

Money laundering – new UK pension scheme trustee obligations

New regulations on money laundering and terrorist financing came into force at the end of June which impose new requirements on pension scheme trustees in relation to record-keeping and provision of information. HM Revenue & Customs (“HMRC”) has now published guidance setting out details of the information that trustees are required to hold and (in some cases) to provide to HMRC.

Record-keeping obligations

Under the regulations, trustees are required to hold information on the scheme’s “beneficial owners”. For these purposes, a scheme’s beneficial owners are defined as including:

- the members;
- other beneficiaries such as members’ spouses and dependants, and employers to whom a surplus can be paid under the scheme rules;
- the trustees;
- the employer that originally established the scheme or the scheme’s current participating employer(s) (if the original employer has ceased to exist); and
- any other person who exercises control over the scheme.

The information that HMRC believes schemes should hold is significantly more detailed than the information that HMRC will require schemes to provide to HMRC itself. For example, HMRC believes that, for each member or other beneficiary who has received pension or lump sum benefits from the scheme since 26 June 2017, the scheme should hold a National Insurance number, unique taxpayer reference or residential address, and if that address is not in the UK, the scheme should hold details of the individual’s passport, ID card or equivalent form of identification. There is debate in the industry about

whether HMRC has correctly interpreted the requirements of the regulations in this respect. However, schemes may wish to adopt a cautious approach and ensure that the information they hold on their scheme’s beneficial owners meets the record-keeping requirements as interpreted by HMRC.

Provision of information to HMRC

Where the scheme has incurred a liability in the 2016/17 tax year to pay income tax, capital gains tax (“CGT”), inheritance tax, stamp duty land tax, stamp duty reserve tax or land and buildings transaction tax on the scheme’s assets or income¹, it must also provide information about the scheme’s beneficial owners and the scheme itself to HMRC by 31 January 2018.

Trustees must use HMRC’s Trust Registration Service (“TRS”) to provide the required information on the scheme and its beneficial owners to HMRC. Trustees must register with the TRS in order to use it. If the scheme is not registered with HMRC for self-assessment and has incurred an income tax or CGT liability in the 2016/17 tax year, it must register with the TRS by 5 January 2018, and then provide the required information on the scheme and its beneficial owners by 31 January 2018. In all other circumstances, the scheme must register with the TRS (and provide the required information on the scheme and its beneficial owners) by 31 January 2018. If the scheme has not incurred one of the applicable tax liabilities in the 2016/17 tax year, it is not required to register with the TRS or to provide information to HMRC.

¹ This does not include a liability to pay a lifetime allowance charge, an annual allowance charge under “scheme pays”, a special lump sum death benefits charge, a short service refund lump sum charge, an authorised surplus payments charge, a de-registration charge, an unauthorised payments charge, an unauthorised payments surcharge, a scheme sanction charge, or tax under PAYE on a member’s pension or lump sum benefits or on the benefits of the recipient after the member dies.

Other provision of information obligations

Trustees are also required to provide certain information when entering into business relationships or transactions with parties who are required to conduct client due diligence under the regulations, and to law enforcement authorities.

Guide to the regulations

We have produced a guide to the regulations with a flowchart and accompanying information lists to assist schemes in determining what information they are required to hold and to provide under the regulations. If you would like a copy of this guide, please contact your usual Mayer Brown contact or Katherine Carter.

If you have any questions about the issues raised in this legal update, please get in touch with your usual Mayer Brown contact or Ian Wright at +44 20 3130 3417.

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