24. The Bill proposes that a person cannot operate a Master Trust scheme unless the scheme is authorised by the Pensions Regulator (TPR).

25. The requirement to become authorised creates a barrier to entry into the Master Trust market. This means that rather than waiting for things to go wrong, the interests of scheme members will be protected in a proactive manner. New Master Trust schemes will be prohibited from taking on members until they have satisfied TPR that they meet essential quality standards, and existing schemes will have to become authorised to continue operating in the market. If a person operates an unauthorised Master Trust the Bill provides for a civil penalty.

26. Before authorising a scheme TPR, must be satisfied that it meets the authorisation criteria, these are, that:

    - the persons involved in the scheme are fit and proper persons;

- the scheme is financially sustainable;
- each scheme funder meets certain requirements;
- the systems and processes used in running the scheme are sufficient to ensure that it is run effectively; and
- the scheme has an adequate continuity strategy.

27. Application for authorisation is made to TPR. The information required in the application process and any application fee will be set out in secondary legislation.

28. TPR upon receipt of an application from a Master Trust must make a decision whether to authorise within six months. This decision is based on the authorisation criteria set out above. All of the authorisation criteria must be met in order for the Master Trust to be authorised and they must continue to be met for the Master Trust to remain authorised.

29. If TPR is not satisfied that the Master Trust has met all the authorisation criteria it must refuse the authorisation. There is a right of referral to the First-tier or Upper Tribunal in order to appeal the decision. The right of referral can be exercised by the trustees of the scheme or any other person that the Tribunal deems is directly affected by the decision not to authorise.

30. More detail on each of the authorisation criteria is provided below.

Fit and proper persons requirement

31. The structures of Master Trusts mean that it is no longer the members' employers who set up the scheme or appoint the trustees. This changes the key relationships and the influences on how the scheme is run. Some Master Trusts are set up as a commercial enterprise resembling something more akin to a financial service product, but without the same regulatory requirements.

32. The fit and proper persons requirement means that TPR must be satisfied that the persons involved in key roles within a Master Trust scheme are fit and proper persons in order to authorise the scheme. The key roles are:
    - a person who establishes the scheme;
    - a trustee of the scheme;
    - a person who has the power to appoint and remove trustees;
    - a person who has the power to amend the scheme;

- a scheme funder; and
- a scheme strategist.

33. In addressing a person’s fitness and propriety, TPR is able to take into account relevant matters relating to that person’s individual or business connections. For example, a trustee is connected with a company if they are a director or shadow director of that company or where a person is taken to have control of that company.

34. The aim is to achieve an appropriate balance between the Department setting the matters which must be taken into account whilst providing TPR with some flexibility in order to ensure that it is fully satisfied that the criteria on fit and proper persons has been met.

Financial sustainability requirement

35. TPR must be satisfied that a Master Trust has a sound business strategy and sufficient financial resources to meet the costs of setting up and running the scheme and to comply with the requirements to protect members where an event occurs that may lead to the scheme closing or winding up.

36. A Master Trust must have a business plan prepared by the scheme strategist and approved by the scheme funder, any other scheme strategist and the trustees. The scheme strategist is the person responsible for making business decisions relating to the commercial activities of the scheme and therefore best placed to prepare and maintain the business plan. In some cases the scheme strategist may also be the scheme funder or a trustee.

37. The detailed requirements about the content of the business plan will be set out in secondary legislation.

38. The business plan must be reviewed by the Master Trust at least annually and must be revised in the event of a significant change. The business plan and supporting documentation must be provided to TPR when the scheme applies for authorisation and within three months of the plan being revised or on request by TPR.

Scheme funder requirements

39. The Bill requires that the scheme funder is a body corporate or partnership that is a legal body under the law by which it is governed. The scheme funder may only carry out activities that relate directly to the Master Trust or Trusts for which it is the scheme funder or prospective scheme funder.

40. Requiring scheme funders to be separate legal entities will make their financial position and the financial arrangements between them and the Master Trust more transparent to the Regulator, and provide greater clarity regarding the assets, liabilities, costs and income in relation to the Master Trust business.

41. The Bill provides the Department with the power to make regulations to make exceptions to the requirements the scheme funder must meet if they instead meet additional requirements in relation to financial position or business activities. The Department is also provided with the power to make regulations to set out requirements in relation to the scheme's accounts.

Systems and processes requirements

42. The Bill will enable TPR to determine if it is satisfied with the scheme's systems and processes prior to authorisation. The need for adequate systems and processes is important to protect members' interests and the security of the scheme assets and support the scheme's sustainability and durability. Master Trusts also have to deal with multiple administrators and payroll systems. All of which underlines the need for robust administration and the need to put in place a mandatory obligation to outline and maintain a good standard of administration and governance.

43. The Department is provided with the power to make regulations in relation to the adequacy of a Master Trust's systems and processes. These include, but are not limited to, the standards, functions and maintenance of IT systems, and processes relating to the appointment and removal of trustees. TPR must take into account the matters set out in these regulations when satisfying itself as to the scheme's fulfilment of the systems and processes criteria.

Continuity strategy requirements

44. The Bill requires that the scheme strategist must prepare a continuity strategy the purpose of which is to set out how members will be protected if a Master Trust has a triggering event. A triggering event is an occurrence that puts the sustainability or viability of the Master Trust in jeopardy.

45. The strategy must also set out the levels of administration charges that apply to members. The scheme strategist is required to review and revise the strategy which must be approved by the trustees, any other scheme strategist and each scheme funder. The continuity strategy must be submitted to TPR when applying for authorisation and within three months of any revision or upon the Regulator's request.

46. Regulations will set out the content of the continuity strategy including what actions the scheme will take to manage and protect members' assets.

Ongoing supervision of Master Trust schemes

47. Once authorised the name of the Master Trust will be included on the list of authorised Master Trusts published and maintained by TPR.

48. Master Trusts are then subjected to ongoing supervision which aims to ensure that TPR is satisfied that each Master Trust continues to meet the authorisation criteria and meets other obligations, including relevant legislation and codes of practice. Ongoing supervision includes the following:

    - a requirement to submit annual accounts;
    - a requirement to submit supervisory returns; and
    - a duty to notify Regulator of significant events.

49. Detail on each aspect of ongoing supervision is provided below.

Requirement to submit annual accounts

50. Each year the Master Trust scheme and the scheme funder must submit their accounts to TPR. Trustees must send the scheme's accounts to TPR no later than two months after their receipt by the trustees. The accounts of the scheme funder must be submitted to TPR within 9 months of the end of the financial year to which they relate or a period specified by regulations. The Bill provides a civil penalty where there is a failure to comply with these requirements.

51. This information will be necessary to TPR's financial supervision of the scheme. It will play a key role in TPR's consideration of the reasonableness and accuracy of the estimates in the business plan about the running costs, sources of income, profit and loss in relation to the Master Trust's activities and the details of any expected cash flow in and out of the scheme against its actual experience. It will also enable TPR to risk assess the solvency of scheme funders and the strength and enforceability of their commitment to providing funds to the Master Trust.

Requirement to submit supervisory return

52. A supervisory return is to be submitted to TPR by the trustees on request. This return cannot be required by TPR more than once a year. The Bill provides that a civil penalty applies where there is a failure to submit the

return. The Department is provided with the powers to set out in regulations the information to be included in the return.

53. It is important that the Pensions Regulator has the information it requires to assess Master Trust schemes against the authorisation criteria on an on-going basis. This is the best way of ensuring that the interests of scheme members continue to be protected past the initial point of authorisation.

Duty to notify Regulator of significant events

54. The Bill requires that specified persons must notify TPR of significant events as soon as is reasonably practicable. For example, a scheme may have a change of trustee. As the fitness and propriety of a trustee is linked to the authorisation criteria the Regulator must be informed of this change so that the new trustee may be assessed against the relevant standards.

55. Regulations will set out the significant events that are required to be reported and who within the scheme is required to report them. The intention is that the list of significant events will capture events which could affect the ability of an authorised Master Trust scheme to continue meeting the authorisation criteria.

Fixed and escalating penalties

56. The Bill provides TPR with the power to impose a fixed penalty on any person who has failed to provide them with information requested in a notice issued under Art 67 of the Pension (NI) Order 2005. Such notices are usually issued in order to request information or documentation to enable TPR to fulfil its duties with regard to a scheme.

57. The penalty must not be more than £50,000 and is to be determined in accordance with regulations.

58. TPR is provided with the power to impose an escalating penalty on any person who has failed to provide information requested in such a notice.

59. An escalating penalty may be more appropriate in some circumstances, for example when an urgent request for time-sensitive information is delayed. Issuing an escalating penalty notice would mean that taking additional time to submit the information would incur a greater penalty.

60. An escalating penalty cannot be imposed if the fixed penalty has been referred to a tribunal and a decision has not yet been made. The calculation of the daily rate of an escalating penalty will be set out in regulations and must not be more than £10,000.

Withdrawal of authorisation

61. When TPR is no longer satisfied that a scheme meets the authorisation criteria it may withdraw authorisation. TPR can issue a warning notice that it intends to de-authorise a scheme under the standard procedure. However where TPR fears that if a warning notice were to be given there would be an immediate risk to the interests of members of the scheme or the scheme's assets, it can issue a determination notice under the special procedure. The issue of a notice by TPR becomes a triggering event which gives the trustees certain duties.

62. Where a scheme is deauthorised TPR must notify the trustees and remove the scheme from the list of authorised Master Trusts.

63. Withdrawal of authorisation is fundamental to the Bill. Without it there would be no consequences for a scheme which becomes authorised and then lets standards slip, or where events occur that impact whether TPR remains satisfied that the authorisation criteria have been met. TPR seeks to support and assist those involved in running pension schemes before it moves to sanction them. The process for withdrawing authorisation will be no different. TPR will work with Master Trust schemes and it will support them so that once they are authorised and operating they remain well run.

Triggering events: continuity

64. The Bill sets out what constitutes a triggering event and when the triggering event period is taken to start and finish.

65. Triggering events are key risk events that may arise in the life cycle of a Master Trust scheme and the authorisation regime. They reflect the different structures and circumstances of these types of schemes compared to more traditional employer-sponsored occupational schemes. They include:

    - TPR issues a warning notice in respect of a decision to withdraw the scheme's authorisation (standard procedure);
    - TPR issues a determination notice that the scheme's authorisation is withdrawn (special procedure);
    - TPR issues a notification that a Master Trust is operating without authorisation;
    - an insolvency event occurs in relation to scheme funder;
    - scheme funder unlikely to be able to continue as a going concern;
    - scheme funder decides to end the relationship with the Master Trust;

- scheme funder ends the relationship with the Master Trust;
- scheme funder, scheme strategist or trustees decide that Master Trust should be wound up;
- an event has occurred which allows or requires the Master Trust to be wound up;
- the trustees decide that the Master Trust is at risk of failure so it is necessary to follow continuity option 1 or 2.

66. The Bill sets out who has responsibility for notifying TPR of triggering events. Trustees are required to notify employers of the triggering event.

67. A triggering event period ends when the trustees of a scheme take either:

- continuity option 1 that ends with the scheme being wound up; or
- continuity option 2 that ends when TPR are satisfied that the triggering event and any other event that may have occurred since the occurrence of the triggering event has been resolved.

Continuity option 1

68. In continuity option 1, in order to protect the rights that members have accrued in the scheme, trustees transfer out all accrued rights and benefits in the scheme and then wind up the remaining structure of the scheme. The trustees must identify one or more other pension schemes which are able to accept the transfer. These schemes can be either a Master Trust or, in circumstances set out in regulations, an alternative scheme that has characteristics set out in regulations. Members of the Master Trust scheme will retain their right to transfer to a scheme of their own choosing if they do not wish to transfer to the trustees' choice.

69. The trustees must notify employers and members, of the transfer, and of other details to be specified in regulations. Regulations will address a range of issues including information requirements, duties on trustees, the duties of trustees of receiving schemes and the rights of members to opt-out of a transfer in favour of their preferred receiving scheme. Regulations will confer powers on TPR to direct trustees to do things permitted or required by the regulations.

70. A civil penalty is available in respect of anyone who fails to comply with any of the requirements and the regulations may also make provision for the application of a civil penalty in respect of any requirements to be contained in the regulations.

Continuity option 2

71. Continuity option 2 is where trustees have decided to try to resolve the triggering event the scheme has experienced and to continue on. The trustees are required to notify TPR when they consider the triggering event has been resolved. They must also set out how they consider that it has been resolved. TPR is then required to notify the trustees of whether it is satisfied that the triggering event has been resolved.

72. TPR must also be satisfied that any other triggering event that may have occurred in relation to the Master Trust scheme since the occurrence of the triggering event has also been resolved. Where a trustee fails to comply with these requirements a civil penalty is available.

Implementation strategy

73. If a triggering event occurs the trustees of a Master Trust are required to submit an implementation strategy to TPR for approval. The implementation strategy sets out how the interests of members of the scheme are to be protected following the occurrence of the triggering event. The implementation strategy must set out the continuity option that the trustees are required or decide to pursue, as well as details of the particular option.

74. More detailed requirements about the information that must be contained in the strategy will be set out in regulations. The intention is that these will cover the key activities for either resolving the triggering event, under continuity option 2, or the key tasks and administration in preparation for a transfer or as part of a wind up under continuity option 1.

75. Without the approval of TPR, the scheme might follow an inadequate plan, which could lead to members and employers being adversely affected. A sound implementation strategy is likely to mean better protection for members when schemes have events which may threaten their futures.

76. When TPR has approved the implementation strategy, the trustees must pursue the continuity option identified, and the steps set out, in the strategy. Where they fail to do so, TPR has the power to direct the trustees to pursue the continuity option and take the steps identified in the strategy. A civil penalty is available for anyone who fails to comply with a direction made by TPR. The trustees must also make the strategy available to employers within a time period to be set by regulations.

Periodic reports during a triggering event period

77. During a triggering event period the trustees of a Master Trust scheme must submit periodic reports to TPR. These reports must contain information on the progress against the implementation strategy, record relevant events or decisions, and provide such other information as will be set out in regulations.

78. It is important that this work is overseen by TPR, as it will have implications for members and employers. Receiving regular reports from the scheme is one way the Regulator will have this oversight.

79. The timing for the submission of the first report will be set out in regulations and subsequent reports will be submitted at intervals to be specified by TPR. A civil penalty for failure to comply with these requirements is available.

Pause orders

80. A pause order allows TPR to pause a range of Master Trust activities, once a triggering event has occurred. The power may only be exercised if it will help the trustees follow their implementation strategy, or if TPR believes that doing so is necessary to protect the interests of the generality of scheme members and that there is an immediate risk to the interests of scheme members or scheme assets.

81. Directions which a pause order may make include:

    - preventing new members being admitted to the scheme;
    - prohibiting further contributions or payments into the scheme;
    - prohibiting transfers out of the scheme.

82. A scheme under a pause order may still be wound up.

Prohibition on new employers during triggering event period

83. Where a Master Trust is in a triggering event period it may not take on new employers to participate in the scheme. In addition it cannot enter into an agreement during the triggering event period to take on new employers after that period has ended.

84. Where a Master Trust has had a triggering event it is in a period where it poses more risk to the members and employers using the scheme. Where possible, the scheme should resolve its triggering event and continue on. However, to stop the scheme taking on significantly more members during this period, and potentially increasing pre-existing risks to them and possibly also adding to the degree of risk already being experienced by the scheme, it is prevented from taking on new employers.

85. A civil penalty is available in respect of a person who fails to comply with this.

Prohibition on increasing charges during triggering event period

86. The Bill places restrictions on trustees increasing or imposing administration charges when a Master Trust scheme is in a triggering event period. The trustees must not increase charges above levels set out in the implementation strategy, introduce new charges, or impose charges as a consequence of a member leaving or deciding to leave during the triggering event period.

87. How the levels of administration charges are to be calculated and apportioned will be set out in regulations.

88. The effect of these measures is that members should not pay any more during a triggering event period than they did when the scheme was operating normally. This means that members are protected, even though their scheme is likely to be incurring additional costs. It ensures their pension "pots" are not depleted, nor can they be raided to pay for additional scheme costs.

89. There is a corresponding prohibition on a Master Trust scheme which receives a transfer of rights or benefits of members from a transferring scheme which is pursuing continuity option 1 and was proposed by trustees or participating employers. Such a receiving scheme is prevented from increasing charges above the levels set out in a statement it must provide to TPR before a transfer, or from imposing new charges to meet the costs which were incurred by the transferring scheme or relate directly to the transfer.

90. This means that members can join another scheme and continue to save in a pension without their "pot" being depleted to pay for costs incurred as a result of their previous scheme closing.

Decisions on withdrawal of authorisation: timing

91. Should TPR make a decision to withdraw a scheme's authorisation the Bill provides two routes. TPR may:

    - issue a warning notice under the standard procedure in respect of a decision to withdraw the scheme's authorisation;

    - issue a determination notice under the special procedure in respect of a decision to withdraw the scheme's authorisation.

92. Should such events occur in relation to an authorised Master Trust scheme, the scheme will be required to follow continuity option 1. This involves transferring members out of the scheme and commencing wind-up. However, schemes will have the opportunity to appeal by way of a referral to a Tribunal.

93. If a scheme makes such a referral, and also if it makes any subsequent appeal of the Tribunal's determination, it will not be required to follow the

process set out within continuity option 1 until the outcome of any appeal process is known and the decision to withdraw authorisation becomes final.

94. Following a triggering event it may be that authorisation is not withdrawn from a Master Trust. The date of the decision not to withdraw authorisation is taken as the date of TPR's or the tribunal's determination or the date the appeal was finally disposed of, as appropriate.

Fraud compensation

95. The Bill provides the Department with a regulation making power to modify how fraud compensation applies to Master Trusts and other pension schemes to which all or some of the provisions of Part 1 of the Bill apply. At present, fraud compensation payments can be made to occupational pension schemes where certain conditions are met. These conditions include that:

- the value of the scheme's assets has been reduced and there are reasonable grounds for believing this was due to dishonesty; and
- the employer has gone out of business or is unlikely to continue as a going concern.

96. It is considered that Master Trusts should qualify for fraud compensation payments, and that their members should be entitled to this protection. However, as Master Trusts are used, or intended to be used, by multiple employers who do not need to have a connection to each other, they would be likely to have difficulty meeting the current condition on employer insolvency. Therefore, the intention is to remove this requirement for Master Trusts and to add other conditions, to make fraud compensation more suitable for these types of schemes.

97. The Bill also allows these modifications to apply to other types of occupational pension schemes should they become covered by the Master Trust authorisation scheme.

Master Trust in operation on commencement: transitional provision

98. The Bill makes transitional arrangements in respect of those Master Trust schemes that were in existence before the commencement date. The commencement date is taken as the date that the part of the Bill dealing with the prohibition on operating a Master Trust without authorisation is commenced.

PART 2: ADMINISTRATION CHARGES

Power to override contract terms

99. Early exit charges are any administration charges which are paid by a member for leaving their pension scheme early when they are eligible to access the pension freedoms, which they would not face at their normal retirement date.

100. The Financial Conduct Authority has already made rules to cap or ban early exit charges in personal and workplace pensions which came into effect on 31 March 2017.

101. The Department is already empowered to make regulations that restrict charges or impose requirements on certain pension schemes.

102. The Bill provides powers to allow regulations to be made that enable a term of a relevant contract to be overridden to the extent that it conflicts with a provision in those regulations. The power would only allow a contract to be overridden where there is a conflict with a provision in regulations and this ensures that relevant contracts are consistent with the regulations and provides certainty to the parties involved. The intention is that power would be used alongside existing powers, to make regulations to cap, or ban, early exit charges.

103. The powers provided by the Bill together with existing powers in relation to charges, will enable the Department to make regulations introducing similar protections for members of occupational pension schemes. It will also be used to override contractual terms which conflict with the ban on member-borne commission arising under existing contracts in certain occupational pension schemes.

104. Contracts in this context mean a contract between a trustee or manager and a person who provides administrative services to the scheme, which permits the person to impose the member-borne commission charge. Existing contracts are those that were entered into before 6 April 2016.

105. This will complete the ban that already exists for member-borne commission arising under agreements entered into on or after 6 April 2016.

106. The regulations will apply to charges imposed from the date the regulations come into force even where these arise under existing contracts.

PART 3: GENERAL

Regulations, interpretation and commencement

107. Part 3 of the Bill relates to general provisions in respect of regulation-making powers under the Bill, interpretation of terms used in the Bill, commencement of provisions within the Bill and the short title.

FINANCIAL IMPLICATIONS

108. The phased introduction of the Master Trust authorisation regime and the cap on early exit charges and ban on member-borne commission charges will be enforced by the Pensions Regulator. These new responsibilities will impact on its future business plans, which given its existing responsibilities are not being reduced, may involve increased expenditure against its projected baseline. Its funding is recovered by a levy on eligible pension schemes. There will be no impact on Departmental expenditure.