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Sinead Donnelly and Vicky Bird
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Dear Sinead and Vicky

Consultation on clarifying and strengthening trustees' investment duties

The Association of Professional Pension Trustees is an organisation of over 160 individuals who act as professional independent trustees to UK occupational schemes, some as sole practitioners and some working in firms of such practitioners. Our members represent a large number of mainly larger pension funds with combined assets of several hundred billion pounds.

Our aims are to:

- encourage and promote the highest professional standards in those who practise as professional pension trustees
- promote the role of professional trustees

Our response to the questions as set out in the consultation document are as set out below.

Yours sincerely



Nita Tinn
Association of Professional Pension Trustees

Question 1: We propose that the draft Regulations come into force approximately 1 year after laying, with the exception of the implementation report, which would come into force approximately 2 years after laying.

a) Do you agree with our proposals?

b) Do you agree that the draft Regulations meet the policy intent?

(a) We agree that the proposed timetable is reasonable.

(b) We are also satisfied that the draft Regulations meet the policy intent.

Question 2: We propose to require all trustees of all schemes which are obliged to produce a SIP to state their policy in relation to financially material considerations including, but not limited to, those resulting from environmental, social and governance considerations, including climate change.

a) Do you agree with the policy proposal?

b) Do the draft Regulations meet the policy intent?

(a) It should be noted that since the enactment of the Pensions Act 1995 there has been a requirement for a SIP to contain a statement describing ‘the extent to which the trustees take into account social, environmental and ethical factors in selecting, retaining and realising investments.’ The proposed new requirement extends this principle to the broader concept of ethical, social and governance (ESG) issues. We see this as a logical and reasonable proposal.

(b) We are also satisfied that the draft Regulations meet the stated policy intent.

Question 3: When trustees prepare or revise a SIP, we propose that they should be required to prepare a statement, setting out how they will take account of scheme members’ views.

a) Do you agree with the policy proposal?

b) Do the draft Regulations meet the policy intent?

(a) We are concerned that this proposal is impractical. Seeking members views is likely to prove a complicated and time-consuming business and is also likely to prove expensive. Whatever method chosen by the trustees would have to demonstrate that it legitimately reflects the views of members, and in determining the investment strategy for a defined benefit scheme, will be almost impossible to implement. It is a general principle of trust law that trustees have a responsibility to act in members’ best interests. We do not agree that this requires them to act as delegates. A further concern is that a small and essentially unrepresentative

group within the membership might seek to hijack the process to pursue an irrelevant and possibly politically-motivated agenda.

(b) We are satisfied that the draft Regulations meet the policy intent.

Question 4: Do you agree with our proposal not to require trustees to state a policy in relation to social impact investment? If not, what change in legislation would you propose, and how would you address this risk of trustee confusion on this point?

We agree that it is reasonable not to require trustees to state a policy in relation to social impact investment.

Question 5: We propose that trustees should be required to include their policy in relation to stewardship of the investments, (including monitoring, engagement and voting) in the SIP.

a. Do you agree with the policy proposal?

b. Do the draft Regulations meet the policy intent?

(a) It is fair to state that pension scheme trustees have often been ineffective with regard to corporate governance responsibilities. The inclusion of such a statement would encourage trustee boards to take their responsibilities more seriously than might currently be the case.

(b) We are satisfied that the Draft Regulations meet the stated policy intent

Question 6: When trustees of relevant schemes produce their annual report, we propose that they should be required to:

- prepare a statement setting out how they have implemented the policies in the SIP, and explaining and giving reasons for any change made to the SIP, and

- include this implementation statement and the latest statement outlining how trustees will take account of members' views in the annual report.

a) Do you agree with the policy proposal?

b) Do the draft Regulations meet the policy intent?

(a) We agree that the preparation of the implementation statement would be beneficial and for this to be included in the SIP. However, as we have noted above, we do not regard seeking members' views on investment policy as practical or desirable.

(b) We are satisfied that the Draft Regulations meet the stated policy intent.

Question 7: We propose that trustees of relevant schemes should be required to publish the SIP, the implementation report and the statement setting out how they will take account of members' views online and inform members of this in the annual benefits statement.

- a) Do you agree with the policy proposal?*
- b) Do the draft Regulations meet the policy intent?*

- (a) With some reservations, we agree with the idea of posting scheme documents online. We are concerned that providing such information will only be of interest to a minority of members. However, as noted above, we are not persuaded that seeking members' views in investment policy is practical.
- (b) We are satisfied that the Draft Regulations meet the stated policy intent.

Question 8: Do you have any comments on the business burdens and benefits, and wider non-monetised impacts we have estimated in the draft impact assessment?

We have no comment to offer.

Question 9: Do you have any other comments on our policy proposals, or on the draft Regulations which seek to achieve them?

We have no comment to offer.

Question 10: Do you agree that the revised Statutory Guidance clearly explains what is expected of trustees in meeting their duty to publish the SIP, implementation statement, and statement of members' views?

We are satisfied that the revised Statutory Guidance clearly explains what is expected of trustees.

Question 11: What evidence or views do you have of how well the other requirements in the SIP are working? What areas for further consideration and possible future change would you suggest?

We have no comment to offer.