

AMPS MONTHLY COMMITTEE MEETING		
17 th January 2018	10:00 – 14:00	Offices of Barnett Waddingham
Attendance:	Geoff Buck	Kelly Cullum
	Alan Finch	Sarah Hawkins
	Samina Kausar	Zoe Smith
	Ian Stone	Tas Ul-Haq
Apologies:	Zachary Gallagher	Claire Trott
Minutes:	Claire May	

APPROVAL OF MINUTES & COMPETITION DOCUMENT		
Alan Finch		
It was agreed that AF would chair meeting in absence of ZG. ZG had sent a written report prior to the meeting which is referred to through the minutes. AF reminded the committee that the meeting was being conducted in line with the Competition Document. Committee approved the minutes from December 2017 with ZG adjustments and AF signed back page to allow insertion of ZG changes.		
Action Items:	Person	Deadline
Minutes to be uploaded to AMPSONline	CM	ASAP

HMRC UPDATE
Alan Finch
SK had agreed to assume responsibility for the technical subcommittee and would provide the HMRC update from February.
ZG had outlined some of the main HMRC issues where members needed updated in the coming months :
<ul style="list-style-type: none"> • General Data Protection Regulation • Trust Registration Service • VAT on pension fund costs • HMRC processes for moving to digital service from April 2018 • Scottish Rate of Income Tax
TRS
AF delivered the written update provided by ZG:
<i>This has been an exceedingly difficult and frustrating matter to try to understand. Not because the relevant regulations are unclear; in a general sense they do seem clear, at least if I imagine them from the perspective of a small family trust. Where they become utterly illogical is in their presumed application to large-scale trusts established as pension schemes for potentially limitless numbers of unconnected beneficiaries. The scale of the prospective information submissions to HMRC becomes unimaginable.</i>
<i>I have found it very difficult to persuade HMRC's Pension Schemes Services, Nottingham (PSS) to understand this or, more importantly, to engage in discussion on these considerations. My contact continues to be Jamil Mohamed on the Trusts side, who tells me that he has been in contact with PSS but only relays what they have told him; I do not see it directly from them. I have made calls to PSS and been promised contact, though this has been subject to the understanding that there is continuing contact between PSS and Trusts, wherein they need to resolve outstanding issues between themselves before PSS is able to issue definitive guidance. PSS did say that they expected to issue guidance via the Pension Schemes Newsletters, though one wonders why there has been</i>

no mention of this in the newsletters so far.

There were two main issues that I was still pursuing with Trusts:

(i) What is HMRC's understanding of the need for reporting details of settlors, given that the concept of settlor in the context of pension schemes could extend to any person who has ever subscribed monies to the trust, e.g. employers, members, and even other pension schemes in the form of transfer payments?

Jamil's response seems helpful:

Currently you can record details of up to two settlors on the Trust Registration Service (TRS). Where trustees need to register more than two settlors they should put details of the first two on the TRS, then write to us to provide the additional details at: Trusts, HM Revenue and Customs, BX9 1EL.

If, however, you are the trustees (or an agent acting on behalf of trustees) of a pension scheme, unauthorised unit trust or an employment related trust, for example an employee ownership trust, and you need to register a large number of settlors (of which some will also be beneficiaries) then you should:

- record the identity details of any two settlors on the TRS;
- write to us at the address provided above using a class to describe the remaining settlors, for example pension scheme members/contributors or employees of the company, only in so far as the class of settlors is different to the class of beneficiaries;
- indicate how many individuals fall within each class; and,
- where a corporate entity is a settlor please provide us with just the name of that corporation or firm.

This will help to strike the right balance between keeping administrative burden to a minimum on the trustees of these types of trusts, and giving law enforcement authorities an effective tool to tackle the misuse of trusts for money laundering and terrorist financing.

(ii) How the requirements might be applied in the case of a SIPP trust where a single trust instrument gives rise to a potentially limitless number of individual SIPPs. It might be that only a small number of those SIPPs incur liability to the types of taxes which give rise to TRS registration, though comments to date from the HMRC Trusts side have seemed worryingly to suggest that they would expect information to be submitted in respect of all settlors/beneficiaries of the trust as a whole; not just for those divisions of the trust in which the tax liability falls.

Jamil has commented on this point in a manner which again, at first reading, seems helpful:

As the sub-funds are treated as separate trusts with their own UTR's, then they will need to be registered separately. This is subject to the trustees having to pay any of the relevant UK taxes. As such there might be situations where not all the sub-funds have to register in a given tax year but where one sub-fund has incurred a liability to pay any of the relevant UK taxes then it should register on the TRS.

Fine, but I'm not sure that separate SIPPs within a single trust do have their own UTRs. My information is that, typically, there is a single UTR for the trust as a whole. I put this point back to Jamil a week ago, and still await his comments.

Running alongside all of this is the conflicting reports that I have heard from other AMPS members, regarding their own experiences of approaches to HMRC (PSS, rather than Trusts). Simon Green of Union Pensions Trustees sent me a copy of an e-mail that he had received in

response to an enquiry of his, which offers the single line: "Our understanding is that Registered Pension Schemes do not need to register for the Trust Registration Service". Simon believed Ian Meadows of PSS to be the source of this. I have made several attempts to contact Ian Meadows but have been unable to do so, though Jamil says that he has been in contact with Ian, and that Ian says that it does apply. In the meantime, contacts on the ACA side tell me that PSS claim still to be in discussion on the extent to which the regulations apply. I am also in contact with Enhance Support Solutions, who have been having their own communications with Jamil but not yet with anything of a breakthrough.

I would like to send an update to AMPS members by the end of this week. I will have some time on Thursday to make some more calls, and I will be happy to travel to Nottingham to talk to PSS if they will see me. One helpful thing PSS did say to me when they were promising that someone would call me is that they would not expect to issue fines for late registration in cases where there was such uncertainty. Not that anyone will be in the mood to accept a fine.

My feeling is that PSS have been 'caught on the hop' by this, and perhaps even were unaware of it. The TRS requirement is one handed down by statutory instrument, as relating to trusts generally. Despite the references to occupational pension schemes in the guidance, I feel that this has been seen generally as a trusts issue rather than a pensions issue. The fact that pension schemes are registered in their own right seems to have been expected, by some in the industry, to mean that they need not use the TRS. This would have been a simple premise to accept, but we should remember that the TRS regulations are about more than what trustees need to submit to HMRC; they are also about what information trustees need to retain in their records and disclose to other parties.

I will report back later in the week when I have taken the latest HMRC communications further.

The committee discussed the above update and concern was voiced at the incorrect understanding by HMRC on how SIPP's are constructed under a trust.

Committee debated what advice should be given to members, given that many are waiting for guidance from the Association.

It was agreed that there was an urgent need for a further conference call with HMRC, which ideally should include representatives from PSS. This should be followed with a update to members. It was also suggested that screen shots should be provided to prepare members for the level of information required. GB and SH agreed to put together a document of example screen shots.

AF to go back to ZG with the list of the following items that need further discussion with HMRC:

-The deadlines are not achievable given that no final guidance document been provided. It is not reasonable to expect compliance with the deadlines based on only draft guidance. Could HMRC provide a date for when final guidance will be published

-Can they confirm who is regarded as a 'Settlor' under a trust. For a pension scheme are the only 'Settlers' that need registered are those who contributed when the trust was first established?

-Where there are more than two settlors and more than five trustees, does this information have to be provided by the deadline or is it sufficient to have the trust registered online by the deadline and that the extra information required in writing can be provided at a later date or can it be provided at a later date? Can HMRC provide confirmation of how they want the information in writing? Is there a template that they can provide?

-Regarding SIPP's written under a master trust, Jamil said: "As the sub-funds are treated as

separate trusts with their own UTR's, then they will need to be registered separately. This is subject to the trustees having to pay any of the relevant UK taxes. As such there might be situations where not all the sub-funds have to register in a given tax year but where one sub-fund has incurred a liability to pay any of the relevant UK taxes then it should register on the TRS."

This is not correct. 'Sub-funds' are not treated as separate trusts with their own UTR's. Can we have confirmation that where the criteria is met:

- That the "master trust" only can be registered with TRS (we see no other option);
- That it is sufficient to add 'class of beneficiary' rather than name them individually;
- Also, could 'Class of Settlor' be used if there are a large number of settlors to add (this point needs to be considered along with the early point about what a definition of a settlor).
- For SIPP's under a Master Trust can they just state what assets are held but avoid having to provide individual asset information as this is not practical or relevant given the large number of potential investments that could need input (and can this same principle be used for SSAS?)

MASTER TRUST

Committee debated the report received. GB raised a recent press article which referred to costs – fines and fees. As these were not referenced in AMPS response it was felt a posting online should highlight these when ZG posts the response to members

OTHER HMRC

SK attended *Going Digital* Workshop during which she was advised that Phase 2 will not include Practitioner replies .

Action Items:	Person	Deadline
TRS – Urgent conference call with PSS and Jamil to be arranged	ZG	Urgent
TRS – Contact TISA for their feedback	SK	Urgent
Screen shots and member posting	GB/SH	ASAP
Master Trust – press article to committee	GB	ASAP
Reference to master trust costs to be highlighted	ZG	Urgent
Going Digital slides to be shared with committee	SK	ASAP

FCA UPDATE
Geoff Buck
<p>CP17/36 Consultation Scheme Consultation – this has not yet been submitted but will be by 19 January 2018 with strengthening of some of the wording as requested by committee</p> <p>CP17/39 Ombudsmen Change – some committee feedback has been received on draft so final response will be submitted by end of next week 26 January 2018</p> <p>At the last meeting ZS drew committee attention to CP17/40,41,42 SM&CR consultations- GB has reviewed 40 and 42 but did not think it was a priority to respond. GB is attending workshop at end of month with IS and KC.</p> <p>CP18/01 on FSCS Timings – this appears to be just an alignment of some of the payment periods so no reason to respond.</p> <p>PS17/25 FAMR review – giving finalized guidance on FCA guidance steps for dealing with insistent clients.</p> <p>The committee discussed Vulnerable Clients, and the ABI paper on the subject. This seems to be a recurring theme, and a potential topic for the conference.</p>

GDPR – ICO issued a consultation on *Children and GDPR* . There are ample webinars and materials for firms to showcase. There will be live streaming Data Protection Practitioners' Conference in April which IS plans to attend.

GB is considering a round table session which Noline Matemera has suggested to provide updates on industry issues like SM&CR.

KC raised a point about FCA speaker requests. Having had communication with the Head of Speaker request department she was advised that regardless of however many requests you put in they work to 50% attendance.

ZG had sent Distressed Assets were discussed based on the content of ZG

I am also interested to pursue a point Geoff recently made in response to a query I sent around the committee, as to in what circumstances SIPPs might reasonably be closed, where a distressed asset has reached the point of being presumed worthless. A substantial difficulty is that many years can elapse between an asset's being perceived as such, and formal confirmation from insolvency practitioners as to its being effectively struck off. This leaves us with the problem of at what point an asset might be considered safe to discharge, or to assign to the member; there are unauthorised payment risks. Geoff suggested that this is a point that might be pursued with HMRC; perhaps this could be discussed today, and then perhaps we can work on a draft approach to them if it is considered worthwhile. I would also be interested in views on the TCF angle in regard to fees etc.

Those present agreed there was confusion on inconsistency within the industry. Committee agreed to ask ZG to get contact details so that this can be reviewed further and guidance issue to the industry as a whole.

Action Items:	Person	Deadline
News posting asking for questions for the Data Practitioners Conference	IS	ASAP
Contact details for Nil Value Assets	ZG	URGENT

CONSULTATION PAPERS
Alan Finch
None to add to those referenced above.

BREXIT		
Kelly Cullum		
FCA/PRA have put out a statement on leaving the EU.		
KC advised committee that recent statements indicated that there was to be a 21 month transition period up to end of 2020.		
KC also reference a letter to Nicky Morgan, from Steven Barclay (who has since replaced by John Glenn) with regard to financial services and the belief that PRA, FCA and Bank of England will take on roles currently undertaken by EU.		
TUH will see if anything comes to her from Heads of Company meeting with Theresa May, which her company attended.		
Action Items:	Person	Deadline

Any updates to share	TUH	Ongoing

COMMITTEE BUSINESS – Chairman’s Business

Alan Finch in Zachary Gallagher absence

AF delivered the written report from ZG:
January is my busiest month, and I have not been able to make any appointments this month for visits to London, meaning that I have not been able to go out to see anyone. I have been taking, and will still be taking, a little more time off this month too. I still intend to make appointments with a few people for as soon possible, including Louise Dolan, Robin Ellison and Nigel Sloam. Nigel has said that he is keen to share thoughts on TRS and will contact me soon; I know that he had an extended break into the new year and has been very busy as a consequence.

Action Items:	Person	Deadline
Lunches	ZG	Carried forward

COMMITTEE BUSINESS - Treasurer’s Report

Alan Finch in Clair Trott absence

£100K in bank with funds starting to come in for conference.
 Invoice to be raised at end of month for CM

COMMITTEE BUSINESS – Secretary’s Report

Alan Finch

AGM minutes uploaded to website

COMMITTEE BUSINESS – Membership Report including website and marketplace

Tas UI-Haq

TUH will update committee on membership by end of month although there has been little or no change in last few months

Marketplace

Invoices raised to the following to renew

Barclays	Omniphi
Origo	Jelf Insurance

CRS have decided not to renew their advert but Royal Mint considering marketplace or sponsorship at conference via GB

GB questioned if members were aware of Practitioner.com–investments seem to be a bit dubious and raised some questions but no one on committee had any further information.

Membership – renewal drafted early by TUH as she is away in March and returns on 6 April which is renewal date.

Action Items:	Person	Deadline
Update on membership to committee	TUH	End of Month

EVENTS UPDATE

Zachary Gallagher

Committee discussed 2018 conference and seminars. It was agreed the following subjects and speakers to be approached as a matter of urgency

MAY ANNUAL CONFERENCE			
SUBJECT	COMPANY OR BODY	PERSON/S	COMMITTEE MEMBER TO CONTACT
	Government Minister	Esther McVey	ZG
	Shadow Minister	Debbie Abrahams	ZG
	DWP	Nada Balasingham	ZG
	TPR	Lesley Titcombe	ZG
GDPR	Reed Thomas	Philip Thomas	Before this approach SH is attending session on 31 Jan and will ask that speaker if any good prior to Philip Thomas
PSS			
Conduct Risk	TLT	Paul Gair	IS
Brexit	Aviva		TH
Vulnerable Clients	ABI		GB
Fraud		Steven Colgan	ZS

Gina Miller & Hui Chen also suggested as alternative speakers.

OCTOBER AGM AND JOINT SEMINARS			
SUBJECT	COMPANY OR BODY	PERSON/S	COMMITTEE MEMBER TO CONTACT
Speak up culture			KC has speakers at ILAG event in March so will speak to them
SMCR	FCA		KC to approach

Action Items:	Person	Deadline
Check which committee member has registered for Conference or AGM and bedroom requirements	CM	ASAP

NEWSLETTER, PRESS & PR

All


ZG's note requested
In the context of the discussion on likely challenges for the year, I would be very grateful if Claire Trott in particular could perhaps give some thought to how this might translate to a press article.

Newsletter - next one due 1 March 2018 so content to be provided next committee meeting

Action Items:	Person	Deadline
Article	CT	ASAP
News letter content for March	All	End Feb 2018

REVIEW OF OUTSTANDING POINTS NOT COVERED ABOVE		
All		
Legal Subcommittee – request for information and guidance on the Registration Service to be carried forward and reported back to committee in February 2018		
Action Items:	Person	Deadline
Legal Subcommittee as above	IS	Feb meeting

COMMITTEE & MEMBERS QUESTIONS		
All		
<i>Andrew Roberts – Barnett Waddingham</i>		
<i>Could the committee reach out to Information Commissioner’s Office to ask what the likely situation is for trustees of Small Self-Administered Schemes registering with ICO once GDPR is in place. Will they be moving from each scheme needing to register to perhaps only those holding scheme records (such as the scheme administrator and/or professional trustee) needing to register?</i>		
ICO not giving much away and it’s a wait and see. SH will ask the question to ICO . ZS to clarify question with Andrew Roberts and advise SH prior.		
Action Items:	Person	Deadline
Clarify question with Andrew Roberts as above	ZS	ASAP

<p>Meeting closed at 1239hrs. Minutes approved by AMPS Secretary – Alan Finch. Next meeting to be held at the offices of Barnett Waddingham, 21 February 2018</p>

<p>Date: 21/2/18</p>