

PRESS RELEASE

UKSIF reaction to Government announcement fiduciary duty will not be clarified in law.

- Pensions Minister announces fiduciary duties will not be clarified in law, despite 2014 Law Commission recommendation
- UKSIF expresses “extreme disappointment” in Government decision not to distinguish between financial and non-financial factors
- Government cites evidence that trustees now have “good awareness” of their duty to consider financially material factors

London, 12th November 2015 – The UK Sustainable Investment and Finance Association (UKSIF) has today expressed its extreme disappointment that the Government has chosen not to clarify fiduciary duties in law.

A 2014 Law Commission report into the fiduciary duties of investment intermediaries highlighted that pension scheme trustees *should* take into account all financially material factors including ESG and may take non-financial factors into account in certain circumstances and examined the positive role of good stewardship. It recommended that the distinction between financial and non-financial factors be clarified in law via the Investment Regulations,¹ something that was accepted² by the Coalition Government which issued a consultation in February.

UKSIF’s submission, which was based on member feedback, backed the Law Commission report in calling for clarification of fiduciary duty and regulations that encourage high quality stewardship. The Government’s response, published today with a foreword from Pensions Minister Baroness Altmann, is in stark contrast to the Law Commission report and argues the recommended clarification ‘would not necessarily lead to greater clarity for trustees’. It also notes that pension scheme trustees now have a ‘good awareness’ of their duty to consider financially material factors- this comes despite confusion last year from trustees of Parliament’s own pension scheme over what constitutes financial and non-financial factors.

¹ http://www.legislation.gov.uk/uksi/2005/3378/pdfs/ukxi_20053378_300611_en.pdf

² ‘Our intention is to ensure trustees are empowered to consider a range of factors when formulating their investment strategies in line with the Law Commission’s findings.’ BIS, Implementation of the Kay Review: Progress Report, October 2014, available at: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/367070/bis-14-1157-implementation-of-the-kay-review-progress-report.pdf

UKSIF

UK Sustainable Investment
and Finance Association

Simon Howard, Chief Executive of UKSIF, said:

“We are extremely disappointed with the Government’s response – this represented a key opportunity to help put UK finance on a more sustainable footing and it has been missed. Many trustees are trying to do the right thing despite the inadequate regulatory background, but they deserve explicit regulatory support of the kind that would force laggards to catch up to protect member interests. The Government says guidance from regulators is enough, that is wrong. The world’s governments are gathering in Paris to try to address climate change; if the threat is important enough for that it’s important enough to change some regulations.”

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Interviews with those quoted above are available on request.

About UKSIF:

UKSIF is the membership network for sustainable and responsible financial services in the UK. We promote and support responsible investment and other forms of finance that advance sustainable economic development, enhance quality of life and safeguard the environment. We also seek to ensure that individual and institutional investors can reflect their values in their investments.

UKSIF was created in 1991 and has around 240 members and affiliates include institutional and retail fund managers, pension funds, banks, research providers, financial advisers, consultants and NGOs. For more information about UKSIF, please visit www.uksif.org.