

[THESE ARE DRAFT, ILLUSTRATIVE REGULATIONS PREPARED AS AT 3 FEBRUARY 2020 PRIOR TO COMMITTEE STAGE IN THE HOUSE OF LORDS. SUBJECT TO PARLIAMENTARY PASSAGE OF THE PENSION SCHEMES BILL 2020, THE GOVERNMENT INTENDS TO CONSULT ON DRAFT REGULATIONS IN DUE COURSE IN RELATION TO CDC SCHEMES, IN ADVANCE OF LAYING REGULATIONS BEFORE PARLIAMENT.]

THE REGULATIONS IN RESPECT OF CDC SCHEMES ARE EXPECTED TO BE SIMILAR TO ANALOGOUS PROVISIONS IN THE OCCUPATIONAL PENSION SCHEMES (MASTER TRUSTS) REGULATIONS, WHERE THERE MAY BE ANALOGOUS REGULATION MAKING POWERS. HENCE, WHERE RELEVANT, THE DRAFTING OR THE DRAFTING APPROACH HAS BEEN BASED ON THOSE REGULATIONS. HOWEVER, THE POLICY FOR CDC SCHEMES REMAINS SUBJECT TO FURTHER CONSIDERATION, CONSULTATION AND PARLIAMENTARY PASSAGE OF THE PENSION SCHEMES BILL 2020.

THESE DRAFT, ILLUSTRATIVE REGULATIONS ARE NOT TO BE RELIED UPON OR CONSIDERED TO BE THE GOVERNMENT'S SETTLED POSITION REGARDING ANY MATTERS SET OUT IN THE DRAFT.]

*[Draft Regulations laid before Parliament under *** of the Pension Schemes Act [2020], for approval by resolution of each House of Parliament.]*

DRAFT STATUTORY INSTRUMENTS

[2020] No. ***

PENSIONS

The Occupational Pension Schemes (Collective Money Purchase Schemes) Regulations [2020]

*Made - - - - ****

Coming into force in accordance with regulation [1(2)]

[The Secretary of State for Work and Pensions makes the following Regulations in exercise of the powers conferred by sections 8(4), [11(3)(a)], [12(2)(b) and (3)], [13(3)], [14(3)(b) and (4)], [15(4)(a)], [16(2), (3)(a) and (4)], [17(4), (5) and (8)], [18(4)], [19(2) and (3)], [20(5)], [22(3)(b)], [23(4)], [27(2)], [28(3) and (4)], [29(7)(a) and (10)], [33(4)(b) and (10)], [36(1)(c), (2)(b) and (c), (5), (6), (7) and (10)], [37(3)(b)], [38(3)], [39(1)(b)], [40(4) and (6)], [41(2)], [43(2), (4)(b) and (c)], [45(3)], [46(1) and (2)], [49(2)(b)], [51(3), (4), (5) and (6)] and [paragraph 1(6) of Schedule 2] to the Pension Schemes Act [2020](a).]

[A draft of these Regulations has been laid before and approved by a resolution of each House of Parliament in accordance with section 51(5) of the Pension Schemes Act [2020].]

(a) [2020] c.[-]

Citation and Commencement *[NOTE: THIS DRAFT IS INDICATIVE AND ILLUSTRATIVE ONLY; THE POLICY REMAINS SUBJECT TO FURTHER CONSIDERATION, CONSULTATION AND PARLIAMENTARY PASSAGE OF THE PENSION SCHEMES BILL 2020.]*

1.—(1) These Regulations may be cited as the Occupational Pension Schemes (Collective Money Purchase Schemes) Regulations [2020].

(2) These Regulations come into force on *[insert date]*.

Interpretation and notices *[NOTE: THIS DRAFT IS INDICATIVE AND ILLUSTRATIVE ONLY; THE POLICY REMAINS SUBJECT TO FURTHER CONSIDERATION, CONSULTATION AND PARLIAMENTARY PASSAGE OF THE PENSION SCHEMES BILL 2020.]*

2.—(1) In these Regulations—

“the 1993 Act” means the Pension Schemes Act 1993(a);

“the 1995 Act” means the Pensions Act 1995(b);

“the 2004 Act” means the Pensions Act 2004(c);

“the Act” means the Pension Schemes Act [2020];

“the Administration Regulations” means the Occupational Pension Schemes (Scheme Administration) Regulations 1996(d);

“active member” has the meaning given by section 124(1) of the 1995 Act;

“cash equivalent” means the realisable value of rights and benefits to which a member is entitled, which is calculated—

(a) in accordance with these Regulations and with the rules of the scheme;

(b) in a manner which is approved by the trustees;

(c) as an estimate as at the date when the employers are informed of the date on which the scheme’s liabilities are to be discharged;

(d) as a final figure as at that date; and

(e) taking into account any surrender, commutation or forfeiture of the whole or part of a member’s pension.

“Code” means a code of practice issued by the Regulator;

“the Companies Act” means the Companies Act 2006(e);

“receiving scheme” means [a pension scheme to which (subject to Part 4ZA of the 1993 Act(f) (transfers and contribution refunds) and *[insert any other matters]* member’s accrued rights to benefits under the scheme are proposed to be transferred];

“the Regulator” means the Pensions Regulator;

“relevant accounts”, for the purposes of identifying and valuing the assets of a scheme, are *[definition to be inserted]*;

“risk notice” means a risk notice that may be given by the Regulator to the trustees of a collective money purchase scheme, in accordance with section 29(1) of the Act;

“scheme year” means—

(a) a year specified for the purposes of the scheme in any document comprising the scheme,
or

(a) 1993 c. 48.

(b) 1995 c. 26.

(c) 2004 c.35.

(d) [S.I. 1996/1715.]

(e) [2006 c. 46, amended by *[insert]*.]

(f) [Part 4ZA was amended, and the part heading inserted, by the Pension Schemes Act 2015 (c. 8), Schedule 4, Part 1, paragraph 4(2)(a).]

(b) if no year is specified under paragraph (a), a period of 12 months beginning on 1st April or on such other date as the trustees select;

“service provider” means a person providing advisory, administrative, investment or other services in respect of the scheme;

“the TUPE Regulations” means the Transfer of Undertakings (Protection of Employment) Regulations 2006(a).

(2) [To insert provision relating to the application of sections 303 and 304 of the 2004 Act regarding notices and notifications issued under the Regulations subject to their final draft content.]

Connected employers [NOTE: THIS DRAFT IS INDICATIVE AND ILLUSTRATIVE ONLY. THE POLICY REMAINS SUBJECT TO FURTHER CONSIDERATION, CONSULTATION AND PARLIAMENTARY PASSAGE OF THE PENSION SCHEMES BILL 2020. THE BELOW DRAFT, ILLUSTRATIVE REGULATION REFLECTS A DEFINITION USED IN THE OCCUPATIONAL PENSION SCHEMES (MASTER TRUSTS) REGULATIONS 2018, AS THE DEFINITION TO BE USED IN RESPECT OF CDC SCHEMES IS EXPECTED TO BE SIMILAR (ALTHOUGH FURTHER CONSIDERATION & CONSULTATION REGARDING ITS APPLICATION TO CDC SCHEMES IS NECESSARY).]

3.—(1) For the purposes of section 49(2)(b) of the Act (Connected employers), an employer (“A”) is connected with another employer (“B”), and an employer which is a group undertaking of A is connected with an employer which is a group undertaking of B—

- (a) where A and B have separate legal identities but are structured so that the economic position of the shareholders of each is, as far as practicable, the same as if they held shares in a single company comprising the combined businesses of A and B;
- (b) where A employs scheme members jointly with B;
- (c) in respect of active members of the scheme, following a transfer of those members to A from B (but see paragraph (3));
- (d) where A holds or controls, or in the previous six months has held or controlled, at least 33% of the voting power in B;
- (e) where A is, or in the previous six months has been, engaged in a joint venture with B.

(2) In paragraph (1)—

- (a) “employer” means a person who employs or engages persons who are members of the scheme;
- (b) “group undertaking” has the meaning given by section 1161(5) of the Companies Act;
- (c) “joint venture” means an arrangement, contractual or otherwise, by which two or more parties undertake an economic activity that is subject to joint control.

(3) Where the transfer referred to in paragraph (1)(c) is not a relevant transfer as defined in regulation 2 of the TUPE Regulations(b), A and B (and their respective group undertakings) are connected for no more than six months beginning with the date of the transfer.

Application for authorisation [NOTE: THIS DRAFT IS INDICATIVE AND ILLUSTRATIVE ONLY; IT IS BASED ON THE REQUIREMENTS SET OUT IN THE OCCUPATIONAL PENSION SCHEMES (MASTER TRUSTS) REGULATIONS 2018. THE REGULATIONS IN RESPECT OF CDC SCHEMES ARE EXPECTED TO BE SIMILAR TO THE ANALOGOUS REQUIREMENTS OF THE MASTER TRUST REGULATIONS, HENCE DRAFTING IS BASED ON THOSE REQUIREMENTS. HOWEVER, THE POLICY REMAINS SUBJECT TO FURTHER

(a) [S.I. 2006/246.]

(b) [There are further provisions about relevant transfers in regulation 3 of the TUPE Regulations, which was amended by S.I. 2014/16.]

CONSIDERATION, CONSULTATION AND PARLIAMENTARY PASSAGE OF THE PENSION SCHEMES BILL 2020.]

4.—(1) The following provisions of this regulation apply for the purposes of section 8(4)(a) of the Act (application for authorisation).

(2) The other information to be included in an application, in relation to each person acting in a capacity mentioned in section 11(2) of the Act (fit and proper persons requirement), is—

- (a) in the case of an individual—
 - (i) the person's full name;
 - (ii) the person's date of birth;
 - (iii) the title and description of the person's role in relation to the scheme;
 - (iv) the person's residential address and address for correspondence, if different, including any change to the residential address in the five years before the date of the application for authorisation;
 - (v) a criminal conviction certificate obtained by means of an application in accordance with section 112(1) of the Police Act 1997^(a) or, in relation to the law of a country outside the United Kingdom, any equivalent document;
 - (vi) *[FURTHER DETAILS MAY BE INSERTED SUBJECT TO CONSULTATION]*.
- (b) in the case of a body corporate within the meaning given by section 1173(1) of the Companies Act—
 - (i) the full name of each person who exercises a function in respect of or on behalf of the body corporate acting in such a capacity;
 - (ii) the date of birth of each such person who is an individual;
 - (iii) the residential address and address for correspondence, if different, including any change to the residential address in the five years before the date of the application for authorisation;
 - (iv) *[FURTHER DETAILS MAY BE INSERTED SUBJECT TO CONSULTATION]*.
- (c) in the case of any person, responses to a list of questions raised by the Regulator in the application to assess whether the person is a fit and proper person.

(3) The other information to be included in an application, in relation to whether the systems and processes used in running the scheme are sufficient, is—

- (a) in cases where a statement of investment principles^(b) has been prepared in respect of a scheme in accordance with regulation 2 of the Occupational Pension Schemes (Investment) Regulations 2005^(c), the most recent statement prepared in accordance with that regulation;
- (b) detail of the systems and processes used or intended to be used for communicating with members and others, and whether they have been devised, applied or maintained by the scheme or a service provider, including details of the matters set out in Schedule 4;
- (c) detail of the systems and processes used, or intended to be used, in the running of the scheme, and whether they have been devised, applied or maintained by the scheme or a service provider, including details of the matters set out in Schedule 5;
- (d) *[FURTHER DETAILS MAY BE INSERTED SUBJECT TO CONSULTATION]*.

(4) The other information to be included in an application is—

- (a) the name of the scheme;

(a) [1997 c. 50; section 112(1) was amended by the Policing and Crime Act 2009 (c. 26), section 97(2) and Schedule 8, Part 8, the Protection of Freedoms Act 2012 (c. 9), section 80(1), and S.I. 2012/3006.]

(b) [“Statement of investment principles” is defined in section 35(2) of the 1995 Act; section 35 was substituted by the 2004 Act, section 244.]

(c) [S. I. 2005/3378.]

- (b) the name of the employer establishing the scheme and, if relevant, the name of any employers that are connected with that employer, in accordance with section 49(2) of the Act (Interpretation), and that are intending to use the scheme;
 - (c) the date when the scheme was established;
 - (d) the date beginning on which the applicant intends to operate the scheme (subject to the Regulator’s decision under section 9(1) of the Act (decision on application));
 - (e) the contact details of the applicant;
 - (f) the address of the scheme’s registered office;
 - (g) [FURTHER DETAILS MAY BE INSERTED SUBJECT TO CONSULTATION].
- (5) An application for authorisation must be accompanied by a fee of [INSERT FEE].
- (6) The Regulator must pay fees received under paragraph (4) to the Secretary of State, unless the Secretary of State with the consent of the Treasury directs otherwise.

Fit and proper persons requirement [NOTE: THIS DRAFT IS INDICATIVE AND ILLUSTRATIVE ONLY; THE POLICY REMAINS SUBJECT TO FURTHER CONSIDERATION AND CONSULTATION AND PARLIAMENTARY PASSAGE OF THE PENSION SCHEMES BILL 2020.]

5. Schedule 1 sets out the matters that the Regulator must take into account in assessing, for the purposes of section 11 of the Act (fit and proper persons requirement), whether a person involved in a collective money purchase scheme is a fit and proper person.

Scheme design requirement [NOTE: THIS DRAFT REGULATION IS INDICATIVE AND ILLUSTRATIVE ONLY. CDC SCHEMES ARE NEW AS IS THE SCHEME DESIGN REQUIREMENT; THE POLICY REMAINS SUBJECT TO FURTHER CONSIDERATION AND CONSULTATION AND PARLIAMENTARY PASSAGE OF THE PENSION SCHEMES BILL 2020.]

6.—(1) Part 1 of Schedule 2 sets out the matters that the Regulator must take into account in deciding, for the purposes of section 12 of the Act (scheme design requirement), whether it is satisfied that the design of a collective money purchase scheme is sound.

(2) For the purposes of enabling the Regulator to take into account the matters set out in Part 1 of Schedule 2 the trustees of a collective money purchase scheme must provide the Regulator with the information or documents listed in paragraph (3).

(3) The information and documents to be provided are—

- (a) [the rules of the scheme];
- (b) [FURTHER DETAILS MAY BE INSERTED SUBJECT TO CONSULTATION].

Scheme design requirement: viability report [NOTE: THIS DRAFT IS INDICATIVE AND ILLUSTRATIVE ONLY. CDC SCHEMES ARE NEW AS IS THE SCHEME DESIGN REQUIREMENT; THE POLICY REMAINS SUBJECT TO FURTHER CONSIDERATION AND CONSULTATION AND PARLIAMENTARY PASSAGE OF THE PENSION SCHEMES BILL 2020.]

7.—(1) A collective money purchase scheme’s viability report must be submitted—

- (a) in writing,
- (b) in the format set out in a Code,
- (c) in accordance with any further requirements set out in a Code.

(2) The viability report must contain the information listed in Part 2 of Schedule 2.

(3) The information in the viability report must be provided as at the later of—

- (a) a date chosen by the trustees of the scheme, but not earlier than [INSERT DATE] months before the date when the scheme’s trustees apply to the Regulator for authorisation,

- (b) where the viability report has been revised in accordance with section 13(3) of the Act (viability report) *[INSERT DATE]*, and
 - (c) where the viability report has been revised in accordance with section 13(4) of the Act (viability report) *[INSERT DATE]*.
- (4) If a revised viability report is submitted in accordance with section 13(3) or (4) of the Act (viability report), the viability report must indicate which parts of it have been revised.

Scheme design requirement: viability certificate *[NOTE: THIS DRAFT IS INDICATIVE AND ILLUSTRATIVE ONLY. CDC SCHEMES ARE NEW AS IS THE SCHEME DESIGN REQUIREMENT; THE POLICY REMAINS SUBJECT TO FURTHER CONSIDERATION, CONSULTATION, AND PARLIAMENTARY PASSAGE OF THE PENSION SCHEMES BILL 2020.]*

- 8.—(1) A viability certificate must contain the information listed in Part 3 of Schedule 2.
- (2) The matters specified for the purposes of section 13(3)(d) of the Act (matters to which the scheme actuary must have regard when providing a viability certificate) are—
- (a) *[to insert provisions to be developed in consultation with the Regulator and the Institute and Faculty of Actuaries and others]*.

Financial sustainability requirement *[NOTE: THIS DRAFT IS INDICATIVE AND ILLUSTRATIVE ONLY; THE POLICY REMAINS SUBJECT TO FURTHER CONSIDERATION, CONSULTATION AND PARLIAMENTARY PASSAGE OF THE PENSION SCHEMES BILL 2020.]*

- 9.—(1) Part 1 of Schedule 3 sets out the matters that the Regulator must take into account in deciding, for the purposes of section 14 of the Act (financial sustainability requirement), whether it is satisfied that a collective money purchase scheme is financially sustainable.
- (2) Part 2 of Schedule 3 sets out the requirements to be met by a collective money purchase scheme relating to its financing.

Communication requirement *[NOTE: THIS DRAFT IS INDICATIVE AND ILLUSTRATIVE ONLY; THE POLICY REMAINS SUBJECT TO FURTHER CONSIDERATION, CONSULTATION AND PARLIAMENTARY PASSAGE OF THE PENSION SCHEMES BILL 2020.]*

10. Schedule 4 sets out the matters that the Regulator must take into account in deciding, for the purposes of section 15 of the Act (communication requirement), whether it is satisfied that a collective money purchase scheme has adequate systems and processes for communicating with members and others.

Systems and processes requirements *[NOTE: THIS DRAFT IS INDICATIVE AND ILLUSTRATIVE ONLY; THE POLICY REMAINS SUBJECT TO CONSULTATION AND PARLIAMENTARY PASSAGE OF THE PENSION SCHEMES BILL 2020.]*

11. Schedule 5 sets out the matters which the Regulator must take into account when deciding whether it is satisfied that the systems and processes used in running a collective money purchase scheme are sufficient to ensure that the scheme is run effectively.

Continuity strategy: administration charges *[NOTE: THIS DRAFT IS INDICATIVE AND ILLUSTRATIVE ONLY; THE POLICY REMAINS SUBJECT TO FURTHER CONSIDERATION, CONSULTATION AND SUCCESSFUL PARLIAMENTARY PASSAGE OF THE PENSION SCHEMES BILL 2020.]*

12.—(1) For the purposes of section 17(4) of the Act, the section of the continuity strategy setting out the levels of administration charges must set them out as follows.

(2) The section must set out the level of administration charges applicable in the current scheme year.... [*DETAILS TO BE INSERTED SUBJECT TO CONSULTATION*].

Continuity strategy: content [*NOTE: THIS DRAFT REGULATION IS INDICATIVE AND ILLUSTRATIVE ONLY. IT IS BASED ON THE REQUIREMENTS SET OUT IN THE OCCUPATIONAL PENSION SCHEMES (MASTER TRUSTS) REGULATIONS 2018. THE REGULATIONS IN RESPECT OF CDC SCHEMES ARE EXPECTED TO BE SIMILAR TO THE ANALOGOUS REQUIREMENTS OF THE MASTER TRUST REGULATIONS, HENCE DRAFTING IS BASED ON THOSE REQUIREMENTS. HOWEVER, THE POLICY FOR CDC SCHEMES REMAINS SUBJECT TO FURTHER CONSIDERATION, CONSULTATION AND PARLIAMENTARY PASSAGE OF THE PENSION SCHEMES BILL 2020.*]

13.—(1) The following information is specified for the purposes of section 17(5)(a) of the Act (continuity strategy requirement)—

- (a) the steps the trustees would take to decide which continuity option to pursue (if applicable) and the timescales for taking those steps;
- (b) details of—
 - (i) the main decisions and actions that would need to be taken to protect members' interests during a triggering event period,
 - (ii) the person responsible for taking them, and
 - (iii) the timescales for taking them;
- (c) details of strategies for communicating with employers and members, including—
 - (i) the information to be provided, and
 - (ii) the stages at which communication would take place;
- (d) details of strategies for communicating with the Regulator;
- (e) details of how the trustees would choose a receiving scheme or alternative payment mechanism, as applicable;
- (f) details of how the scheme's assets and members' personal data would be transferred to a receiving scheme or alternative payment mechanism, as applicable;
- (g) details of how members' records are to be maintained during a triggering event period;
- (h) details of how assets held at scheme level would be converted into a cash equivalent in respect of each member, if applicable;
- (i) details of how the trustees would comply with any legal requirements and meet any legal costs arising from a triggering event;
- (j) a plan for making decisions on investments when a triggering event occurs, and for dealing with scheme investments during a triggering event period;
- (k) a plan for dealing with any outstanding contributions due from employers and members;
- (l) details of how the scheme's administrative services would continue after a triggering event;
- (m) details of how service providers would be retained and paid for during a triggering event period;
- (n) details of how implementation of the continuity strategy would be funded;
- (o) [*FURTHER DETAILS MAY BE INSERTED SUBJECT TO CONSULTATION*].

(2) A continuity strategy must be prepared—

- (a) in writing,
- (b) in the format set out in a Code,
- (c) in accordance with any further requirements set out in a Code.

Calculation of benefits *[NOTE: THIS DRAFT REGULATION IS INDICATIVE AND ILLUSTRATIVE ONLY; CDC BENEFITS ARE NEW AND FURTHER CONSIDERATION IS NEEDED, SUBJECT TO CONSULTATION, AS TO THE REQUIREMENTS OF RULES RELATING TO THE CALCULATION OF CDC BENEFITS. EXAMPLES OF WHAT REGULATIONS UNDER CLAUSE 18 MAY REQUIRE ARE SET OUT BELOW. THE POLICY REMAINS SUBJECT TO FURTHER CONSIDERATION, CONSULTATION AND PARLIAMENTARY PASSAGE OF THE PENSION SCHEMES BILL 2020.]*

14.—(1) For the purposes of section 18(2) of the Act, the rules of a collective money purchase scheme must contain the following provisions—

- (a) in relation to the determination of the available assets of the scheme, that the assets to be taken into account are the assets attributed to the scheme in the relevant accounts, excluding any resources invested (or treated as invested by or under section 40 of the 1995 Act) in contravention of section 40(1) of the 1995 Act (employer-related investments);
- (b) in relation to the determination of the rate or amount of benefits provided under the scheme, that any methods and assumptions used for the calculation of that rate or amount must be applied to all members of the scheme without variation;
- (c) in relation to the adjustment of the rate or amount of benefits provided under the scheme, that any adjustments must be applied to all members of the scheme without variation;
- (d) *[FURTHER REQUIREMENTS MAY BE INSERTED SUBJECT TO CONSULTATION]*.

(2) In determining the rate or amount of a member's benefits, the rules of a collective money purchase scheme must follow the principles set out in paragraph (3).

(3) The principles to be followed under paragraph (2) are—

- (a) the economic and actuarial assumptions must be based on the central estimate,
- (b) the rates of interest used to discount future payments of benefits must be based on the central estimate, taking into account the yield on assets held by the scheme to fund future benefits and the anticipated future investment returns;
- (c) the mortality tables used and the demographic assumptions made must be based on the central estimate, having regard to the main characteristics of the members as a group and expected changes in the risks to the scheme;
- (d) any change from the method or assumptions used on the last occasion on which the required amount was calculated must be justified by a change of legal, demographic or economic circumstances;
- (e) *[FURTHER REQUIREMENTS MAY BE INSERTED SUBJECT TO CONSULTATION]*.

(4) Where the rules of a collective money purchase scheme permit the trustees to spread the adjustment of the rate or amount of benefits applied to members across a number of years ("smoothing"), the rules of a collective money purchase scheme must provide for *[Details to be inserted regarding circumstances in which smoothing may be applied and any conditions and requirements in respect of rules relating to this subject to further consideration and consultation.]*

(5) In this regulation, "central estimate" means [an estimate that represents an expected value over the range of outcomes that are reasonably possible, ignoring conceivable extreme events, where the contribution of such events to an expected value is not a matter that can be reliably estimated, and making no provision for prudence] *[DEFINITION TO BE REFINED SUBJECT TO CONSULTATION]*.

Actuarial advice *[NOTE: THIS DRAFT IS INDICATIVE AND ILLUSTRATIVE ONLY; THE POLICY REMAINS SUBJECT TO FURTHER CONSIDERATION, CONSULTATION AND PARLIAMENTARY PASSAGE OF THE PENSION SCHEMES BILL 2020.]*

15. When advising the trustees of a collective money purchase scheme in accordance with section 19(1) of the Act (advice of scheme actuary), the scheme actuary must have regard to any guidance or standards adopted or prepared, and from time to time revised, by—

- (a) the Institute and Faculty of Actuaries (or its successor), which are relevant to the matters specified in that section; and
- (b) the Regulator.

Actuarial valuation *[NOTE: THIS DRAFT IS INDICATIVE AND ILLUSTRATIVE ONLY. CDC SCHEMES ARE NEW AS ARE THE ACTUARIAL VALUATIONS THAT WILL BE REQUIRED IN RESPECT OF THESE SCHEMES.; THE POLICY REMAINS SUBJECT TO FURTHER CONSIDERATION, CONSULTATION AND PARLIAMENTARY PASSAGE OF THE PENSION SCHEMES BILL 2020.]*

16.—(1) An actuarial valuation obtained in accordance with section 20(1) of the Act (actuarial valuations) must include—

- (a) an assessment by the scheme actuary of—
 - (i) the value of the available assets of the scheme;
 - (ii) the required amount; and
 - (iii) whether an adjustment of the rate or amount of benefits provided under the scheme is required in accordance with the scheme rules and, if so, the amount of the adjustment;
- (b) *[FURTHER REQUIREMENTS MAY BE INSERTED SUBJECT TO CONSULTATION]*

(2) Where the rules of a collective money purchase scheme permit smoothing (see regulation 14(4)), the actuarial valuation must set out *[DETAILS TO BE INSERTED SUBJECT TO CONSULTATION]*.

(3) The trustees of a collective money purchase scheme must ensure that a copy of any actuarial valuation received by them is provided to the Regulator within *[INSERT TIME PERIOD SUBJECT TO CONSULTATION]*.

Benefits adjustments *[NOTE: THIS DRAFT IS INDICATIVE AND ILLUSTRATIVE ONLY. CDC SCHEMES ARE NEW AS ARE THE BENEFITS ADJUSTMENTS REPORTS REQUIRED UNDER CLAUSE 22 OF THE BILL; THE POLICY REMAINS SUBJECT TO FURTHER CONSIDERATION, CONSULTATION AND TO PARLIAMENTARY PASSAGE OF THE PENSION SCHEMES BILL 2020.]*

17.—(1) A report provided by the trustees of a collective money purchase scheme to the Regulator pursuant to section 22(2) of the Act (benefits adjustments report) must include—

- (a) the amount of any adjustment made in place of the required adjustment;
- (b) the steps that the trustees intend to take to remedy or mitigate the failure to secure the required adjustment;
- (c) *[FURTHER REQUIREMENTS MAY BE INSERTED FOLLOWING CONSULTATION]*.

(2) In this regulation, the “required adjustment” means—

- (a) any adjustment to the rate or amount of benefits provided under the scheme which is required in accordance with the scheme rules;
- (b) that was to be made in accordance with the most recent actuarial valuation; and
- (c) which was to take effect in accordance with the scheme rules.

Powers of the Regulator *[NOTE: THIS DRAFT IS INDICATIVE AND ILLUSTRATIVE ONLY; THE POLICY REMAINS SUBJECT TO FURTHER CONSIDERATION, CONSULTATION AND PARLIAMENTARY PASSAGE OF THE PENSION SCHEMES BILL 2020.]*

18. In exercising any of the powers conferred by section 23(1) of the Act, the Regulator must take into account *[DETAILS TO BE INSERTED FOLLOWING CONSULTATION]*.

Supervisory return: contents *[NOTE: THIS DRAFT R IS INDICATIVE AND ILLUSTRATIVE ONLY; THE POLICY REMAINS SUBJECT TO FURTHER CONSIDERATION, CONSULTATION AND TO PARLIAMENTARY PASSAGE OF THE PENSION SCHEMES BILL 2020.]*

19. For the purposes of section 27(2) of the Act, the Regulator may require the following information to be included in a supervisory return, to the extent that it has not already been provided to the Regulator—

- (a) details of how trustees' competence is being maintained, with particular reference to their compliance with the knowledge and understanding requirements in sections 247, 248 and 249 of the 2004 Act^(a);
- (b) *[FURTHER INFORMATION MAY BE INSERTED SUBJECT TO CONSULTATION]*;
- (c) any other information that is relevant to the authorisation criteria listed in section 9(3) of the Act (decision on application).

Significant events: notifying the regulator *[NOTE: THIS DRAFT IS INDICATIVE AND ILLUSTRATIVE ONLY. THE SIGNIFICANT EVENTS BELOW ARE BASED ON PROVISIONS IN THE OCCUPATIONAL PENSION SCHEMES (MASTER TRUSTS) REGULATIONS 2018. THE REGULATIONS IN RESPECT OF CDC SCHEMES ARE EXPECTED TO BE SIMILAR TO THE ANALOGOUS REQUIREMENTS OF THE MASTER TRUST REGULATIONS, HENCE DRAFTING IS BASED ON THOSE REQUIREMENTS. HOWEVER, FURTHER CONSIDERATION IS NEEDED FOR CDC SCHEMES AND THE POLICY REMAINS SUBJECT TO FURTHER CONSIDERATION, CONSULTATION AND PARLIAMENTARY PASSAGE OF THE PENSION SCHEMES BILL 2020.]*

20.—(1) The following are significant events which must be notified to the Regulator under section 28 of the Act (duty to notify Regulator)—

- (a) a change or addition to the persons involved with the scheme in the capacities listed in section 11(2) of the Act (fit and proper persons requirement), unless the change or addition is a triggering event;
- (b) an individual who is involved with the scheme in a capacity listed in section 11(2) of the Act, or whose involvement in the running of the scheme has been suspended while the individual's appointment is being considered—
 - (i) is convicted of an offence;
 - (ii) enters bankruptcy;
 - (iii) has a County Court judgment registered, or in Scotland a decree of the Sheriff Court issued, against him or her;
 - (iv) is sanctioned by a regulator other than the Regulator;
 - (v) is disqualified as a company director;
 - (vi) has been the subject of an adverse judgment or has reached a settlement in civil proceedings, particularly in connection with investment or other financial business, misconduct, fraud or the formation or management of a body corporate;
 - (vii) has contravened any of the requirements or standards of a regulator, including the Regulator;
 - (viii) has a change of circumstances, through ill health or otherwise, which materially impairs the individual's ability to operate in a capacity listed in section 11(2);
 - (ix) has any other change of circumstances which the person required to give notice considers likely to affect the Regulator's assessment under section 11 of the Act of whether the individual is a fit and proper person;
- (c) a significant change to the statement of investment principles^(b);

(a) [Section 248(8) was amended by S.I. 2009/1941.]

- (d) a decision to change the scheme’s design or the rules of the scheme;
- (e) a decision to revise the scheme’s viability report under section 13(4) or (5) of the Act;
- (f) a decision to change the person appointed as the scheme actuary;
- (g) a decision to revise the scheme’s continuity strategy under section 17(6) of the Act;
- (h) the scheme is unable or unlikely to meet the requirements of Part 2 of Schedule 3 (in relation to the financial sustainability of the scheme);
- (i) a change to the financial reporting period to be used in the accounts of the scheme;
- (j) a failure of the systems or processes used in running the scheme which has a significant adverse effect on the security or quality of data or on service delivery, including communications with members;
- (k) a significant change to the systems and processes used in running the scheme, or in any person responsible for delivering key services to the scheme;
- (l) an investigation of the scheme, or of a person involved in the scheme, by a regulator or other competent authority inside or outside the United Kingdom;
- (m) [FURTHER SIGNIFICANT EVENTS MAY BE PROVIDED FOR SUBJECT TO CONSULTATION.]

(2) The following information is specified for the purposes of section 28(4) of the Act (further information to be provided by a person required to give a notice under section 28(1) of the Act)—

- (a) where the significant event is a change to the trustees of the scheme, details of the timetable for this change and information concerning the proposed replacement;
- (b) where the significant event is a decision to change the design of the scheme, an explanation prepared by the trustees setting out—
 - (i) details of the proposed change;
 - (ii) the reasons for the change;
 - (iii) the objectives of the change;
 - (iv) how the interests of members have been taken into account;
- (c) [FURTHER INFORMATION REQUIREMENTS MAY BE INSERTED SUBJECT TO CONSULTATION].

Risk notices [NOTE: THIS DRAFT IS INDICATIVE AND ILLUSTRATIVE ONLY. THE POLICY REMAINS SUBJECT TO FURTHER CONSIDERATION, CONSULTATION AND PARLIAMENTARY PASSAGE OF THE PENSION SCHEMES BILL 2020.]

21.—(1) For the purposes of section 29(7)(a) of the Act (risk notices), the first progress report must be submitted before the end of [INSERT TIME PERIOD SUBJECT TO CONSULTATION].

(2) [The following information is specified for the purposes of section 29(10)(a) of the Act (information that a risk notice must contain)—

- (a) details of the evidence that the Regulator has taken into account in deciding to use its power to issue a risk notice;
- (b) an explanation of the penalties which may apply to a trustee who fails to comply with a risk notice;
- (c) [FURTHER REQUIREMENTS MAY BE INCLUDED SUBJECT TO CONSULTATION].

(3) For the purposes of section 29(3)(b) of the Act (risk notices), the date specified in a risk notice must fall before the end of [INSERT] beginning with [INSERT].

(4) For the purposes of section 29(4) (risk notices), the date specified in the notice that may be given under that section must fall before the end of [INSERT] beginning with [INSERT].

(b) [“Statement of investment principles” is defined in section 35(2) of the 1995 Act; section 35 was substituted by the 2004 Act, section 244.]

Triggering events: notification requirements *[NOTE: THIS DRAFT IS INDICATIVE AND ILLUSTRATIVE ONLY. THE POLICY REMAINS SUBJECT TO FURTHER CONSIDERATION, CONSULTATION AND PARLIAMENTARY PASSAGE OF THE PENSION SCHEMES BILL 2020.]*

22.—(1) For the purposes of section 33(4)(b) of the Act, the other matters relating to a triggering event that are to be included in the required notification are—

- (a) in the case of a notification under section 33(3) of the Act (notification by trustees to each employer or relevant former employer of the occurrence of a triggering event)—
 - (i) the date (if known) that the trustees intend to submit the implementation strategy to the Regulator for approval in accordance with section 39(1)(b) of the Act;
 - (ii) a timetable for future communications with each employer or relevant former employer concerning the triggering event;
 - (iii) *[INSERT]*.
- (b) *[PROVISIONS IN RESPECT OF NOTIFICATIONS UNDER SECTION 33(7), (8) AND (9), AS APPLICABLE]*.

(2) Notifications under section 33 of the Act (triggering event notifications) must be given before the end of—

- (a) *[INSERT]* days (in the case of notification to the Regulator),
- (b) *[INSERT]* days (in the case of notification to employers), or
- (c) *[INSERT]* days (in the case of notification to the trustees),

beginning with the date specified in paragraph (3).

(3) The specified date is—

- (a) the date on which the triggering event occurred (in the case of notifications made under section 33(1), (7) or (8) of the Act);
- (b) the date on which the person under the duty to notify became aware that the event had occurred (in the case of notifications made under section 33(3) or (9) of the Act).

Implementation strategy: approval *[NOTE: THIS DRAFT IS INDICATIVE AND ILLUSTRATIVE ONLY; THE POLICY REMAINS SUBJECT TO FURTHER CONSIDERATION, CONSULTATION AND PARLIAMENTARY PASSAGE OF THE PENSION SCHEMES BILL 2020.]*

23. Where the trustees of a collective money purchase scheme are required to submit an implementation strategy to the Regulator for approval, it must be submitted before the end of *[insert]* days beginning with the date on which—

- (a) the decision to refuse or withdraw authorisation became final, in the case of a triggering event within item 1 or 2 of the table in section 31(4) of the Act; or
- (b) the triggering event occurred, in the case of a triggering event within any other item of the table in section 31(4) of the Act.

Implementation strategy: administration charges *[NOTE: THIS DRAFT IS INDICATIVE AND ILLUSTRATIVE ONLY; THE POLICY REMAINS SUBJECT TO FURTHER CONSIDERATION, CONSULTATION AND PARLIAMENTARY PASSAGE OF THE PENSION SCHEMES BILL 2020.]*

24.—(1) The levels to be set out in the section relating to administration charges in the implementation strategy (“fixed charge levels”) must relate to the level of administration charges as at *[insert – regulations anticipated to provide for a fixed charge level that is potentially fixed at a period, for example 6 months, before the triggering event period commenced, or that may be determined by reference to a comparison between two points in time. The exact period would be determined through engagement with the Regulator and stakeholders. The aim is to require schemes to provide evidence to demonstrate how they are protecting members from facing*

increased charges arising from the cost of dealing with the triggering event, in line with requirements in clause 45 of the Pension Schemes Bill 2020.].

(2) The section must set out the level of administration charges applicable in the current scheme year.... [*INSERT DETAILS*].

Implementation strategy: content [NOTE: THIS DRAFT IS INDICATIVE AND ILLUSTRATIVE ONLY. THE BELOW DRAFT HAS BEEN ADAPTED FROM EXISTING PROVISIONS IN THE OCCUPATIONAL PENSION SCHEMES (MASTER TRUSTS) REGULATIONS 2018. THE REGULATIONS IN RESPECT OF CDC SCHEMES ARE EXPECTED TO BE SIMILAR TO THE ANALOGOUS REQUIREMENTS OF THE MASTER TRUST REGULATIONS. HENCE DRAFTING IS BASED ON THOSE REQUIREMENTS. HOWEVER, THE POLICY REMAINS SUBJECT TO FURTHER CONSIDERATION, CONSULTATION AND PARLIAMENTARY PASSAGE OF THE PENSION SCHEMES BILL 2020.]

25.—(1) An implementation strategy must contain—

- (a) details of—
 - (i) the main decisions and actions that will be taken, in relation to the continuity option being pursued, to address the triggering event that has occurred,
 - (ii) the person responsible for taking them, and
 - (iii) the timescales for taking them;
- (b) a communications plan setting out what information will be communicated to employers and members and when, including information about—
 - (i) the continuity option being pursued, and
 - (ii) key milestones and when they were achieved;
- (c) a plan setting out how the scheme’s liability to each beneficiary in respect of the value of their accrued rights to benefits is to be discharged, under any proposal formulated by the trustees in accordance with section 36(1)(b) of the Act, if applicable;
- (d) a plan setting out how the integrity of members’ records will be maintained during the triggering event period;
- (e) details of how assets held at scheme level would be converted into a cash equivalent in respect of each member, if applicable;
- (f) details of how the trustees will comply with any legal requirements and meet any legal costs arising from the triggering event that has occurred and the continuity option being pursued;
- (g) details of how scheme investments will be managed during the triggering event period;
- (h) a plan for dealing with any outstanding contributions due from employers and members;
- (i) details of how the scheme’s administrative services will continue during the triggering event period and how the trustees will implement the continuity option being pursued;
- (j) details of how service providers are to be retained and paid during the triggering event period;
- (k) details of how carrying out the steps identified in the implementation strategy is to be funded, with particular reference to the continuity option being pursued.

(2) An implementation strategy must be prepared—

- (a) in writing,
- (b) in the format set out in a Code, and
- (c) in accordance with any further requirements set out in a Code.

(3) After approval by the Regulator, the implementation strategy must be made available to the [employers and any relevant former employers] [*OF A DESCRIPTION TO BE SPECIFIED*] within [*INSERT TIME PERIOD*].

Continuity option 1: discharge of liabilities and winding up *[NOTE: THIS DRAFT INDICATIVE AND ILLUSTRATIVE ONLY; THE POLICY REMAINS SUBJECT TO FURTHER CONSIDERATION, CONSULTATION AND PARLIAMENTARY PASSAGE OF THE PENSION SCHEMES BILL 2020.]*

26. Schedule 6 applies when the trustees of a collective money purchase scheme—
- (a) are required, or decide, to pursue continuity option 1; and
 - (b) propose to discharge the scheme's liability to each beneficiary in respect of the value of their accrued rights to benefits under the scheme.

Continuity option 2: resolving triggering event *[NOTE: THIS DRAFT IS INDICATIVE AND ILLUSTRATIVE ONLY; THE POLICY REMAINS SUBJECT TO FURTHER CONSIDERATION, CONSULTATION AND PARLIAMENTARY PASSAGE OF THE PENSION SCHEMES BILL 2020.]*

27. For the purposes of section 37(2)(b) of the Act (continuity option 2: resolving triggering event), the notification to the Regulator must be given before the end of *[INSERT TIME PERIOD]* beginning with the later of—

- (a) the date on which the triggering event was, in the trustees' opinion, resolved;
- (b) if any other event within the triggering events table has occurred since the occurrence of the relevant event, the date on which that event was, in the trustees' opinion, resolved.

Continuity option 3: conversion to closed scheme *[NOTE: THIS DRAFT IS INDICATIVE AND ILLUSTRATIVE ONLY; THE POLICY REMAINS SUBJECT TO FURTHER CONSIDERATION, CONSULTATION AND PARLIAMENTARY PASSAGE OF THE PENSION SCHEMES BILL 2020.]*

28. For the purposes of section 38(3) of the Act (continuity option 3: conversion to closed scheme) the notification under section 38(2) of that Act must be given before the end of *[INSERT TIME PERIOD]* beginning with the date on which the trustees consider the preparations for the conversion of the scheme into a closed scheme are complete.

Periodic reporting requirement *[NOTE: THIS DRAFT IS INDICATIVE AND ILLUSTRATIVE ONLY; THE POLICY REMAINS SUBJECT TO FURTHER CONSIDERATION, CONSULTATION AND PARLIAMENTARY PASSAGE OF THE PENSION SCHEMES BILL 2020.]*

29.—(1) For the purposes of section 43(2) of the Act (periodic reporting requirements), the first report must be submitted before the end of *[INSERT TIME PERIOD]* beginning with the date on which the Regulator notifies the trustees that the implementation strategy is approved.

(2) For the purposes of section 43(4)(b) of the Act, periodic reports must record decisions made by the trustees and employers concerning the relevant continuity option chosen.

(3) The following information is specified for the purposes of section 43(4)(c) of the Act (other information to be included in a periodic report)—

- (a) if the person preparing the periodic report is not an independent trustee appointed pursuant to section 23(1) of the 1995 Act^(c) (power to appoint independent trustees), the name and address of that person;
- (b) the name and address of the scheme actuary;
- (c) a statement as to whether any of the scheme's administrative services are being carried out by a person other than the trustees, including the name and address of that person;
- (d) the timescales for completing the steps identified in the implementation strategy;

(c) [Section 23 was substituted by section 36(3) of the 2004 Act.]

- (e) details of whether any particular issues are affecting the trustees' ability to pursue or complete the steps identified in the implementation strategy;
- (f) [FURTHER DETAILS MAY BE INSERTED SUBJECT TO CONSULTATION; THE ABOVE EXAMPLES ARE BASED ON EQUIVALENT PROVISIONS IN THE OCCUPATIONAL PENSION SCHEMES (MASTER TRUSTS) REGULATIONS 2018. THE REGULATIONS IN RESPECT OF CDC SCHEMES ARE EXPECTED TO BE SIMILAR TO THE ANALOGOUS REQUIREMENTS OF THE MASTER TRUST REGULATIONS, HENCE DRAFTING IS BASED ON THOSE REQUIREMENTS.];

Pause orders [NOTE: THIS DRAFT IS INDICATIVE AND ILLUSTRATIVE ONLY; THE POLICY REMAINS SUBJECT TO FURTHER CONSIDERATION, CONSULTATION AND PARLIAMENTARY PASSAGE OF THE PENSION SCHEMES BILL 2020. THE REGULATIONS IN RESPECT OF CDC SCHEMES ARE EXPECTED TO BE SIMILAR TO THE ANALOGOUS REQUIREMENTS OF THE MASTER TRUST REGULATIONS, HENCE DRAFTING IS BASED ON THOSE REGULATIONS.]

30.—(1) Where a pause order containing a direction under section 44(5)(e) of the Act (pause orders) has effect in respect of a scheme, section 99 of the 1993 Act^(d) (trustees' duties after exercise of option) has effect in relation to that scheme as if for subsection (2)(c) of section 99 there were substituted—

“(c) in the case of an application that relates to money purchase benefits that are collective money purchase benefits, by the later of—

- (i) the last day of the six months beginning with the date of the application, or
- (ii) where a pause order made under section 44(5) of the Pension Schemes Act [2020] and containing a direction under section 44(5)(e) of that Act has effect in relation to that scheme before the last day of the period referred to in sub-paragraph (i), the [INSERT] beginning with the date on which the pause order ceases to have effect.”.

(2) Regulation 13(1) of the Occupational Pension Schemes (Transfer Values) Regulations 1996^(e) (extension of time limits for payment of cash equivalents) is amended as follows—

- (a) in paragraph (1), for “(b) of the 1993 Act” substitute “(b) or (c) of the 1993 Act”;
- (b) at the end of sub-paragraph (bb) omit “or”;
- (c) after sub-paragraph (bb) insert—

“(bc) the scheme is, or within [INSERT] months immediately before the end of that period has been, the subject of a pause order under section 44(5) of the Pension Schemes Act [2020] which contains a direction under section 44(5)(e) of that Act (no transfers etc of members' rights)”;

- (d) in sub-paragraph (c), for “(b), (ba) or (bb)” substitute “(b), (ba), (bb) or (bc)”.

Administration charges during a triggering event period [NOTE: THIS DRAFT IS INDICATIVE AND ILLUSTRATIVE ONLY; THE POLICY REMAINS SUBJECT TO FURTHER CONSIDERATION, CONSULTATION AND PARLIAMENTARY PASSAGE OF THE PENSION SCHEMES BILL 2020.]

31. Section 45(1) and (2) of the Act does not apply in relation to the following administration charges—

- (a) costs incurred as a result of buying, selling, lending or borrowing investments;
- (b) where a court order provides for the recovery by the trustees of costs incurred in complying with the order, the amount of those costs;

^(d) [Section 99(2) was substituted by the Pension Schemes Act 2015 (c. 8), Schedule 4, Part 1, paragraph 13.]

^(e) [S.I. 1996/1847. Regulation 13(1) was amended by S.I. 2016/200, and sub-paragraph (ba) was inserted by S.I. 2005/686 and was amended by S.I. 2018/1030; there are other amending instruments but none is relevant.]

- (c) charges permitted by regulations made under section 24 or 41 of the Welfare Reform and Pensions Act 1999^(f) (charges by pension arrangements in relation to earmarking orders and charges in respect of pension sharing costs);
- (d) costs solely associated with the provision of death benefits.

Publication of information [NOTE: THE BELOW INFORMATION IS INTENDED TO PROVIDE AN INDICATION OF PROVISIONS THAT MAY BE MADE USING REGULATIONS CONCERNING THE DISCLOSURE OF INFORMATION RELATING TO CDC SCHEMES. THE POLICY REMAINS SUBJECT TO FURTHER CONSIDERATION, CONSULTATION AND PASSAGE OF THE PENSION SCHEMES BILL 2020.]

32. *[The Government response to the consultation in respect of delivering collective defined contribution pension schemes confirmed the Government’s policy of advocating the publication, free of charge, of key CDC scheme documentation, to ensure an open and transparent environment for employers, trustees, members and commentators alike and the proposal that, as CDC schemes will be a sub-set of money purchase schemes, that they will be subject to the same publication requirements as these schemes.*

It is anticipated that some adjustments may be needed to existing disclosure requirements to better reflect the policy in respect of CDC schemes. For example, it is anticipated that existing legislation may need to be amended to reflect the basic scheme information to be provided to a member or prospective member of a CDC scheme, to ensure that they are provided with appropriate risk warnings and assurance messages regarding, for example, the CDC scheme’s design and member’s rights under the scheme.

It is anticipated that certain provision may be made using existing powers, for example section 113 of the Pension Schemes Act 1993, as well as under what is currently clause 46 of the Pension Schemes Bill 2020.

As draft regulations are developed, consideration will be given to which key documents should be made publicly available by CDC schemes, free of charge. Examples of documents or information that it is anticipated CDC schemes may be required to make publicly available may include (subject to further consideration and consultation):

- *the scheme’s rules;*
- *the scheme’s most recent viability report;*
- *an explanation of the scheme’s benefit adjustment process, including a statement that any benefit adjustments will be applied to all members of the scheme;*
- *a notice informing members and prospective members that collective money purchase benefits may be adjusted based on the actuarial valuation and is not guaranteed;*
- *the scheme’s statement of investment principles;*
- *a statement of how the trustees intend to act or have acted on the principles set out in the statement of investment principles;*
- *details of any administration charges being imposed on the scheme members including an illustration demonstrating the compounding effect of these charges over time;*
- *the scheme’s most recent actuarial valuation; and*
- *a document containing the information listed in Part 2 and Paragraph 12 of Schedule 3 of the Occupational and Personal Pension Schemes (Disclosure of Information) Regulations 2013 (information in the scheme’s annual report and payment schedule).]*

(f) [1999 c. 30; section 24 was amended by section 263(10)(b) of, and paragraph 158(2) of Schedule 27 and Schedule 30 to, the Civil Partnership Act 2004 (c. 33), and by article 2(2) of S.I. 2005/3175.]

Consequential amendments *[NOTE: THIS DRAFT IS INDICATIVE AND ILLUSTRATIVE ONLY ON THE EXPECTATION THAT SOME CONSEQUENTIAL AMENDMENTS MAY BE REQUIRED AS A RESULT OF PROVISION MADE IN REGULATIONS; THE POLICY REMAINS SUBJECT TO FURTHER CONSIDERATION, CONSULTATION AND PARLIAMENTARY PASSAGE OF THE PENSION SCHEMES BILL 2020.]*

33. Schedule 7 makes consequential amendments relating to these Regulations.

Signed by authority of the Secretary of State for Work and Pensions

[Insert Date]

[Name]
Parliamentary Under Secretary of State
Department for Work and Pensions

SCHEDULE 1

Regulation 5

FIT AND PROPER PERSONS REQUIREMENT

[NOTE: THE CONTENT OF THIS SCHEDULE IS SIMILAR TO CONTENTS OF SCHEDULE 1 TO THE OCCUPATIONAL PENSION SCHEMES (MASTER TRUSTS) REGULATIONS 2018. THE REGULATIONS IN RESPECT OF CDC SCHEMES ARE EXPECTED TO BE SIMILAR TO THE ANALOGOUS REQUIREMENTS OF THE MASTER TRUST REGULATIONS, HENCE DRAFTING IS BASED ON THOSE REQUIREMENTS. HOWEVER, THE POLICY REMAINS SUBJECT TO FURTHER CONSIDERATION AND CONSULTATION AND PASSAGE OF THE PENSION SCHEMES BILL 2020. REFERENCES TO LEGISLATION HAVE NOT BEEN VERIFIED FOR THE PURPOSES OF THIS ILLUSTRATIVE DRAFT.]

1. For the purposes of section 11(3)(a) of the Act, the Regulator must take account of the following matters when assessing whether a person is fit and proper to act in a capacity mentioned in section 11(2) of the Act—

- (a) whether, in England and Wales, the person has—
 - (i) made any arrangement with the person's creditors;
 - (ii) applied to an adjudicator under section 263H of the Insolvency Act(g) for a bankruptcy order within the meaning given by section 381(2) of the Insolvency Act(h);
 - (iii) been served with a bankruptcy petition within the meaning given by section 381(3) of the Insolvency Act;
 - (iv) been made bankrupt within the meaning given by section 381(1) of the Insolvency Act(i);
 - (v) been the subject of a bankruptcy restrictions order made under paragraph 1 of Schedule 4A to the Insolvency Act (including an interim bankruptcy restrictions order made under paragraph 5 of that Schedule); or
 - (vi) offered a bankruptcy restrictions undertaking made under paragraph 7 of Schedule 4A to the Insolvency Act;
- (b) whether, in Scotland, the person has—
 - (i) made any arrangement with the person's creditors;
 - (ii) made a debtor application to the Accountant in Bankruptcy for sequestration;

(g) [Section 263H was inserted by the Enterprise and Regulatory Reform Act 2013 (c. 24), Schedule 18.]

(h) [Section 381(2) was amended by the Enterprise and Regulatory Reform Act 2013, Schedule 19, paragraph 52.]

(i) [Section 381(1) was amended by the Enterprise and Regulatory Reform Act 2013, Schedule 19, paragraph 52.]

- (iii) been served with a petition for sequestration;
 - (iv) been the subject of an award of sequestration in accordance with section 22 of the Bankruptcy Act; or
 - (v) been the subject of a bankruptcy restrictions order within the meaning given by section 155(1) of the Bankruptcy Act (including an interim bankruptcy restrictions order within the meaning given by section 160 of that Act);
- (c) whether, in Northern Ireland, the person has—
- (i) made any arrangement with the person’s creditors;
 - (ii) petitioned the court for a bankruptcy order;
 - (iii) been served with a bankruptcy petition;
 - (iv) been adjudged bankrupt;
 - (v) been the subject of a bankruptcy restrictions order made under paragraph 1 of Schedule 2A to the Insolvency Order (including an interim bankruptcy restrictions order made under paragraph 5 that Schedule); or
 - (vi) offered a bankruptcy restrictions undertaking made under paragraph 7 of Schedule 2A to the Insolvency Order;
- (d) whether the person has been a director(j) or partner of, or otherwise concerned in the management of, a business that has gone into insolvency, liquidation or administration while the person was concerned with that business or within one year of their being so concerned;
- (e) whether—
- (i) in Great Britain, the person has been convicted of any criminal offence, excluding convictions that are spent within the meaning of the Rehabilitation of Offenders Act 1974(k); or
 - (ii) in Northern Ireland, the person has been convicted of any criminal offence, excluding convictions that are spent within the meaning of the Rehabilitation of Offenders (Northern Ireland) Order 1978(l).
- (f) whether there has been a judgment against the person or the person has reached a settlement in civil proceedings, particularly in connection with investment or other financial business, misconduct, fraud or the formation or management of a body corporate;
- (g) whether—
- (i) in Great Britain, the person has been subject to a disqualification order under section 1(1) of, or a disqualification undertaking under section 1A(1) of, the Company Directors Disqualification Act 1986(m); or
 - (ii) in Northern Ireland, the person has been subject to a disqualification order under Article 3(1) of, or a disqualification undertaking under Article 4(1) of, the Company Directors Disqualification (Northern Ireland) Order 2002(n);
- (h) whether the person has contravened any of the requirements or standards of—
- (i) a regulator, including the Regulator, or
 - (ii) the registrar of companies(o);

(j) [“Director” is defined in section in section 250 of the Companies Act.]

(k) [1974 c. 53.]

(l) [S.I. 1978/1908 (N.I. 27).]

(m) [1986 c. 46; section 1(1) was amended by section 5(1) of the Insolvency Act 2000 (c. 39) and section 204(1) and (3) of the Enterprise Act 2002 (c. 40). Section 1A was inserted by section 6(1) and (2) of the Insolvency Act 2000 and amended by section 111 of, and paragraphs 1 and 3(1), (2) and (3) of Part 1 of Schedule 7 to, the Small Business, Enterprise and Employment Act 2015 (c. 26).]

(n) [S.I. 2002/3150 (N.I. 4). Article 3(1) was amended by Article 4(3) of S.I. 2005/1454 (N.I. 9).]

(o) [“Registrar of companies” is defined in section 1060(3) of the Companies Act.]

- (i) any information received from—
 - (i) a regulator, or
 - (ii) the registrar of companies;
 - (j) the person’s conduct in relation to, or arising out of or in connection with, any work the person has carried out in one or more of the capacities specified in section 11(2) of the Act—
 - (i) in the five years before the date of the application for authorisation of the scheme; and
 - (ii) at any time since the date of the application for authorisation of the scheme;
 - (k) whether—
 - (i) in Great Britain, the person has been prohibited from being a trustee of any trust, including any trust scheme within the meaning of section 124(1) of the 1995 Act (interpretation of Part 1), under—
 - (aa) section 3 of the 1995 Act^(p) (prohibition orders), or
 - (bb) any other legislation; or
 - (ii) in Northern Ireland, the person has been prohibited from being a trustee of any trust, including any trust scheme within the meaning of Article 121(1) of the Pensions (Northern Ireland) Order 1995^(q) (interpretation of Part 2), under—
 - (aa) Article 3 of the Pensions (Northern Ireland) Order 1995^(r) (prohibition orders), or
 - (bb) any other legislation;
 - (l) whether—
 - (i) in Great Britain, the person has been disqualified from being a trustee of any trust, including any trust scheme within the meaning of section 124(1) of the 1995 Act, under—
 - (aa) section 29 of the 1995 Act^(s) (persons disqualified from being trustees), or
 - (bb) any other legislation; or
 - (ii) in Northern Ireland, the person has been disqualified from being a trustee of any trust, including any trust scheme within the meaning of Article 121(1) of the Pensions (Northern Ireland) Order 1995 (interpretation of Part 2), under—
 - (aa) Article 29 of the Pensions (Northern Ireland) Order 1995^(t) (persons disqualified from being trustees), or
 - (bb) any other legislation.
2. For the purposes of section 11(3)(a) of the Act, the Regulator must take into account—
- (a) the knowledge and skills gained from a person’s significant experience as a trustee, in assessing whether the person is fit and proper to act in that capacity;
 - (b) whether a person has successfully completed the Regulator’s on-line learning program known as the Toolkit, or an equivalent learning program, in assessing whether the person is fit and proper to act in the capacity of a trustee of the scheme;
 - (c) the collective expertise and experience of persons acting together in the capacity of trustees, in assessing whether they are fit and proper to act in that capacity.

3.—(1) In this Schedule—

-
- (p) [Section 3 was substituted by section 33 of the 2004 Act and amended by S.I. 2010/22.]
 - (q) [S.I. 1995/3213 (N.I. 22).]
 - (r) [Article 3 was substituted by Article 29 of S.I. 2005/255 (N.I. 1).]
 - (s) [Section 29 was amended by paragraph 45 of Schedule 12, and Schedule 13, to the 2004 Act and S.I. 2004/1941, 2006/1722, 2009/1941, 2012/2404 and 2016/481.]
 - (t) [Article 29 was amended by S.I. 2002/3150 (N.I. 1) and S.R. 2008/94 and 2016/108.]

“arrangement” means a voluntary arrangement entered into by an individual with their creditors;

“the Bankruptcy Act” means the Bankruptcy (Scotland) Act 2016(u);

“the Insolvency Act” means the Insolvency Act 1986(v);

“the Insolvency Order” means the Insolvency (Northern Ireland) Order 1989(w).

(2) In paragraph 1(a)—

“adjudicator” has the meaning given by section 385(1) of the Insolvency Act(x);

“creditor” has the meaning given by section 383(1) of the Insolvency Act(y).

(3) In paragraph 1(b)—

“the Accountant in Bankruptcy” has the meaning given by section 199(1) of the Bankruptcy Act;

“creditor” has the meaning given by section 383(1) of the Insolvency Act(z);

“debtor application” has the meaning given by section 228(1) of the Bankruptcy Act;

“sequestration” has the meaning given by section 1 of the Bankruptcy Act.

(4) In paragraph 1(c)—

“bankrupt”, “bankruptcy order”, “bankruptcy petition” have the meanings given in Article 9(1) of the Insolvency Order;

“court” is defined in rule 0.2 of the Insolvency Rules (Northern Ireland) 1991(aa);

“creditor” has the meaning given in Article 9(1) of the Insolvency Order.

SCHEDULE 2

Regulations 6, 7 and 8

Scheme design requirement

[NOTE: THIS DRAFT IS ILLUSTRATIVE AND INDICATIVE ONLY. CDC SCHEMES AND THE SCHEME DESIGN REQUIREMENT ARE NEW; FURTHER CONSIDERATION IS REQUIRED TO DEVELOP REGULATIONS. THE POLICY REMAINS SUBJECT TO FURTHER CONSIDERATION, CONSULTATION AND PASSAGE OF THE PENSION SCHEMES BILL 2020. THIS DRAFT, ILLUSTRATIVE SCHEDULE PROVIDES EXAMPLES OF AREAS THAT THE PROPOSED REGULATIONS MAY COVER IN RELATION TO THIS REQUIREMENT, SUBJECT TO FURTHER CONSIDERATION AND CONSULTATION.]

Part 1

Matters which the Regulator must take into account

Actuarial assumptions

1. [To insert requirements subject to consultation: for example, whether the actuarial assumptions used in the scheme design are comparable to existing industry standards and data.]

(u) [2016 asp 21.]

(v) [1986 c. 45.]

(w) [S.I. 1989/2405 (N.I. 19).]

(x) [Section 385(1) was amended by the Enterprise and Regulatory Reform Act 2013, Schedule 19, paragraph 55(a).]

(y) [Section 383(1) was amended by the Criminal Justice Act 1988 (c. 33), Schedule 16, and the Enterprise and Regulatory Reform Act (c. 24), Schedule 19, paragraph 53.]

(z) [Section 383(1) was amended by the Criminal Justice Act 1988 (c. 33), Schedule 16, and the Enterprise and Regulatory Reform Act (c. 24), Schedule 19, paragraph 53.]

(aa) [S.R. 1991 No. 364.]

Investment assumptions

2. [To insert requirements subject to consultation: for example, how have the assumptions in respect of investment returns been reached.]

Assumptions relating to membership

3. [To insert requirements subject to consultation: for example, have assumptions in respect of the membership been tested against potential emerging risks and scenarios.]

Risk modelling

4. [To insert requirements subject to consultation: for example, have assumptions underlying the scheme design been tested against emerging risks and scenarios.]

Valuation and adjustment

5. [To insert requirements subject to consultation: for example, considerations relating to the content of the scheme rules about how the rate or amount of benefits provided under the scheme is to be determined.]

Part 2

Information to be included in a viability report

6. Information setting out the design of the scheme as at the effective date of the viability report.

7. An explanation by the trustees of the scheme setting out the reasons that they consider the scheme design to be sound, which must include—

(a) [INSERT].

8. The effective date of the viability report.

9. The period to which the viability report relates.

10. The name of the person to be contacted in respect of the viability report and their contact details.

11. A statement, signed by the trustees, confirming—

(a) that the viability report, and revisions to it, have been approved by the trustees,

(b) [INSERT].

12. [FURTHER INFORMATION REQUIREMENTS MAY BE INSERTED, SUBJECT TO CONSULTATION.]

Part 3

Contents of a viability certificate

13. [To be developed in consultation with the Regulator and the Institute and Faculty of Actuaries, amongst others.]

SCHEDULE 3

Regulation 9

FINANCIAL SUSTAINABILITY REQUIREMENT

[NOTE: THE CONTENT OF THIS SCHEDULE IS SIMILAR TO THE CONTENTS OF SCHEDULE 2 TO THE OCCUPATIONAL PENSION SCHEMES (MASTER TRUSTS) REGULATIONS 2018. THE REGULATIONS IN RESPECT OF CDC SCHEMES ARE

EXPECTED TO BE SIMILAR TO THE ANALOGOUS REQUIREMENTS OF THE MASTER TRUST REGULATIONS, HENCE DRAFTING IS BASED ON THOSE REQUIREMENTS. HOWEVER, FURTHER CONSIDERATION IS REQUIRED TO DEVELOP REGULATIONS IN RESPECT OF THIS REQUIREMENT FOR CDC SCHEMES. THE POLICY REMAINS SUBJECT TO FURTHER CONSIDERATION, CONSULTATION AND PASSAGE OF THE PENSION SCHEMES BILL 2020.]

Part 1

Matters which the Regulator must take into account

1. The Regulator must take account of the following matters in deciding whether it is satisfied, for the purposes of section 14(2) of the Act, that a collective money purchase scheme has sufficient financial resources to meet the costs mentioned in section 14(2)(a) of the Act—

- (a) the structure of the scheme and its objectives;
- (b) the scheme's sources of income;
- (c) the estimated cost of setting up and running the scheme;
- (d) the trustees' strategy for meeting any shortfall between its income and the costs mentioned in section 14(2)(a) of the Act;
- (e) where the scheme has one or more employers, the financial position of each employer that the Regulator considers relevant;
- (f) the security and enforceability of loans and other funding commitments provided to the trustees in respect of the scheme;
- (g) the scheme financing arrangements entered into by the trustees that the Regulator considers relevant;
- (h) where the scheme has an arrangement with a service provider under which the service provider accepts the risk that its costs will exceed any fee paid to it, the provisions made to secure this service and any limitations on the service provider's liability for those costs;
- (i) any insurance held in respect of the scheme in respect of the costs mentioned in section 14(2)(a) of the Act, including details of—
 - (i) the insurance provider;
 - (ii) the policy holder;
 - (iii) the beneficiary of the policy;
 - (iv) any limitations on the insurer's liability;
- (j) [INSERT]

2. The Regulator must take account of the following matters in deciding whether it is satisfied, for the purposes of section 14(2) of the Act, that a collective money purchase scheme has sufficient financial resources to meet the costs mentioned in section 14(2)(b) of the Act—

- (a) the extent and manner in which the trustees have made provision to meet those costs;
- (b) the amount and classes of assets held by, or available to, the trustees to meet those costs;
- (c) the robustness and prudence of the estimates and strategy for meeting those costs identified by the trustees;
- (d) the amount of the scheme's assets under management or administration;
- (e) the number of members in the scheme;
- (f) the number of employers that are using the scheme;
- (g) whether the scheme rules impose liability on any persons for the costs of winding up the scheme, and if so the identity of those liable;

- (h) the alignment between the actions in the scheme's continuity strategy and the estimated cost of taking those actions as identified by the trustees;
- (i) any insurance held in respect of the scheme in respect of the costs mentioned in section 14(2)(b) of the Act (financial sustainability requirement), including details of—
 - (i) the insurance provider;
 - (ii) the policy holder;
 - (iii) the beneficiary of the policy;
 - (iv) any limitations on the insurer's liability;
- (j) the quality of the scheme's records and data;
- (k) [INSERT].

PART 2

Requirements to be met by the collective money purchase scheme

3. A collective money purchase scheme must meet the following requirements relating to its financing—

- (a) any assets held to meet the costs mentioned in section 14(2) of the Act must be
 - (i) available to be used when the relevant cost falls due;
 - (ii) [INSERT].
- (b) the scheme's trustees must have first call on the assets referred to in sub-paragraph (a);
- (c) any funding commitment made to the scheme by an employer must be given in writing and duly executed by the party making the commitment;
- (d) [FURTHER REQUIREMENTS MAY BE INSERTED SUBJECT TO CONSULTATION.]

SCHEDULE 4

Regulation 10

Communications Requirement

[NOTE: THIS DRAFT IS INDICATIVE AND ILLUSTRATIVE ONLY. CDC SCHEMES AND THE COMMUNICATIONS REQUIREMENT ARE NEW AND FURTHER CONSIDERATION IS REQUIRED TO DEVELOP REGULATIONS. THIS DRAFT, ILLUSTRATIVE SCHEDULE PROVIDES EXAMPLES OF AREAS THAT THE PROPOSED REGULATIONS MAY COVER IN RELATION TO THIS REQUIREMENT. THE POLICY REMAINS SUBJECT TO FURTHER CONSIDERATION AND CONSULTATION AND PASSAGE OF THE PENSION SCHEMES BILL 2020.]

Functionality and maintenance of IT systems to deliver communications

1. Whether the IT systems used for communicating with members and others in relation to the scheme—

- (a) [details to be inserted subject to consultation].

Systems and processes for delivering communications pursuant to statutory obligations

2. Whether the systems and processes for providing information in relation to the scheme to those persons falling in section 15(3) of the Act—

- (a) [details to be inserted subject to consultation].

Systems and processes for ensuring that information is accurate and not misleading

3. Whether the systems and processes for providing information in relation to the scheme to those persons falling in section 15(3) of the Act—

- (a) ensure that relevant communications are reviewed at the appropriate point by the scheme actuary and, as applicable, other persons providing legal, financial or actuarial advice in relation to the scheme;
- (b) [*details to be inserted subject to consultation*].

Member engagement

4. Whether there are systems and processes—

- (a) for facilitating members' engagement with the scheme;
- (b) for bringing members' views to the attention of the trustees;
- (c) for directing members' complaints to the correct channels for resolution.

SCHEDULE 5

Regulation 11

SYSTEMS AND PROCESSES REQUIREMENTS

[NOTE: THE CONTENT OF THIS SCHEDULE, WHICH IS INDICATIVE AND ILLUSTRATIVE ONLY, IS SIMILAR TO THE CONTENT OF SCHEDULE 4 TO THE OCCUPATIONAL PENSION SCHEMES (MASTER TRUSTS) REGULATIONS 2018. THE REGULATIONS IN RESPECT OF CDC SCHEMES ARE EXPECTED TO BE SIMILAR TO THE ANALOGOUS REQUIREMENTS OF THE MASTER TRUST REGULATIONS, HENCE DRAFTING IS BASED ON THOSE REQUIREMENTS. HOWEVER, FURTHER CONSIDERATION IS REQUIRED TO DEVELOP REGULATIONS IN RESPECT OF THIS REQUIREMENT FOR CDC SCHEMES AND THE POLICY REMAINS SUBJECT TO FURTHER CONSIDERATION, CONSULTATION AND PASSAGE OF THE PENSION SCHEMES BILL 2020.]

Features and functionality of IT systems

1. Whether the IT systems have the capacity and capability—

- (a) to process financial transactions securely and accurately, including the core transactions described in regulation 24(2) of the Administration Regulations(**bb**) (requirements for processing financial transactions);
- (b) to make and receive electronic payments;
- (c) to accept contributions from multiple sources;
- (d) to exchange data with other IT systems, including those used by employers and service providers;
- (e) to reconcile data on transactions and produce reports so that those activities can be monitored and transaction errors rectified promptly;
- (f) to identify and categorise transactions and payments for authorisation and countersigning at an appropriate level of authority;
- (g) to be updated to reflect changes in the legal requirements affecting transactions, payments and records, including changes in tax thresholds, the annual allowance and the lifetime allowance.

(bb) [Regulation 24 was inserted by S.I. 2015/879.]

Standards required of IT systems

2. Whether the IT systems—

- (a) are of sufficient standard to allow the scheme to meet its objectives;
- (b) are capable of being upgraded to reflect changes in required transactions and capacity;
- (c) have restricted physical and electronic access, with firewalls and other appropriate protection against viruses and other threats;
- (d) have a back-up system which allows data to be recovered if the main system fails.

Maintenance of IT systems

3. Whether the IT systems—

- (a) are maintained at regular intervals, either automatically or by a person with the appropriate skills and experience;
- (b) are backed up and updated regularly, including the maintenance of firewalls and other preventative systems;
- (c) are monitored to ensure that their capacity is sufficient for the size of the scheme.

Member records

4. Whether the scheme's systems and processes ensure that—

- (a) there is an accurate record of each member's details, including the contributions made in respect of each active member for each pay period, on the relevant IT system;
- (b) any unpaid contribution in respect of active members can be explained to the Regulator and remedied;
- (c) members' records are reviewed regularly for completeness and accuracy and updated promptly with changes of information;
- (d) errors in members' records can be identified and addressed, and any financial impact of such errors on members can be rectified;
- (e) records are maintained in respect of each member in decumulation for each financial year including the amount of pension income received;
- (f) records are maintained in respect of each financial year of the members that have become former members of the scheme during the financial year.

Trustees and others

5. Whether there are systems and processes—

- (a) for the fair and transparent recruitment, appointment, resignation and removal of trustees;
- (b) for the fair and transparent recruitment, appointment, resignation and removal of the scheme actuary;
- (c) for determining and recording that persons involved in the scheme in the capacities listed in section 11(2) of the Act (fit and proper persons requirement) are, and remain, fit and proper;
- (d) for monitoring and recording trustees' learning and development, and for ensuring that it is appropriate for the scheme's activities;
- (e) in relation to meetings of trustees, including—
 - (i) the intervals at which meetings of trustees are to take place;
 - (ii) the number of trustees required to authorise decisions on risk management, resource planning and investments;
 - (iii) the process for managing the scheme's business between meetings of the trustees;
 - (iv) for recording, maintaining and managing all documents relating to the trustees in an accessible, intelligible and durable medium;
 - (v) for managing the scheme's business if one or more trustees are absent.

Contracts and service providers

6. Whether there are systems and processes—
- (a) for ensuring that trustees are properly informed about service providers, and appropriately involved in decisions about them;
 - (b) for establishing and recording that service providers are, and remain, fit and proper;
 - (c) for informing the trustees about the appointment, removal, roles and responsibilities of service providers;
 - (d) for informing the trustees of—
 - (i) any failure by service providers to deliver services;
 - (ii) any actions or omissions by service providers which may prejudice—
 - (aa) the effective running of the scheme, or
 - (bb) the ability to meet the scheme’s objectives;
 - (e) for recording, maintaining and managing all documents relating to service providers in an accessible, intelligible and durable medium.

Risk management

7. Whether there are systems and processes—
- (a) for identifying, managing and monitoring operational, financial, regulatory and compliance risks;
 - (b) for recording and documenting risks in an appropriate and durable format;
 - (c) for ensuring that risks are managed in a timely manner by the appropriate persons;
 - (d) for informing the trustees about risks that have arisen and the steps being taken to manage them.

Security

8. Whether there are systems and processes—
- (a) for preventing unauthorised access to sensitive records and infrastructure, including those containing member information, financial details or investment information;
 - (b) for monitoring and recording electronic and physical access to sensitive records and infrastructure;
 - (c) for ensuring the secure transfer of physical and electronic data and the secure conduct of transactions.

Resource planning

9. Whether there are systems and processes for ensuring that there are sufficient human resources with the skills, qualifications and capacity necessary to comply with the requirements of Part 1 of the Act and, in particular—
- (a) to run and maintain the scheme’s systems and processes,
 - (b) to meet the scheme’s objectives; and
 - (c) to send appropriate and timely notifications, information and documents to the Regulator, including information about the scheme’s systems and processes.

Investments

10. Whether there are systems and processes—
- (a) for investing contributions in a timely manner in accordance with the scheme’s investment policy;
 - (b) for recording investment decisions;
 - (c) for managing the scheme’s interaction with investment managers, and recording key decisions;

- (d) for recording, managing and reviewing the risks associated with investment decisions; and
- (e) for informing trustees about questions, decisions and risks relating to investments.

SCHEDULE 6

Regulation 26

CONTINUITY OPTION 1: DISCHARGE OF LIABILITIES AND WINDING UP

[NOTE: THE FRAMEWORK OF THIS DRAFT, ILLUSTRATIVE SCHEDULE IS SIMILAR TO THE FRAMEWORK ADOPTED IN SCHEDULE 5 TO THE OCCUPATIONAL PENSION SCHEMES (MASTER TRUSTS) REGULATIONS 2018. THE FRAMEWORK OF THE REGULATIONS IN RESPECT OF CDC SCHEMES IS EXPECTED TO BE SIMILAR TO THE ANALOGOUS FRAMEWORK OF THE MASTER TRUST REGULATIONS, HENCE THE FRAMEWORK BELOW IS BASED ON THOSE REQUIREMENTS. FURTHER CONSIDERATION IS REQUIRED TO DEVELOP REGULATIONS IN RESPECT OF THIS REQUIREMENT FOR CDC SCHEMES. THE POLICY IN THIS AREA REMAINS SUBJECT TO FURTHER CONSIDERATION AND CONSULTATION AND PASSAGE OF THE PENSION SCHEMES BILL 2020.]

Interpretation

1. [To include following development of regulations, following further consideration and subject to consultation.]

Quantification of the discharge amount

2. [Provision envisaged to be included in regulations, for the purposes of what is currently clause 36(6) and 36(7)(a) of the Pension Schemes Bill 2020, setting out how the quantification referred to in clause 36(1)(a) is to be carried out. It is envisaged that this would consist of a calculation of the “discharge amount” in respect of each beneficiary – i.e. the amount that represents the cash equivalent value of any rights and benefits to which beneficiaries are entitled under the scheme (an illustrative definition is set out in regulation 2 to these draft, illustrative regulations). The Government intends to consult on any proposals before laying regulations before Parliament for scrutiny.]

Payments to pensioner beneficiaries

3. [Provision envisaged to be included in regulations, for the purposes of what is currently clause 36(6) and 36(7)(b) of the Pension Schemes Bill 2020, for securing that a person who has become a pensioner beneficiary (whether before or after the occurrence of the triggering event as a result of which the trustees are pursuing continuity option 1) receives a periodic income, at a rate or amount that is calculated by reference to the amount referred to in what is currently clause 36(1)(a) of the Bill, until the time when the proposal under what is currently clause 36(1)(b) is implemented or some other time to be specified in the regulations.]

The Government intends to consult upon how best to ensure that pensioner beneficiaries continue to receive an income stream whilst the collective money purchase scheme of which they are a beneficiary is being wound up, for example by providing for a draw down on their “discharge amount” identified under what is currently clause 36(1)(a) of the Bill in respect of the beneficiary. The Government intends to consult on any proposals before laying regulations before Parliament for scrutiny.]

Discharge options and requirements to be met by a receiving scheme or alternative payment mechanism

4. [Provision envisaged to be included in regulations, for the purposes of what is currently clause 36(6) and 36(7)(d) of the Pension Schemes Bill 2020, specifying requirements to be met in the case of a pension scheme, or alternative payment mechanism, by means of which it is proposed

to discharge the collective money purchase scheme's liabilities to beneficiaries in one of the ways mentioned in what is currently clause 36(2).

It is envisaged that a range of discharge options would be available to trustees, including transfer to another pension scheme (potentially in addition to those mentioned in what is currently clause 36(2)(a) of the Bill) – further available options may be set out in regulations. Examples of requirements that may be imposed by regulations may include that any proposed receiving scheme that is a master trust pension scheme or collective money purchase scheme will need to be authorised by the Regulator in accordance with the relevant legislation. The Government intends to consult on any proposals before laying regulations before Parliament for scrutiny.]

Employer's right to nominate a receiving scheme for its current jobholders

5. [Provision envisaged to be included in regulations to give employers that are using a collective money purchase scheme, the trustees of which are pursuing continuity option 1, the right to nominate a scheme to which current employees may be transferred (with provision being made to allow for individuals to opt out as applicable). The Government intends to consult on any proposals and associated time limits before laying regulations before Parliament for scrutiny.]

Notification of discharge proposal

6. [Provision envisaged to be included in regulations relating to the requirement on the trustees, under what is currently clause 36(1)(c), to inform beneficiaries (and employers and relevant former employers) of the proposal for discharging the scheme's liability to each beneficiary (this is the proposal which is to be formulated under what is currently clause 36(1)(b) of the Bill). It is envisaged that regulations may require notification of their respective rights, in a manner specified in regulations within the specified period. The Government intends to consult on any proposals before laying regulations before Parliament for scrutiny.]

Employer's right to nominate an alternative scheme for its current jobholders

7. [Provision envisaged to be included in regulations for the purposes of what is currently clause 36(6) and (7)(c) of the Pension Schemes Bill 2020. It is envisaged that provision may give employers that are using a collective money purchase scheme, the trustees of which are pursuing continuity option 1, the right to nominate an alternative scheme to any proposed by the trustees (with provision being made to allow for individuals to opt out as applicable). The Government intends to consult on any proposals and associated time limits before laying regulations before Parliament for scrutiny.]

Beneficiary notifications, including rights to opt out of the discharge proposal

8. [Provision envisaged to be included in regulations requiring the trustees of the scheme to send a notice to each relevant beneficiary of the transferring scheme concerning whether or not the employer has made an alternative proposal and the consequences of this and connected matters, including provision requiring trustees to notify of the member's rights under Part 4ZA of the Pension Schemes Act 1993.]

[Provision envisaged to be included conferring rights on beneficiaries to require trustees by notice to discharge liabilities as specified by the beneficiary (alternative measures to meet relevant requirements) and duties on trustees to take certain actions in response.]

[The Government intends to consult on any proposals before laying regulations before Parliament for scrutiny.]

Trustees' powers

9. [Provision envisaged to be included in regulations to provide for trustees to be able to discharge scheme liabilities via the default proposal chosen by the trustees, or where relevant the employer, where the beneficiary does not nominate an alternative arrangement. The Government intends to consult on any proposals before laying regulations before Parliament for scrutiny.]

Administration charges in a receiving scheme

10. [Provision envisaged to be included in regulations for the purposes of what is currently clause 36(6) and 36(7)(e) of the Act. The Regulator will need to be satisfied that the members of a receiving scheme that is a master trust or CDC scheme are protected from higher or new administration charges associated with the transfer from the transferring scheme, in accordance with the requirements of what is currently clause 45(2) of the Pension Schemes Bill 2020. The Government intends to consult on any proposals before laying regulations before Parliament for scrutiny.]

Notification of expected and final discharge date

11. [Provision envisaged to be included in regulations requiring the trustees of the scheme to notify employers and members of the expected and final discharge date within the specified time period. The Government intends to consult on any proposals before laying regulations before Parliament for scrutiny.]

Winding up

12. [Provision envisaged to be included in regulations concerning winding up. It is envisaged that conditions may be prescribed in order for the trustees of the transferring scheme to be considered discharged of their obligations in respect of the scheme and for the collective money purchase scheme to be wound up. The Government intends to consult on any proposals before laying regulations before Parliament for scrutiny.]

Regulator's power to direct

13. [It is envisaged that provision may be included in regulations concerning powers of Regulator to direct the scheme concerning matters permitted or required by this Schedule. The Government intends to consult on any proposals before laying regulations before Parliament for scrutiny.]

Civil penalties

14. [It is envisaged that provision may be included in regulations for the purposes of what is currently clause 36(10) of the Pension Schemes Bill 2020 (civil penalties). The Government intends to consult on any proposals before laying regulations before Parliament for scrutiny.]

SCHEDULE 7

Regulation 33

Consequential amendments

1. [Consequential amendments arising from the Regulations may be required, subject to development of those Regulations and subject to consultation. This will need to be determined in due course.]

EXPLANATORY NOTE

(This note is not part of the Regulations)

[NOTE: THESE EXPLANATORY NOTES ARE PROVIDED FOR THE PURPOSES OF THIS ILLUSTRATIVE DRAFT ONLY AND BROADLY REFLECT THE CONTENTS OF THAT DRAFT, WHICH IS TO SUBJECT TO FURTHER CONSIDERATION AND CONSULTATION.]

[These Regulations implement the new authorisation and ongoing supervisory regime for Collective Money Purchase Schemes under the provisions of the Pension Schemes Act [2020] (“the Act”).

Regulation 3 sets out when one employer is treated as connected with another employer for the purposes of section 49(2)(b) of the Act.

Regulation 4 sets out the information to be included in a collective money purchase scheme's application for authorisation by the Pensions Regulator ("the Regulator") under section 8 of the Act, and specifies the application fee payable to the Regulator.

Regulation 5 introduces Schedule 1, which sets out the matters that the Regulator must take into account in assessing whether a person involved in a collective money purchase scheme is a fit and proper person.

Regulation 6 introduces Schedule 2, which sets out the matters that the Regulator must take into account in deciding, for the purposes of section 12 of the Act, whether it is satisfied that the design of a collective money purchase scheme is sound.

Regulations 7 and 8 and Schedule 2 contain requirements in relation to the viability report and viability certificate of a collective money purchase scheme, documents that are required in accordance with section 13 of the Act.

Regulation 9 introduces Schedule 3, which sets out the matters that the Regulator must take into account in deciding whether it is satisfied that a collective money purchase scheme is financially sustainable.

Regulation 10 introduces Schedule 4, which sets out the matters that the Regulator must take into account in deciding whether it is satisfied that a collective money purchase scheme has adequate systems and processes for communicating with members and others.

Regulation 11 introduces Schedule 5, which sets out the matters that the Regulator must take into account in deciding whether it is satisfied that the systems and processes used in running a collective money purchase scheme are sufficient to ensure it is run effectively.

Regulation 12 contains requirements in respect of the section of a collective money purchase scheme's continuity strategy which sets out the levels of administration charges imposed by the scheme. (The continuity strategy is a document addressing how members' interests will be protected if a triggering event occurs in relation to the scheme).

Regulation 13 specifies information which the continuity strategy must contain, and how it must be prepared.

Regulation 14 makes provision concerning the rules of a collective money purchase scheme about how the rate or amount of benefits provided under the scheme is to be determined.

Regulation 15 specifies requirements with which the scheme actuary must comply when advising the trustees in accordance with section 19(1) of the Act.

Regulation 16 makes provision about actuarial valuations in a collective money purchase scheme.

Regulation 17 concerns reports to be made by the trustees of a collective money purchase scheme under section 22 of the Act in relation to adjustments to the rate or amount of benefits provided under a collective money purchase scheme.

Regulation 18 contains requirements with which the Regulator must comply when exercising its powers of direction under section 23 of the Act.

Regulation 19 sets out the information which the Regulator may require to be included in the supervisory return (a document which it may require collective money purchase schemes to submit in writing).

Regulation 20 lists the significant events in relation to a collective money purchase scheme which must be notified to the Regulator.

Regulation 21 makes provision in relation to risk notices that may be issued by the Regulator in accordance with section 29 of the Act.

Regulation 22 specifies matters that are to be included in a required triggering event notification made in accordance with section 33 of the Act and the period within which notifications must be made in respect of triggering events.

Regulation 23 sets the deadlines for a scheme's implementation strategy to be submitted where it requires approval by the Regulator (the implementation strategy is a document setting out how members' interests are to be protected after a triggering event has occurred in relation to the scheme).

Regulation 24 states how a scheme's administration charges must be calculated and set out in the implementation strategy.

Regulation 25 stipulates what a scheme's implementation strategy must contain and how it must be prepared and made available employers and any relevant former employers.

Regulation 26 introduces Schedule 6, which sets out the procedure to be followed when a triggering event has occurred and the scheme's trustees are pursuing continuity option 1, under which members' accrued rights to benefits are quantified, a proposal is formulated to discharge those rights and the scheme is wound up.

Regulation 27 prescribes the deadline for a scheme's trustees to notify the Regulator when they believe a triggering event has been resolved.

Regulation 28 prescribes the deadline for a scheme's trustees to notify the Regulator when they consider that preparations for conversion of the scheme into a closed scheme are complete.

Regulation 29 prescribes the deadline for a scheme's trustees to submit their first periodic report to the Regulator during a triggering event period and specifies information which reports must contain in addition to that required by the Act.

Regulation 30 modifies section 99 of the Pension Schemes Act 1993 (trustees' duties) as it applies to a collective money purchase scheme in respect of which the Regulator has made a pause order under section 44 of the Act. Consequential modifications are also made to the Occupational Pension Schemes (Transfer Values) Regulations 1996.

Regulation 31 sets out the administration charges that are outside the scope of the prohibitions of section 45(1) and (2) of the Act (which place duties on the trustees of a collective money purchase scheme and a scheme to which members of such a scheme may be transferred following a triggering event concerning the administration charges that can be imposed during a triggering event).

Regulation 32 concerns the publication of information relating to a collective money purchase scheme.

Regulation 33 introduces Schedule 7, which contains consequential amendments relating to these Regulations.

An impact assessment [*to be inserted*].]