

To Be [Registrable] or Not To Be, That is the Question

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Government consultation on transposing the fifth EU money laundering directive into UK law is under way. Do pension trustees need to worry about it? Probably not. Most of the shocks came in 2017, when the fourth money laundering directive was adopted in the UK. At the same time that many pension trustees were implementing a policy of “data minimisation” for GDPR compliance purposes, HMRC asked schemes to start storing additional personal data in relation to beneficial owners. “Beneficial owner” is widely defined under the 2017 money laundering regulations, capturing pension trustees as well as pension scheme beneficiaries. A new registration system was also introduced, which would kick-in in specific circumstances.

So, given that anti-money laundering compliance has already been on trustee agendas, is the fifth money laundering directive all much ado about nothing?

Under the existing legislation, trustees of “**taxable**” express trusts (potentially including occupational pension schemes set up under trust) were required to register on HMRC’s Trust Registration Service (TRS). After some pressure from the pensions industry, HMRC decided that registered pension schemes need not register on the TRS, whether or not they were “taxable”. This was because information on the TRS would duplicate information recorded on Pension Schemes Online. However, under the fifth money laundering directive, all express trusts, including occupational pension schemes set up under trust, will need to register on a national register, the contents of which will be shared on a central European platform. Members of the public with a “legitimate interest” must be able to access the beneficial ownership information stored on the register and central platform.

Whilst for many pension trustees that might sound horrifying, the consultation paper issued by the Treasury appears to be well balanced and early indications are that it is likely that the current status quo would continue, with registered pension schemes being exempt from registration on the TRS by virtue of their existing registration status on Pension Schemes Online/Managing Pension Schemes. Whilst this would not exempt registered pension schemes from sharing information on the central European platform, the government is proposing that “legitimate interests” should be narrowly construed.

What’s in a name? That which we call a rose by any other name would smell as sweet.... It remains to be seen whether the Pension Schemes Online service will suffice or whether pension trustees will need to register on the TRS, as well.

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