UKSIF
UK Sustainable Investment and Finance Association

New code of practice to provide huge boost for responsible investment

- *The Pensions Regulator has introduced a new code of practice and 'how to' guides for trustees of defined-contribution schemes.*
- *The 'how to' guide for investment governance reflects the thinking of the Law Commission report into fiduciary duties published in 2014*
- *It clarifies that all factors which are financially material to the performance of an investment, including environmental, social and governance factors, should be taken into account.*
- *This helps to address the long-held misperception that trustees' fiduciary duties prevented them from considering ESG factors and is a boost to responsible investment.*
- *UKSIF has worked with members, pension funds and The Pensions Regulator on this project over the past year and is pleased to have been able to positively impact their work through the incorporation of responsible investment provisions in the 'how to' guide.*

London, 28th July 2016 – Significant progress has been made in boosting responsible investment in the UK with the publication of a new code of practice for trust-based defined-contribution (DC) pension schemes and six 'how to' guides to give comprehensive guidance to trustees. The investment governance guide is clear that the schemes' investment governance arrangements need to be consistent with its legal powers and responsibilities as outlined by the Law Commission's 2014 report into fiduciary duties.[1] This comes after the Government rejected[2] changing the regulations as was recommended by the Law Commission despite overwhelming industry support.

UKSIF was influential in promoting responsible investment to the Law Commission and has worked with The Pensions Regulator on this project over the past year- with many of our suggestions appearing in the 'how to guide' for investment governance. This is a huge boost for responsible investment in the UK and represents the first time the Law Commission's review has been reflected in regulation or legislation since it was published in 2014.

Specifically, the 'how to' guide states that:

- Trustees should take into account factors which are financially material to the performance of an investment.

[1] http://www.lawcom.gov.uk/project/fiduciary-duties-of-investment-intermediaries/
[2] Page 29 https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/476447/reducing-regulatory-burdens-and-misc-regs-nov-2015-consultation.pdf

- Where trustees think environmental, social and governance (ESG) factors are financially significant, you should take these into account. Likewise if trustees think certain ethical issues are financially significant.
- While the pursuit of a financial return should be your main concern, the law is sufficiently flexible to allow trustees to take other, non-financial factors into account if they have good reason to think that scheme members share the view and there is no risk of significant financial detriment to the fund.

On sustainability TPR is clear that since most DC schemes investments will be long-term in nature they will be exposed to longer-term risks. This means sustainability concerns should be taken into account and TPR highlight potential issues including climate change, unsustainable business practices and unsound corporate governance. It concludes that risks of these types could be financially significant both over the short and longer-term.

The 'how to' guide also focuses on investment stewardship and encourages trustees to engage with fund managers on their stewardship policies and where appropriate seek to influence them.

Simon Howard, Chief Executive of UKSIF, said:

"We welcome The Pensions Regulator's new code of practice for defined-contribution schemes and specifically the publication of accompanying 'how to' guides. The guide on investment governance is particularly welcome and we were pleased to see our opinions have clearly been taken on board by the regulator and at times directly reflected in the wording of the guidance.

This is great news for trustees of DC schemes who have for the first time since the Law Commission's work in 2014 had their responsibilities clarified by the regulator. As ever, more can be done, and we look forward to working with The Pensions Regulator to ensure trustees of defined benefit schemes also receive the same clarification."

-ENDS-

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Notes to Editors:

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 to bring together the different strands of sustainable and responsible finance nationally and to act as a focus and a voice for the industry. UKSIF's 240+ members and affiliates include financial advisers, institutional and retail fund managers, pension funds, banks, research providers, consultants and NGOs. For more information about UKSIF, please visit www.uksif.org.

More information on TPR’s new code of practice is available here.

The ‘how to’ guide on investment governance is available here.