

PRINCIPLES THAT ENDURE



Using Collective Investment Schemes: Lessons Learned

Northern Trust & CIPFA Workshop
16 December 2013



PRINCIPLES THAT ENDURE



Introduction

Neil Sellstrom

Advisor to the CIPFA Pensions Network

Robert Frazer

**Head of Institutional Investor Group UK,
Northern Trust**





Agenda

10:10am – Asset pooling and collective investment schemes

- **Aaron Overy** – Head of Business Development for Asset Pooling, EMEA, Northern Trust

10:30am – Choice of Asset Pooling Vehicles

- **Gavin Bullock** – Tax Partner, Deloitte LLP

11:00am – An Introduction to the Authorised Contractual Scheme

- **Jonathan Rushforth** – Head of Asset Management UK, HM Treasury

11:30am – Break

11:40am – Authorised Contractual (Tax Transparent) Schemes

- **John Buckeridge** – Policy and Technical Adviser, HM Revenue & Customs

12:10pm - Panel: Collective Investment Schemes and the LGPS

- **John Buckeridge** – Policy and Technical Adviser, HM Revenue & Customs
- **Gavin Bullock** – Tax Partner, Deloitte
- **Phillip Caldwell** – Head of Asset Pooling Product Development, Northern Trust
- **Angela Docherty** – Director, Wilton Associates
- **Pamela Thompson** – Partner, Eversheds

12:55pm – Closing Remarks

- **Neil Sellstrom** – Advisor to the CIPFA Pensions Network



PRINCIPLES THAT ENDURE



Asset pooling and Collective Investment Schemes

Aaron Overy

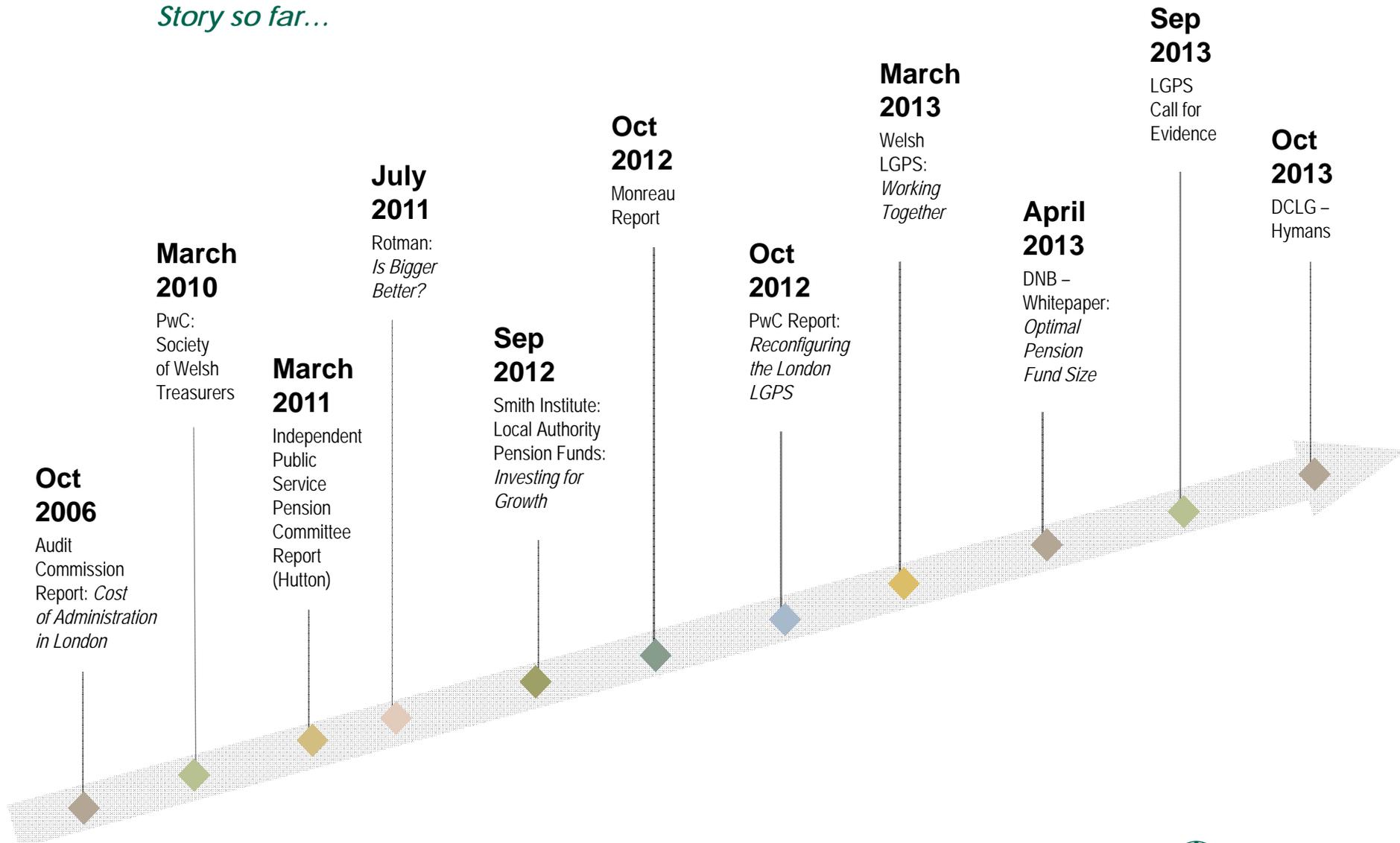
Head of Business Development for Asset Pooling
EMEA, Northern Trust





UK LGPS: Recent Events

Story so far...





Potential Investment Options

Direct investment – segregated

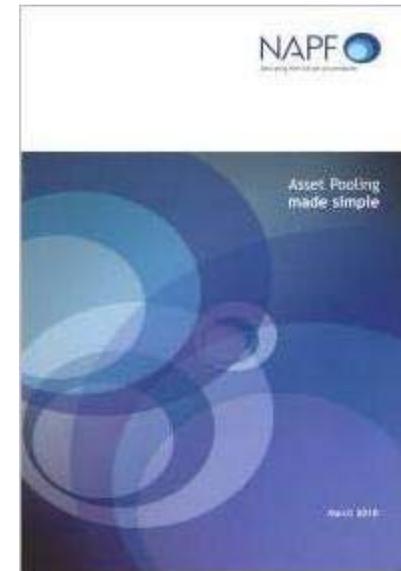
Common Investment Fund (CIF)

UK fund options

- Life companies (Life wrapped OEIC)
- UK authorised funds (OEIC or Authorised Unit Trust)
- UK unauthorised unit trusts (UUTs)
- Pension Fund Pooling Vehicle (PFPV)
- UK Authorised Contractual Scheme (ACS)

Cross-border fund options

- Dutch FGRs (Fonds voor gemene rekening)
- Luxembourg FCPs (Fonds commun de placement)
- Irish CCFs (Common contractual fund)
- Luxembourg SICAVs (Société d'investissement à capital variable)
- Irish VCC (Variable capital company)
- UK Authorised Contractual Scheme (ACS)

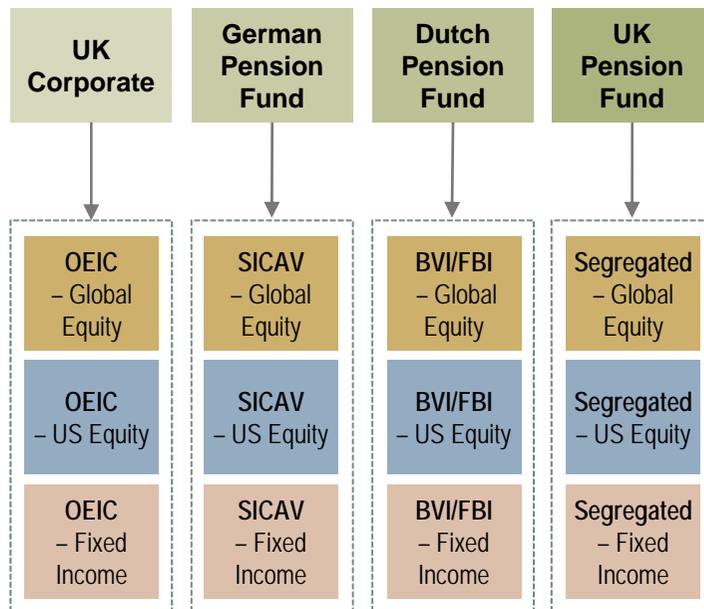




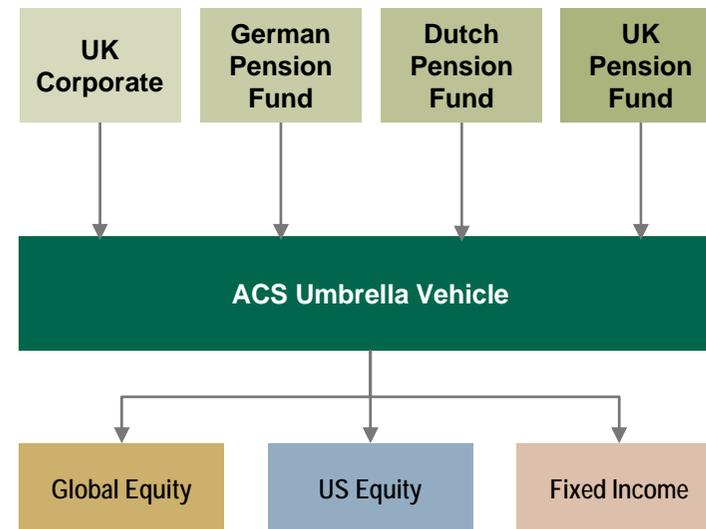
How Does it Work? Who is it Useful For?

Well suited to multinationals with pension plans in multiple countries, insurance companies or asset managers with clients in multiple tax jurisdictions for similar products.

Existing Structure



ACS Structure





Tax-Transparent Vehicles Across Europe

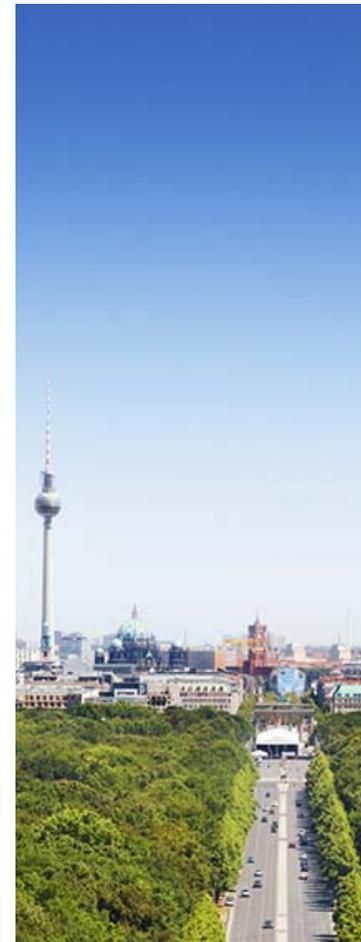
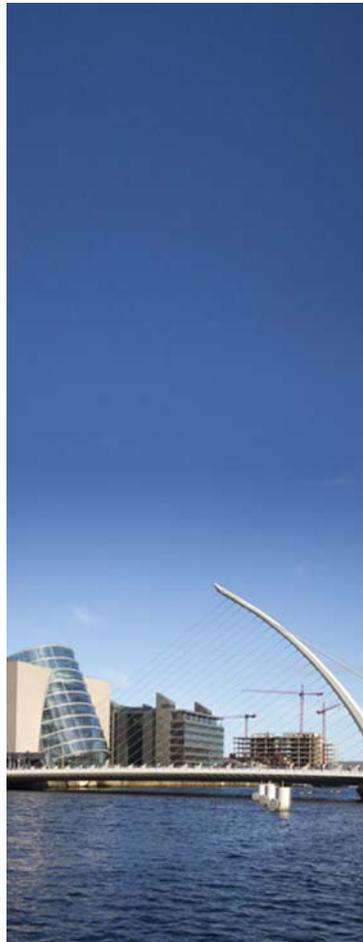
Luxembourg

Ireland

*The
Netherlands*

Germany

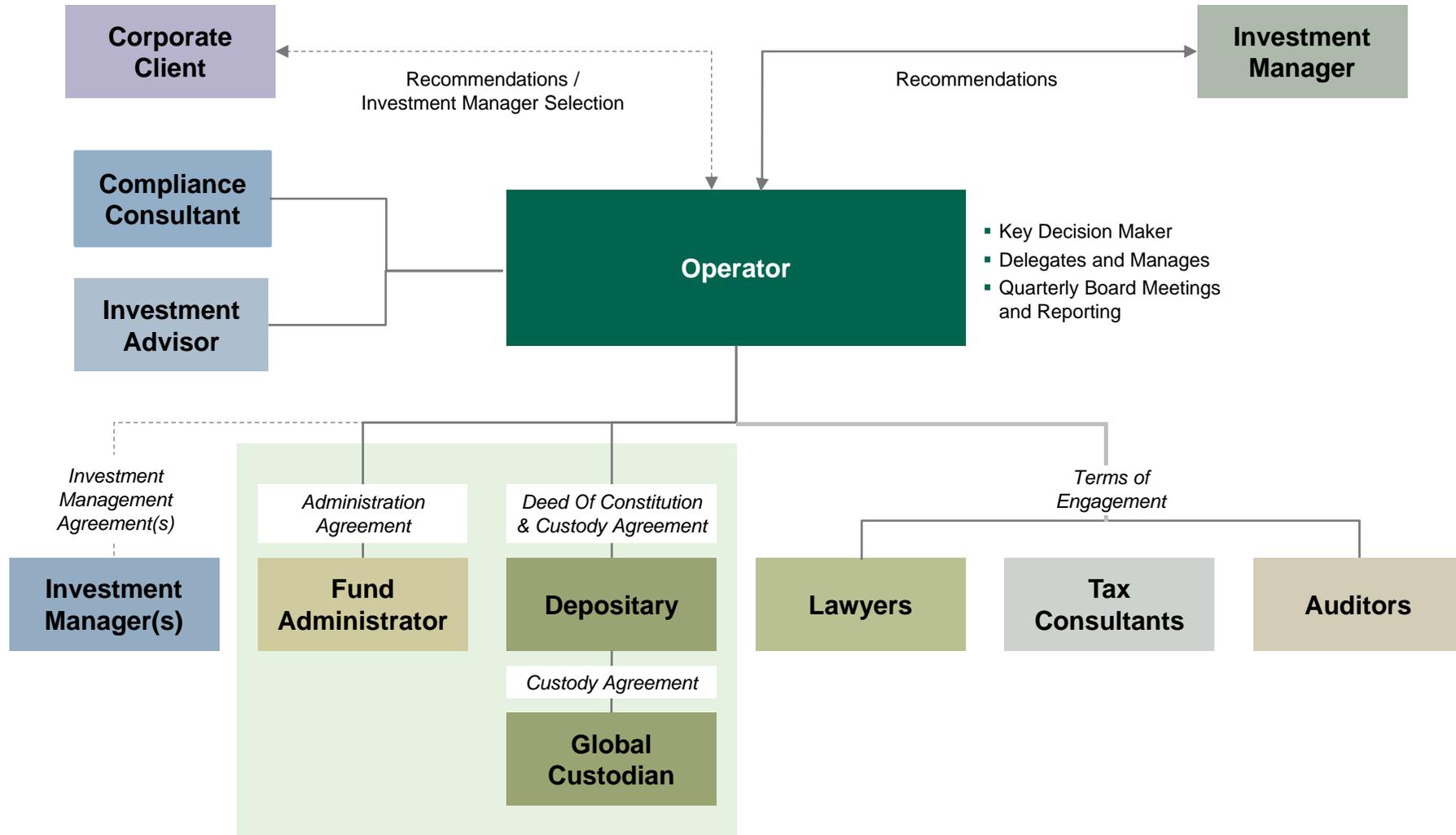
UK





Governance Roles and Responsibilities

Overview of control functions:





Operational Requirements

Tax rulings to confirm tax transparency of vehicle

Tax-transparent vehicles require (for each subfund) the ability to:

- Track income entitlements for each investor
- Withhold or reclaim tax at different rates per investors
- Track percentage ownership by investor at any given time
- Rebalance shares as percentage ownership changes
- Support particular requirements of securities lending

Detailed investor level information required for:

- Automated withholding tax solutions
 - ◆ Relief at source
 - ◆ Tax reclaim
- Accurate calculation of capital gains
- Accurate tax and regulatory reporting across multiple jurisdictions
- Securities lending





Critical Success Factors

- Develop clear objectives for implementing a pooling programme and how to measure success
- Appoint skilled and experienced advisors/partners early in the process
- Design pooling programme so that it will appeal to investors
- Ensure initial seeding is of sufficient size
- Adhere to detailed project plan for implementation
- Allocate suitable resources for the project
- Systems required that can support investors with different tax rates in the same vehicle for income and reporting purposes





Using Collective
Investment Schemes:
Lessons Learned
Northern Trust workshop

Gavin Bullock

Partner

Corporate Tax

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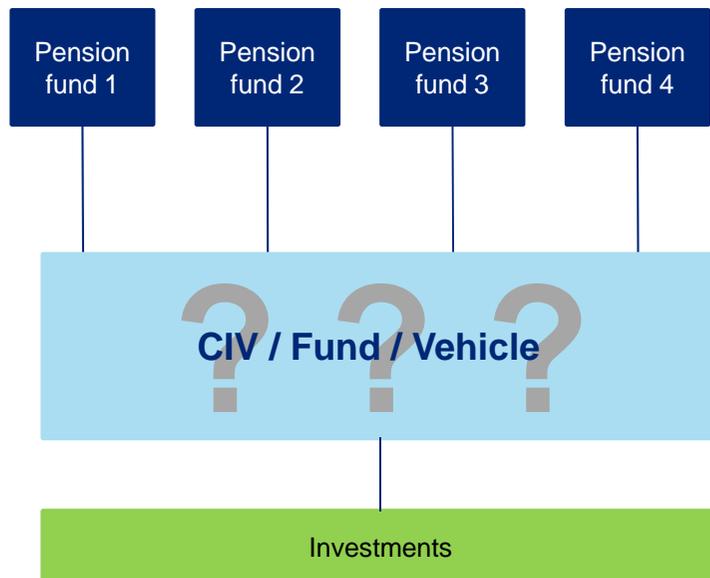


Choosing a fund vehicle

Key considerations

When considering asset pooling, choosing which vehicle to use is an important decision. There are several options available, and different vehicles have different characteristics.

It is important to establish what criteria are important to you in order to choose the most appropriate 'vehicle'.



Key aspects to consider

Country

- What country do you want the vehicle to be located in?
- Are your service providers located in the same country as the selected fund vehicle?

Tax

- Is the fund vehicle tax efficient?
- What is the withholding tax position?

Regulatory

- Does the vehicle need to be regulated?
- What level of regulation would you require?

Governance

- How will the fund be managed and how will decisions be made?
- Do you have sufficient control in the key areas?

Umbrella/Sub-funds

- Can the vehicle have sub-funds?
- Are these bankruptcy remote?

Pension Pooling – Vehicles

Summary of potential pooling vehicles

	TTF	FCP or CCF	SICAV/VCC	CIF
Country	UK	Luxembourg / Ireland	Luxembourg / Ireland	UK
Taxation of fund	Nil	Nil	Nil	Nil
Tax Transparency	Tax transparent	Tax transparent	Not transparent	Not all countries view as transparent
Tax Treaty access	Yes, including Japan	Yes, not Japan	Not in most countries	Depends. Not always clear
VAT on management fees	Exempt	Exempt	Exempt	VAT charged
Regulatory	Regulated	Regulated	Regulated	Not regulated
Sub-funds bankruptcy remote	Yes	Yes	Yes	Unclear

Attractive
 Less Attractive

Any Questions?



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HM TREASURY

Opportunities Abound: The Launch of a UK Tax-Transparent Fund Regime

UK Authorised Contractual Scheme

Jonathan Rushforth
Head of Asset Management
UK Treasury





UK leading European fund management centre



€14.0trn
(end-2010)

Country	Market share
1 UK	32.7%
2 France	20.7%
3 Germany	10.7%
4 Italy	4.8%
5 Netherlands	3.5%
6 Belgium	1.6%
7 Other	26.0%

Source
:IMA





UK Asset Management Strategy

Crucial to UK economy

- £5 trillion AUM
- 30,000 jobs+
- London and Scotland

Government commitment

- Long term approach
- Dialogue

Action

- Action: Schedule 19 SDRT £150m pa
- Action: UK domiciled bond funds pay gross interest when sold to non-UK resident
- Action: working with regulator
- Action: marketing
- Action: new products: TTF





Why are we introducing a UK tax-transparent fund?

Three types of UCITS vehicle

- Corporate OEIC
- Unit Trust Authorised Unit Trust
- Contractual New TTFs – Authorised Contractual Schemes

Main driver to introduce now: *to facilitate pooled “Master Funds” under UCITS IV*

Master funds reduce costs and increase returns to investors

But not just about UCITS, Non-UCITS to be available

Potential investors:

Pension funds, Unit trusts, OEICs, life companies and other institutional investors





Development of the UK Authorised Contractual Scheme

- UCITS IV Implemented June 2010
- Government announcement May 2011
- Introduce ACSs by regulations amending Financial Services and Markets Act 2000 (FSMA) + amendments to tax legislation
- May – December 2011 Informal consultation with industry, advisers and FSA
- January 2012 Consultation document published
- Final consultation July 2012
- UK legal due diligence Oct 2012-Jan 2013
- UK parliament signs off June 2013
- FCA revised rules GO LIVE July 1st 2013





The UK Authorised Contractual (tax-transparent) Scheme

Choice of 2 types of fund...

Contractual funds	
1. Co-ownership fund	new type of structure for UK
2. Partnership fund	currently used only as unauthorised vehicles

Both fund types subject to detailed consultation & development





The UK ACS – Co-ownership fund

Main characteristics

- Not a legal person
- No direct taxes in fund: not subject to CT, IT or CGT
- For UK investors Income (not gains) treated as arising directly to the investor. Taxable gain on disposal if investor is taxable.
- Otherwise investors taxed on transparent basis in own jurisdiction.
- Regulated by Financial Conduct Authority (FCA)





The UK ACS –Partnership Fund

Main characteristics

- Not a legal person
- No direct taxes in fund
- Income and gains treated as arising directly to investor
- Legal form as a limited partnership
- Regulated by the Financial Conduct Authority (FCA)

Note:

Both fund types tax neutral for exempt investors such as pension funds





Key features of the UK Authorised Contractual Scheme

- Transparent for UK taxes on income (and gains for partnership scheme)
- Can be UCITS, non UCITS or QIS (qualified investor scheme)
- Option for Co-ownership and Partnership schemes
- UK tax law amended to facilitate set up and redemption
- Attention to detail: eg insolvency
- Responsive to industry: eg transferability of units
- Exemptions from stamp duty for transfers of units
- VAT exempt





Why use the new UK ACS?

- Integrate fund management and fund location in the leading European fund management centre
- Best in class design and functionality
- Investor-protection built in
- Simple, transparent legal structure
- Governance benefits for investors, pension funds:
 - FCA regulated structure
 - UCITS vehicle
- Unlike Irish CCFs, natural persons are permitted to invest (subject to £1m+ rule)
- Tax-efficiency: supported by best double taxation treaty vs Lux / Eire.
- Unlike Lux FCP and Eire CCF, should be recognised as tax-transparent by Japan/ France





HM TREASURY

Come and talk to us about set-up – we are here to help!

- jonathan.rushforth@hmtreasury.gsi.gov.uk
- 0044 207 270 5539
- Joined-up UK for new entrants:

Treasury	HM Revenue
UK Government Legal Advisors	Financial Conduct Authority





HM Revenue
& Customs

Authorised Contractual Schemes

Monday, 16 December 2013



UK as a fund domicile

Historical Challenges

- Perception, Inertia / Momentum

Strengths

- Most extensive double taxation treaty network in the world
- Strong regulatory and legal environment
- Proximity to investment opportunities and financial and legal services
- Certainty of tax treatment
- Fair and competitive tax rules
- A range of fund types
 - **Now including Authorised Contractual (tax-transparent) Schemes**

Why Contractual Schemes?

UCITS directive permits three types of UCITS vehicle

- | | | |
|----------------------|----------------|--------------------------------------|
| - Corporate | | OEIC |
| - Unit Trust | ...UK forms... | Authorised Unit Trust |
| - Contractual | | Authorised Contractual Scheme |

- Main driver: to facilitate pooled “Master Funds” under UCITS IV
- Potential investors: Unit trusts, OEICs, pension funds, life companies
- Allows tax to be determined by the investor’s position – not the vehicle
- UCITS and Non UCITS (NURS or QIS) contractual funds are available
- Existing regulated contractual (tax transparent) funds are already seen to serve useful commercial purposes in other jurisdictions.



Limited Partnership Fund

- Limited Partnerships already widely recognised internationally
- a form of Limited Partnership (1907 Act modified)
- not a legal person
- no direct taxes in fund – tax treatment of investors as for existing limited partnerships
- **Income and Gains** treated as arising directly to investor
- regulated by the FCA (authorised)
- Based on existing model - so well understood, in particular by foreign tax authorities
- Liability of General Partner – limited to the value of the scheme assets (except in cases of negligence etc)



The co-ownership fund

The advantages associated with tax transparency

- not a legal person
- no direct taxes in fund
- income (not gains) treated as arising directly to the investor for UK tax purposes
- taxable gain on disposal if investor is taxable
- regulated by FSA (authorised)
- comparable to existing offshore (non –partnership) contractual funds

(tax treatment for UK resident investors is the same as for UK investors in similar contractual funds in Netherlands, Luxembourg, Ireland, France)



Tax on Income

- Both funds will be wholly transparent for income.
- UK Participants will be taxable on their share of the fund's income (and gains for a partnership fund)

Is this really as simple as it sounds?

- **NO Tax transparency can be highly complex - investors will need full information on their share of income to meet their tax obligations.**
- **In the case of a partnership fund investors will also need full information about movements in their share of all fund assets for the purposes of computing chargeable gains or losses.**

Tax regulations - Capital Gains

For partnership funds

- CG disposals or acquisitions arise for participants when there is a movement in their share of an underlying asset. (This is the consequence of full fiscal transparency)

For co-ownership funds

- Rules to treat interests in fund as an asset for capital gains (and ignore the assets held in the fund). Legislation is needed to achieve this result.
- **Regulation 3 of SI 2013/1400 achieves this result**



Insurance Companies investing in Co-ownership funds

- **Partnership fund** retains full 'look through' tax treatment
- **Co-ownership fund:** s212 TCGA will apply (as it already does to holdings in all other collective investment schemes except partnerships)
- CGT relief for transfer of assets to a co-ownership fund in exchange for units
- ... but relief withdrawn on early disposal
- (Regulations 4 to 7 of SI 2013/1400)



Exchanges and Mergers

- **New Chapter 4 to Part 3 TCGA** to provide rules for **all collective investment schemes** (including contractual funds)
- Existing legislation rewritten and clarified for collectives to ensure contractual funds covered.
- Extended to ensure Master- feeder fund reorganisations covered
- Extended to cover participant unit exchanges within a fund (if no asset change) – will ensure switches of unit class to meet Retail Distribution Review requirements do not create a chargeable gain.
- **Achieved by Regulations 8 to 13 SI 2013/1400**



Stamp taxes

Where a stamp tax charge arises, it will be paid directly by the operator on behalf of the scheme participants.

There is no charge to tax under Schedule 19 (due to be abolished for all funds from next April).

The regulations, which amend primary legislation, provide for exemptions for certain transactions relating to the contractual fund.

- Transfers of securities to a contractual fund in exchange solely for the issue of units
- Transfers of securities between sub-schemes of an umbrella contractual fund
- Transfers of units in a contractual fund

There are separate, but equivalent, exemptions for Stamp Duty Reserve Tax (SDRT) and stamp duty – SI 2013/ 1401

VAT

- Authorised Contractual Schemes will be ‘special investment funds’ for VAT purposes
- **Charges made for the management of the fund will be exempt from VAT**
- VAT Registration – question of fact that will be determined on how the fund is structured and the terms of the contractual deed or partnership scheme.
- **SI 2013/ 1402**



Double Tax Treaties

- Designed the contractual fund structures so that they had the best chance of being recognised as transparent by foreign fiscal authorities.
- HMRC are communicating with foreign jurisdictions to explain the schemes as appropriate.
- HMRC will follow this up as soon as possible with informal contact with foreign fiscal authorities in key jurisdictions

Note: Fiscal transparency means that the funds themselves will have NO ACCESS to the benefits of UK tax treaties. The ruling treaty will be that between the investor's jurisdiction and that where the assets are situated.

Legislation

- Main Regulations which are now in force (non-tax) have amended the Financial Services and Markets Act 2000 to permit authorisation of contractual funds.
- SI 2013/ 1388
- Tax regulations (three sets) are now in force.
- SI's 2013 Nos. 1400, 1401, 1402
- FCA rules for authorisation came into force on 1 July 2013

www.legislation.gov.uk

www.fca.gov.uk





HM Revenue
& Customs

Thank you

John Buckeridge

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PRINCIPLES THAT ENDURE



Panel: Collective Investment Schemes and the LGPS



PRINCIPLES THAT ENDURE



Closing Remarks

Neil Sellstrom
Advisor to the CIPFA Pensions Network



Biographies



Neil Sellstrom
Advisor to the CIPFA Pensions Network

In 2009 Neil became CIPFA Adviser for Pensions and Treasury Management, running networks on both areas with over 150 subscribing authorities combined. Here he represents CIPFA and LGPS Funds at various key events and also attends the CIPFA Pensions Panel.

Other activities include organising workshops and conferences, producing newsletters and co-ordinating queries to support members and promote best practice.

Prior to his role at CIPFA, Neil joined North Yorkshire County Council in 2003 as Technical & Pensions Accountant with responsibility for the Investments and Governance of the North Yorkshire Pensions Fund, where his responsibilities included managing procurements, accounting, triennial valuations, reporting and committee meetings.



Robert Frazer
*Head of Institutional Investor Group
UK, Northern Trust*

Robert is Head of Northern Trust's Institutional Investor Group for the United Kingdom, working with a range of institutional investors, including both local authority and private sector UK pension funds to ensure they are receiving the highest possible levels of service and helping them fulfil their strategic goals.

In his previous role at Northern Trust, Robert was Head of Consultant Relations for Europe, the Middle East and Africa (EMEA), responsible for managing relationships with the consultant community.

Prior to joining Northern Trust in June 2007 he spent two years as a Senior Consultant at Thomas Murray where he was responsible for leading client custodian searches across the pension, insurance and fund manager sectors in UK and European markets.

Previously, he spent 16 years at Standard Chartered Bank, both in its asset servicing and corporate banking business. His sales and marketing responsibilities included; custody, treasury, cash management and trade finance.





Biographies



Aaron Overy

*Head of Business Development for
Asset Pooling EMEA, Northern Trust*

As a member of Northern Trust's Retirement Solutions Practice and a manager of business development for pension pooling in EMEA, Aaron works with pension funds and investment managers to structure and implement tax-transparent pooling vehicles. He has a particular interest in pension trends, including pan-European pensions, the transition from defined benefit to defined contribution schemes, and investment platforms.

Aaron has over 14 years of industry experience. Prior to joining Northern Trust, he worked in business development for CheckFree, a leading provider of trade processing and corporate actions software solutions.

For the previous five years, he worked at Thomson Financial, providing front, middle and back office fund accounting and portfolio management software solutions to buy-side clients. He formerly served on ABN Amro's Delta One trading team.



Gavin Bullock

Tax Partner, Deloitte LLP

Gavin is a partner in Deloitte's asset management practice in London and leads the firm's pension tax practice. He is an expert in implementing various fund solutions including pension pooling, tax efficiency reviews and deficit financing strategies for a wide range of clients.

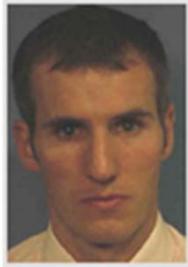
Gavin works with financial institutions, pension funds, real estate groups, asset managers and custodians and advises on the establishment of onshore and offshore funds, fund migrations and re-domiciliations, together with the selection of appropriate investment vehicles and the impact on multi-jurisdictional investors.

He has been actively involved in a number of HMRC and OECD consultations and working groups including in relation to the UK tax transparent vehicle.





Biographies



Jonathan Rushforth
*Head of Asset Management,
HM Treasury*

Jonathan is Head of Asset Management at the UK Treasury.

This year he worked with industry and UK ministers to publish the UK Investment Management Strategy.

He has worked in HM Treasury for over a decade on defence spending and growth. Prior to that he worked in industry.



John Buckeridge
*Policy and Technical Adviser,
Collective Investment Schemes,
HM Revenue & Customs*

John is a civil servant working for Her Majesty's Revenue and Customs (HMRC). He is a Policy and Technical Adviser on Collective Investments and is a member of the Financial Services and Products Team, part of CTISA (Corporation Tax, International, Stamps and Anti Avoidance).

He has been closely involved in all direct tax developments for Collective Investment Schemes and their investors since 2006 including Authorised Investment Funds and regime for offshore reporting funds. Most recently he has been the HMRC lead for the development of legislation to permit the authorisation of Contractual Funds in the United Kingdom.

John has previously worked as an Inspector of Taxes in a Revenue compliance team and has also been a Mathematics lecturer in a further education college.





Biographies



Phillip Caldwell
*Head of International Asset Pooling
Product Development, Northern Trust*

Phillip is responsible for the team that has developed and implemented Northern Trust's industry leading asset pooling product. The asset pooling product team is comprised of individuals whose role is to support clients in implementing and expanding use of their asset pooling vehicles.

Phillip has been working with Northern Trust's asset pooling programme since 2001. His asset pooling work initially covered research on behalf of a client-led consortium followed by detailed work in the area of proving the concept.

This led to the implementation of the first practical solution for cross-border pooling (2002) and the first tax-transparent cross-border pooling solutions for multinational investors (2005).

Phillip was previously head of operational taxes for Northern Trust where, in this previous role, his team was responsible for the process of recovering withholding taxes for Northern Trust clients in more than 90 global markets where they invest.



Angela Docherty
Director, Wilton Associates

After leaving full time employment with Unilever plc in September 2010 after 14 years, Angela Docherty became the Director and owner of Wilton Associates, a company she established.

Wilton Associates provides a range of services which leverage her 30 year career in the pension industry. This includes acting as independent advisor for investment committees of pension funds, independent advisor for Boards of investment companies, as well as a broad range of consulting services including supporting multinational companies who are interested in pooling solutions for their worldwide assets.

In her prior role at Unilever she had oversight of the investments arrangement of Unilever's pension plans worldwide and worked with trustees to design strategy and select the resources needed to manage all aspects of the plan.

Her professional life is expected to take up only 20% of her time with the rest being devoted to charitable works where she uses her expertise to assist charities.





Biographies



Pamela Thompson
Partner, Eversheds

Pamela is Joint Head of the UK Financial Services team at Eversheds.

Her main areas of practice are collective investment schemes, pooled investments and financial services regulatory work. She handles onshore schemes including authorised and unauthorised unit trusts and limited partnerships and offshore schemes such as trusts, open-ended companies and closed-ended funds.

Pamela also undertakes general financial services work, including regulatory advice, structuring, taxation and marketing investment schemes.





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