

# THE PENSIONS BRIEF

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Penalties announced for failure to register with HMRC's Trust Registration Service by the deadline

#### **FINANCIAL GUIDANCE AND CLAIMS BILL ▲**

Government amendments to impose new guidance requirements when members access flexible benefits

#### **21ST CENTURY TRUSTEESHIP**

New guidance added to the Pensions Regulator's 21st century trusteeship resource

#### **FINANCE ACT 2018**

New HMRC scheme registration and de-registration powers

▲ Action required

▲ Follow development and keep under review

### Issues affecting DB schemes

#### **DB PENSIONS REFORM ▲**

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### Issues affecting DC schemes

#### **MASTER TRUST AUTHORISATION AND SUPERVISION FRAMEWORK ▲**

Government response to its consultation on the draft regulations implementing the framework and Pensions Regulator consultation on a draft code of practice for master trusts

# Issues affecting all schemes

## Money laundering – penalties for failure to meet HMRC registration deadline

HMRC has [announced](#) that the following penalties will apply where a trust which has incurred a relevant tax liability fails to register with the Trust Registration Service (TRS) by the due date of 31 January after the end of the tax year in which the relevant tax liability was incurred:

- registration within three months of the due date – fixed penalty of £100
- registration within three to six months of the due date – fixed penalty of £200
- registration more than six months after the due date – fixed penalty of the greater of £300 or 5% of the relevant tax liability.

A relevant tax liability is a liability to any of the following taxes on the trust's assets or income: income tax, capital gains tax, inheritance tax, stamp duty reserve tax, stamp duty land tax, or land and buildings transaction tax (the Scottish equivalent of stamp duty land tax).

HMRC [announced](#) in December 2017 that, in most cases where a trust has incurred a relevant tax liability in the 2016/17 tax year, it will not charge a penalty if the trustees failed to register with the TRS before 31 January 2018, but did so by 5 March 2018.

A penalty will not be payable if HMRC is satisfied that the trustees took reasonable steps to comply with the registration obligation.

For more information on the new requirements that came into force last year under the Money Laundering Regulations 2017, please see our [legal update](#).

### Action

Occupational pension schemes which have incurred a relevant tax liability in the 2016/17 tax year are subject to the TRS registration obligation and should therefore register as a matter of urgency if they have not already done so.

## Financial Guidance and Claims Bill

The government has tabled amendments to the Financial Guidance and Claims Bill to:

- impose a ban on pensions cold-calling (which is to be put in place by June 2018); and
- require schemes to ensure that a member seeking to take or transfer flexible benefits (broadly, money purchase and cash balance benefits) is referred to appropriate pensions guidance and has either received that guidance or has opted out of receiving that guidance.

### Action

No action currently required, but trustees should keep the Bill's progress under review as changes to scheme administration processes to reflect the new guidance requirements are likely to be needed.

## 21st century trusteeship – new guidance

The Pensions Regulator has added new guidance on [trustee training](#) and [skills and experience](#) to its 21st century trusteeship web resource.

### Action

No action required, but trustees may find the new guidance helpful.

## Finance Act 2018

The [Finance Act 2018](#) has received Royal Assent. Among other things, it provides for new HMRC powers to refuse to register or to de-register:

- schemes with dormant sponsoring employers (from 6 April 2018); and
- master trusts which have not been authorised by the Pensions Regulator (from the date that the master trust authorisation regime comes into force – expected to be 1 October 2018).

### Action

No action required.

# Issues affecting DB schemes

## DB pension reform – white paper

The government has published a [white paper](#) on protecting DB pensions in response to its 2017 green paper on DB security and sustainability. The paper announces plans to:

- give the Pensions Regulator additional powers and to review certain aspects of the existing regulatory regime;
- clarify scheme funding requirements and to introduce new requirements for DB schemes to appoint a trustee chair and to submit a chair’s statement with the triennial valuation; and
- consult on proposals for a legislative framework and authorisation regime for new forms of commercial DB consolidation vehicles and on a new accreditation regime for existing forms of DB consolidation.

In addition, the paper confirms that the government has ruled out the provision of an overriding power for schemes to change their indexation measure and changes to the calculation of employer debts in multi-employer schemes. The paper also contains a response to the government’s 2016 consultation on proposals in relation to the British Steel Pension Scheme. For more information on the white paper, please see our [legal update](#).

### Action

No action currently required, but trustees and employers should keep the progress of the government’s proposals, particularly in relation to scheme funding, under review.

## Safeguarded benefits – overseas transfers

The government has published a [response](#) to its 2016 consultation on how the requirement for members to take appropriate independent advice before transferring safeguarded benefits works for overseas transfers and whether it could be made to work better in such cases. Safeguarded benefits are broadly salary-related benefits and money purchase/cash balance benefits with a guaranteed annuity rate. The government has concluded that the advice requirement largely works in the context of overseas transfers and that an easement is not therefore required.

### Action

No action required.

# Issues affecting DC schemes

## Master trust authorisation and supervision framework

### Draft regulations

The government has published a [response](#) to its consultation on draft regulations implementing the authorisation and supervision framework for “master trust schemes”. The response confirms that a number of technical changes have been made to the regulations, but the government has not introduced any further exemptions to the authorisation requirement. The finalised regulations will be laid before Parliament in due course and will come into force on 1 October 2018.

A master trust scheme for these purposes is an occupational pension scheme which:

- provides money purchase benefits (whether with or without other benefits);
- is used or is intended to be used by two or more employers; and
- is not used or is not intended to be used only by connected employers.

### Action

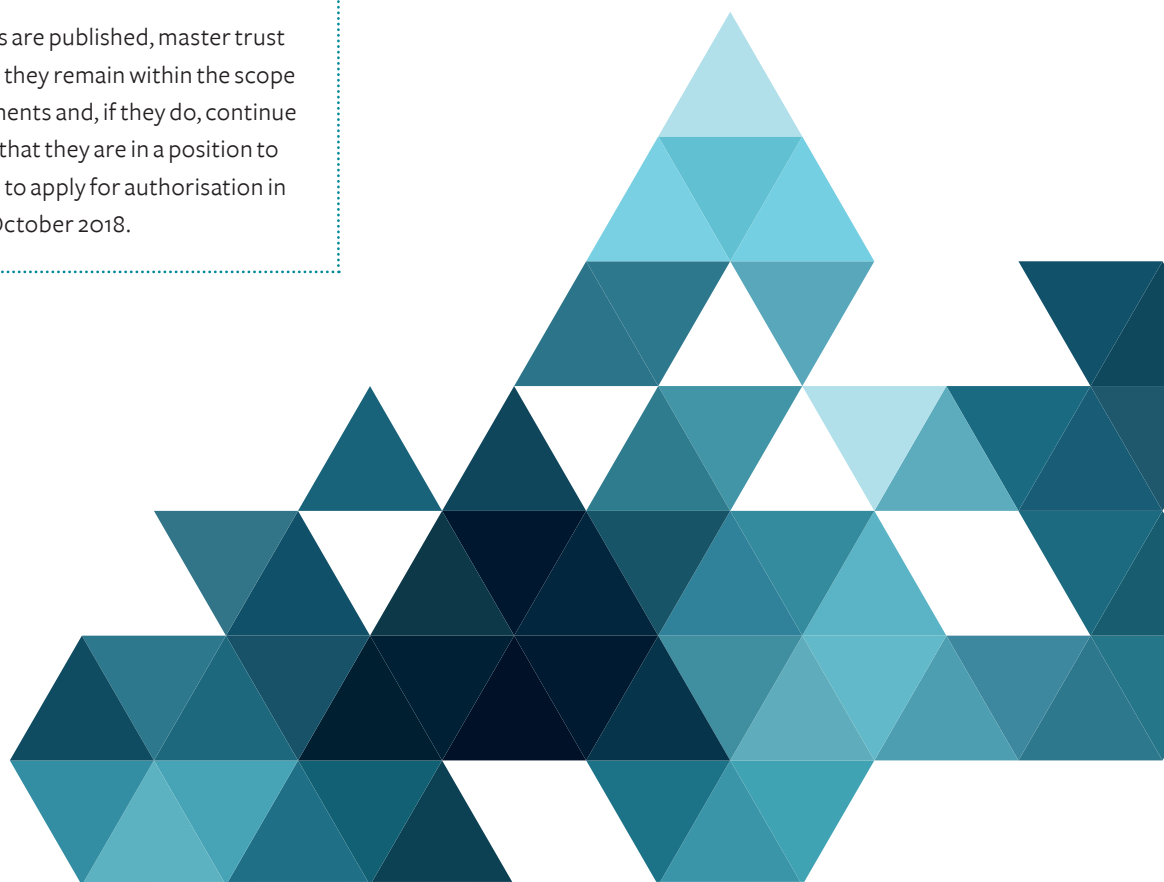
Once the finalised regulations are published, master trust schemes should confirm that they remain within the scope of the authorisation requirements and, if they do, continue with their planning to ensure that they are in a position to comply with the requirement to apply for authorisation in the six month period from 1 October 2018.

### Draft code of practice

The Pensions Regulator has published a draft [code of practice](#) on master trusts and an accompanying [consultation paper](#). The code is designed to provide clarity on how master trust schemes should apply for authorisation and the matters that the Regulator will take into account in deciding whether a scheme should be authorised and whether it should remain authorised. The Regulator has also published for consultation the related [procedure](#) that it expects to follow when deciding whether or not to grant authorisation. The consultation closes on 8 May 2018.

### Action

Master trust schemes should review the draft code of practice and keep the progress of the Regulator’s consultation under review.



# Mayer Brown events

If you are interested in attending any of our events, please contact Katherine Carter (kcarter@mayerbrown.com) or your usual Mayer Brown contact. All events take place at our offices at 201 Bishopsgate, London EC2M 3AF.

## **Pensions Trustee Foundation Course**

- 15 May 2018
- 11 September 2018
- 11 December 2018

Our Foundation Course aims to take trustees through the pensions landscape and the key legal principles relating to DB funding and investment matters, as well as some of the specific issues relating to DC schemes, in a practical and interactive way.

## **Pensions Trustee Building Blocks Class**

- 12 June 2018 – trustee discretions and decision-making
- 13 November 2018 – internal controls and risk management

Our Building Blocks Classes look in more detail at some of the key areas of pension scheme management. They are designed to be taken by trustees who have already taken our Foundation Course.

## **The View from Mayer Brown: Pensions Podcasts**

Every month Richard Goldstein, a partner in our Pensions Group in London, places a spotlight on key developments that could affect your scheme in a podcast. Just 10-15 minutes long and available on iTunes, the podcasts provide a quick and easy way to stay on top of current issues in pensions law.

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**Please speak to your usual contact in the Pensions Group if you have any questions on any of the issues in this Brief.**

**For more information about the Pensions Group, please contact:**



**Ian Wright**

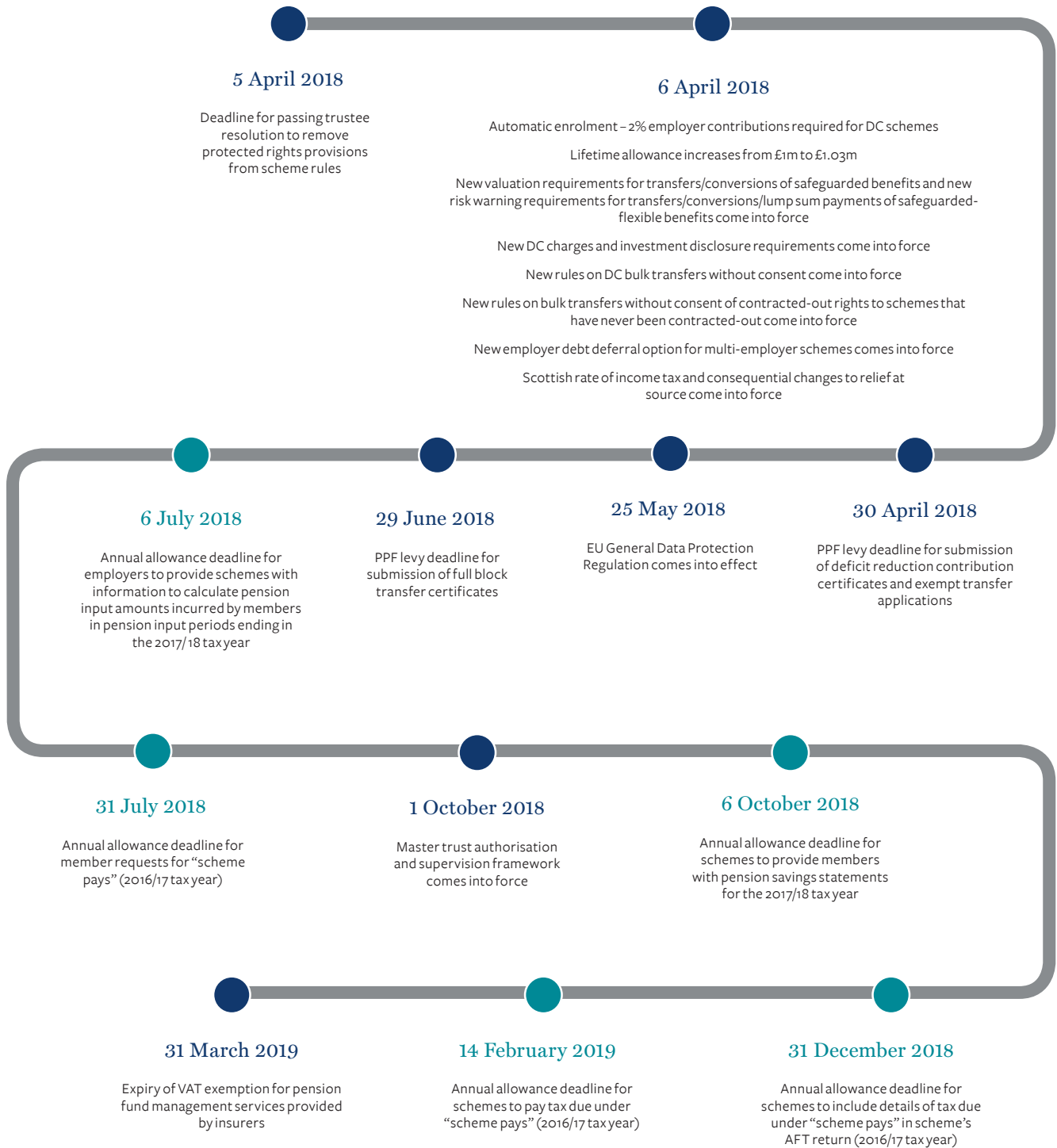
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# Dates to note over the next 12 months



**Key:**

- Important dates to note
- For information



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