

LAW PREVENTS PENSION FUNDS FROM INVESTING IN BEST INTERESTS OF SCHEME MEMBERS

Financial services body says current laws on fiduciary duty leave trustees “confused” on whether they can consider environmental, social and governance (ESG) risks

- *Trustees’ duties “must be clarified” on sustainable , long-term investment*
- *Trustees need clearer, firmer guidance on ESG investment issues that may affect long-term financial returns*
- *Long-term, sustainable UK economic recovery requires a clarification of outdated law*

London, 22nd January 2014 – The UK Sustainable Investment and Finance Association (UKSIF) has today urged the Law Commission to recommend changes to the law surrounding investors’ fiduciary duties as they currently hinder pension fund trustees from taking the long term investment decisions necessary to obtain good financial outcomes for current and future savers.

UKSIF also called on the Commission to enlarge on its statements on investor engagement with companies to reflect the reality of the broad range of stewardship activities currently undertaken across the investment chain to encourage companies to improve performance on those issues – including ESG - that put profits at risk.

UKSIF’s paper was in response to the Law Commission’s consultation on *Fiduciary Duties of Investment Intermediaries*, which closed today. UKSIF Chief Executive Simon Howard, said

“UKSIF, in common with many in the investment community, believes that long-term investment approaches by pension funds, asset managers, consultants and other intermediaries are vital to protect and grow the value of people’s savings and pensions.

Unfortunately, it is clear that in practice the current law on fiduciary duty leaves many pension fund trustees – who are often heavily reliant on the sometimes cautious legal and investment advice that results from lack of clarity – confused when it comes to deciding how far they can consider, for instance, environmental, social and governance issues in their investment decisions.

We are also concerned by the Law Commission’s analysis of current approaches and methods in stewardship and engagement. Their paper fails to recognise the excellent work that is being undertaken by many asset owners and their fund managers in engaging with companies on issues which could significantly affect their holdings.

To help develop the long-term investment approaches necessary for better capital markets and a more robust UK economy, the Commission should recommend a statutory ‘tightening-up’ of fiduciary duty legislation. Particular attention should be paid to emphasising that trustees should consider environmental, social and governance issues so that they can better protect their beneficiaries’ long-term best interests. The Commission should also recognise the wide range of stewardship activities already practised by many long-term investors.”

Today marked the deadline for submissions on the Law Commission's paper on *Fiduciary Duties of Investment Intermediaries*.

Contact

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Interviews with Simon Howard are available on request.

Notes to Editor

About the UK Sustainable Investment and Finance Association (UKSIF)

The UK Sustainable Investment and Finance Association (UKSIF) supports the UK finance sector as a global leader in advancing sustainable development through financial services. We promote and support responsible investment and other forms of finance that advance sustainable economic development, enhance quality of life and safeguard the environment. Founded in 1991, UKSIF has over 250 members including pension funds, asset managers, research providers, financial advisers, banks and non-governmental organisations. For more information, please visit www.uksif.org.

About the Law Commission consultation on *Fiduciary Duties of Investment Intermediaries*

This project follows from the Kay Report on UK Equity Markets and Long Term Decision Making. The Department for Business, Innovation & Skills (BIS) and the Department for Work and Pensions (DWP) asked the Law Commission to consider how fiduciary duties currently apply to those working in financial markets. The consultation opened on 22nd October and will close today 22nd January 2014. A report is planned for June 2014. For more information, visit:

<http://lawcommission.justice.gov.uk/consultations/2556.htm>

About the Kay Review

The '[Kay Review of Equity Markets and Long-Term Decision Making](#)' was led by Professor John Kay and commissioned by the Department for Business, Innovation and Skills. He was asked to examine the performance of UK equity markets and his final report – published in July 2012 - recommended a number of measures including regulatory support for fiduciary standards, more effective reporting and enhancements to the UK Stewardship Code.