For intermediaries only

Aegon pilot trust guide
Which schemes and products can the pilot trust be used with?
The pilot trust can be set up for receiving lump sum benefits arising on death under any of the following personal pension schemes (all being registered pension schemes under the Finance Act 2004):

- The Scottish Equitable Self-administered Personal Pension Scheme
- The Scottish Equitable Personal Pension Scheme.
- The Scottish Equitable Stakeholder Scheme
- The Aegon Self-invested Personal Pension Scheme

This applies whether the benefits under the scheme are insured benefits or self-invested funds or both, and whether they arise on death before taking any pension benefits or on death while taking income withdrawals.

However, as explained below, for this to work, the death benefit funds must be subject to provisions allowing for discretionary disposal of the benefits. It’s not possible to use the pilot trust in connection with any lump sum benefits payable on death that have actually been placed in a trust. Typically, this could apply where a member applied for a new policy and requested the provider to issue the policy to trustees rather than to the member, or where a member assigned an existing pension policy to a trust.

Subject to the above, the pilot trust can be used in connection with any existing or new pension plan taken out under any of the schemes.

How does the pilot trust work?
Under the rules of each of the schemes above, where any lump sum benefits payable on death are subject to provisions allowing for the discretionary disposal of the benefits, the benefits will be paid to, or applied for the benefit of, selected beneficiaries chosen by the scheme administrator from a list of discretionary beneficiaries set out in the scheme rules. The discretionary beneficiaries include any persons (including trustees) who have been named or identified as beneficiaries to the scheme administrator by the member in writing before his or her death. This allows a member to add a trust as a potential beneficiary of any lump sum death benefits and express their wish that the scheme administrator should pay the benefits to that trust. This isn’t binding on the scheme administrator, but will be taken into account by the scheme administrator in exercising its discretion.

Where drawdown is permitted under the scheme, it’s also possible for a beneficiary who under the scheme rules has opted for drawdown, to name or identify a trust as their preferred beneficiary of any lump sum death benefits that become payable on their death from the drawdown funds. The beneficiary in drawdown may have inherited the funds from a deceased member of the scheme or (if they’re a beneficiary under the Aegon Self-invested Personal Pension Scheme) from a deceased member or another beneficiary who died in drawdown.

We supply a standard form for use by a member or relevant beneficiary who wishes to nominate a trust (or any person or persons) as their preferred beneficiary of any lump sum death benefits under their plan(s). This is suitable for use with the Aegon pilot trust. The form provides further details about how it can be used. Any nomination must be made in writing and be received by the scheme administrator during the member’s (or relevant beneficiary’s) lifetime.

The trust must be in existence before it can be nominated. So it’s important to set up the trust (see below) before completing and signing the form and returning it to us.

As the form explains, it’s possible for the member (or relevant beneficiary) to revoke their death benefit nomination and complete a new form, as long as this is received by the scheme administrator before the member’s (or relevant beneficiary’s) death.

What is a trust?
To put it simply, a trust is an arrangement to give money or assets to a third party to look after, on behalf of another group of people. The people involved are:

- The settlor – the person who creates the trust and gives the money or assets to the trustees. The settlor must be aged 18 years or over and of full mental capacity. For tax purposes, the settlor is regarded as anyone who gifts assets to the trust either directly or indirectly, whether or not they actually set up the trust.
• The trustees – the people who look after the trust fund. The settlor appoints the trustees when the trust is set up. The settlor can be one of the trustees. Beneficiaries under the trust can also be trustees. However, it’s important to choose people that will act impartially.
• The beneficiaries – the people who benefit from the trust fund.

About the pilot trust
The settlor
The settlor of the pilot trust will generally be the member of the pension scheme. It’s possible for a beneficiary who’s taking income withdrawals to be the settlor of a pilot trust.
The settlor chooses the initial trustees, and they must sign the trust document to confirm acceptance of office.

Changes in trustees

Does the settlor have power to appoint and dismiss trustees?
Yes. The pilot trust gives the settlor the power, during their lifetime, to appoint new trustees and remove existing trustees. However, the settlor can only remove a trustee as long as there are still two trustees in place.
If the trust is governed by English law, a new trustee can be appointed by a Deed of Appointment. If Scots law applies to the trust, a change of trustee can be effected by a Deed of Assumption and Conveyance. It may be possible in certain circumstances to remove a trustee by a Deed of Removal.

What happens after the settlor’s death?
Following the settlor’s death the continuing trustees have the powers to appoint new or additional trustees.

Can a trustee retire?
• Yes. In terms of the pilot trust, a trustee can retire so long as:
• the trustee wishing to retire gives 30 days’ notice to the person who has the power to appoint new trustees, and
• there are at least two trustees left.
A trustee can retire by completing a Deed of Resignation as a Trustee. A sample deed is available from us.

How is the trust set up?
Once the Declaration of Trust has been completed and signed by all parties, the settlor must make a cash gift of £10 to the trustees to create the trust. The £10 can be attached to the trust deed and stored in a safe place. Alternatively, the trustees can pay this money into a trustee bank account.

The trust beneficiaries

Who are the discretionary beneficiaries?
The discretionary beneficiaries of the pilot trust include the settlor’s surviving spouse or registered civil partner, the settlor’s children, grandchildren, great-grandchildren and their husbands, wives and civil partners, anyone entitled to benefit under the terms of the settlor’s will or under the intestacy rules, and anyone who – in the opinion of the trustees – was financially dependent on the settlor.
The settlor can add other beneficiaries at any time during the trust period.
The trustees have power, subject to certain conditions, to exclude any persons as beneficiaries.

Can the settlor benefit from the trust fund?
The settlor can’t benefit under any circumstances, either directly or indirectly, from the trust fund.

What entitlements do the beneficiaries have?
No one beneficiary has any automatic rights to either the capital of the trust or the income generated by it. It’s up to the trustees to decide who gets what and when. The trustees have the power to pay income or capital or make loans, interest free or otherwise, to any of the beneficiaries, including any of the settlor’s family. They also have the power to make appointments of the trust fund in favour of any of the beneficiaries.

If for any reason the trust can no longer continue, the default beneficiaries will become entitled to their respective shares of the trust income and capital.

Trust flexibility

How long can the pilot trust last?
Where the trust is subject to English law, and where the settlor became a member of the scheme on or after 6 April 2010, the trust period can last for 125 years from the date when he or she became a member, or until any earlier date which the trustees specify by deed. This means that the trust fund must become payable to the beneficiaries at the end of the trust period.
However, the position is different where the settlor became a member of the scheme before 6 April 2010. In that case, the maximum trust period is 21 years from the date of his or her death.
There’s no such limit where the trust is subject to Scots law, but the trustees may specify an end date for the trust by which the trust fund must have become payable to the beneficiaries.
Do the trustees have to pay out the income?
Currently, under Scots law, there are rules restricting the period for which income can be accumulated within the trust – in practice the maximum period is 21 years from the date of the settlor’s death.

Under English law, the same restriction applies where the settlor became a member of the scheme prior to 6 April 2010. That is, the maximum accumulation period is 21 years from the date of the settlor’s death. However, where the settlor became a member of the scheme on or after 6 April 2010, there’s no restriction on the period for which income can be accumulated.

What investment powers does the trust have?
The trust has wide investment powers.

Can the settlor make more gifts to the trust after it’s been set up?
The settlor can add additional assets to the trust during his or her lifetime. This could include, for example, further cash or an investment bond.

An investment bond can be added to the trust by completing a Deed of Assignment (or Assignation under Scottish law). A sample deed is available from us.

Inheritance tax
The following is a basic summary of the way in which inheritance tax (IHT) is likely to apply to the pilot trust, based on our understanding of current legislation, taxation law and practice (as at November 2018), which may change. However, this is a complex area, and members should take their own advice as to how IHT (and the wider tax regime) will apply to their own pilot trust.

The summary is only relevant to settlors who are both tax-resident and domiciled in the UK (and continue to be resident and domiciled in the UK up to and including the date of their death). In other cases, the analysis is likely to be different.

On creation of the trust
The £10 gift that the settlor makes to establish the trust will be covered by the £3,000 annual exemption if available. If this exemption isn’t available, then it may fall within the settlor’s nil rate band. Subject to that, an IHT charge may arise on the same principles as explained under ‘Additional gifts’ but, as the gift is only £10, any charge will be negligible.

Additional gifts
If additional assets are added to the trust during the settlor’s lifetime, these may also be covered either by the annual exemption or the settlor’s available nil-rate band. However, an IHT charge may arise if the £3,000 annual exemption isn’t available and this gift, when added to the settlor’s other chargeable lifetime transfers in the seven years preceding this gift, exceeds the nil-rate band (£325,000 until April 2021). The IHT charge will be calculated at 20% of the excess, assuming that the trustees are to meet the charge. However, if the settlor dies within seven years of making the gift, then the value of the gift falls back into the settlor’s IHT estate and the IHT liability will be recalculated at 40%.

When the death benefits pass to the pilot trust
The normal discretionary trust charging regime for IHT purposes shouldn’t apply to the registered pension scheme and the actual payment of the lump sum death benefits from the scheme to the trust won’t normally have any immediate IHT implications. However, once the funds are held in the pilot trust, they’ll be subject to the normal discretionary trust charging regime for IHT as set out below.

Periodic charge
Assets held within the trust will be subject to a periodic charge on the relevant 10 year anniversary (see below). Generally, the periodic charge calculation is based on the value of the trust fund immediately before the tenth anniversary. Provided that the settlor hasn’t made any other chargeable transfers in the seven years prior to the creation of the pilot trust or set up any trusts on the same day and the value of the trust fund is less than the prevailing nil rate band on the tenth anniversary, there won’t be any IHT to pay.

It’s important to understand when the 10 year anniversary occurs. Where death benefits are paid into the pilot trust and these have come from a registered pension scheme that allows for discretionary disposal of death benefits, they’ll be treated as a separate settlement distinct from any other funds settled in the pilot trust. The date of the 10 year charge in relation to this tranche of the trust fund will be the 10 year anniversary of the date that the member joined the original pension scheme. In other words, this element of the trust fund will therefore not have a 10 year anniversary based on the date that the pilot trust was created. For example, if a member joined the scheme in January 2013 and the death benefit was paid to the trust in January 2017, the 10 year charge would arise in January 2023. The charge would, however, be apportioned to reflect the fact that only six years have passed since the monies were paid to the trust.
Any other assets held in the trust will have the anniversary date of the pilot trust, starting with the original £10.

**Exit charges**
An IHT charge may arise when funds are distributed to the beneficiaries from the pilot trust. The charges can apply either before the first tenth anniversary or between tenth year anniversaries. The rate of tax that applies is a proportionate amount based on the tax that was due at the outset or that was paid at the previous tenth anniversary and the number of quarters that have passed since then.

**Transferring death benefits from more than one registered pension scheme**
Where death benefits are passing into the pilot trust from more than one registered pension scheme (operating discretionary disposal), it could result in multiple anniversaries for the purposes of calculating the periodic charge (and exit charges). This could be complex to administer and therefore – for ease of administration – the settlor may wish to create a series of pilot trusts, one for each registered pension scheme.

The member should take tax advice before setting up a series of pilot trusts to make sure that they’re comfortable with the possible future implications.

**Other tax charges**
If the member, or the relevant beneficiary in drawdown, dies after having reached age 75, the payment of the lump sum to the pilot trust will normally be subject to a special lump sum death benefit tax charge at the rate of 45%. No such tax charge applies where the member or beneficiary dies under age 75.

If a 45% tax charge applies, any part of the lump sum paid by the trustees of the pilot trust to a beneficiary will be subject to special tax treatment.

For more information about other tax charges on death, please contact us on 03456 10 00 10.

**Reporting requirements inheritance tax**
If any IHT is due on the initial gift to set up the trust, or on any additional gifts to the trust during the settlor’s lifetime, HMRC will have to be told about this. This should be done on forms IHT100 and IHT100a. Copies of the forms can be downloaded from [gov.uk](http://gov.uk).

**Income tax and capital gains tax**
The income tax and capital gains tax treatment of the pilot trust is outside the scope of this guide. However, if the trustees of the pilot trust expect to receive income or make chargeable capital gains from the sale of chargeable assets held by the trust, then the trustees will have to register the trust on the HMRC Trusts Online Service and complete annual tax returns.

The laws governing trusts and their taxation are complex and we strongly recommend that specialist advice should be sought before establishing a trust, settling funds into a trust, or making changes to an existing trust, including appointing funds in favour of selected beneficiaries.

This information is based on our understanding of current, taxation law and HMRC practice, which may change.

Trusts establish legal rights and entitlements and might have material financial and tax implications for the settlor, trustees and beneficiaries. Aegon UK isn’t authorised to provide legal advice, so you should take your own legal advice before setting up a trust, to make sure that it meets your requirements. Our trusts have been drafted for use by UK domiciled individuals.

The value of any tax relief depends on your individual circumstances/the individual circumstances of the investor.