UKSIF
UK Sustainable Investment and Finance Association

New Government regulation makes clear existing pension scheme duty to consider ESG factors

- DWP today lays new regulation requiring pension schemes to have a policy on financially material environmental, social and governance factors including climate change.
- Rules clarify that schemes may also develop policies on how pension savers' values are considered.
- Statute now aligns with existing common law to provide absolute clarity to trustees.
- Schemes will be required to outline their policy on stewardship including how they engage with investee firms and how they exercise voting rights.
- UK Sustainable Investment and Finance Association (UKSIF) has played leading role in new rules coming into force.

11TH SEPTEMBER 2018, London: The Department for Work and Pensions has today announced plans to implement the Law Commission's proposals to clarify pension scheme trustees' fiduciary duties in statute. The announcement represents the culmination of 6 years hard work by UKSIF which has lobbied Government ministers, the Law Commission and financial regulators to clarify investors' duties. UKSIF members are committed to responsible investment and the integration of financially material ESG factors. This rule change clarifies the existing law that schemes should consider ESG factors where they are financially material and will be warmly received by the sustainable and responsible investment sector.

Specifically, the new rules will update the Occupational Pension Scheme (Investment) Regulations 2005 to require trust-based pension schemes to have a policy on how they consider financially material factors such as environmental, social, and governance factors, including climate change. This is intended to remove lingering confusion over trustee's duties to consider ESG factors. Climate change, as an ESG issues, has been deliberately drawn out to focus minds on its 'systemic and cross cutting nature'.

The new rules will also require trustees to outline their policy on the extent (if at all) to which non-financial factors matters are taken into account. Trustees are permitted to consider such factors provided they have reason to believe that concern is shared by the membership (savers) and that there is no risk of significant financial detriment to the fund.

<u>New rules mean that by October 2019 schemes must:</u>

- Where schemes are required to produce a Statement of Investment Principles (SIP), update or prepare it to set out:
    - How they take account of financially material considerations over the appropriate time horizon, including (but not limited to) those arising from **Environmental, Social and Governance considerations, including climate change**;
    - The extent (if at all) to which **non-financial matters** are taken into account.

  - Their policies in relation to the **stewardship of investments**, including engagement with investee firms and the exercise of the voting rights associated with the investment;
- In relation to relevant schemes – broadly, schemes offering money purchase benefits, subject to a few exceptions:
  - To **publish their Statement of Investment Principles** on a website so that it can be found and read by both scheme members and interested members of the public, and inform scheme members of its availability via the annual benefit statement;
- In relation to the default arrangement, prepare or update their default strategy to **set out how they take account of financially material considerations, including (but not limited to) those arising from Environmental, Social and Governance risks, including climate change**.

<u>From October 2019 schemes must:</u>

- When they next prepare or update their Statement of Investment Principles, they prepare a **separate 'statement on member's views',** setting out how they will take account of the views which, in their opinion, members hold, in relation to the matters covered in the Statement of Investment Principles. In addition, we proposed to require trustees of relevant schemes to publish that statement.

<u>From October 2020 relevant schemes must:</u>

- Produce an **implementation statement setting out how they acted on the principles they set out,** and how they acted on the statement which covered how they would take account of the views which, in their opinion, members hold;
- **Publish that implementation statement online** in the same way as the Statement of Investment Principles, and inform scheme members of its availability via the annual benefit statement.

Simon Howard, Chief Executive, UKSIF said:

"UKSIF has been working hard for this result over the past few years so we couldn't be more delighted. As UKSIF members already know ESG factors are often financially material and consideration helps to mitigate risk and enhance value – these new regulations will help bring those still unclear about the financial benefits of ESG up to speed and help to put mainstream financial services on a much more sustainable footing."

Fergus Moffatt, Programme Director and Head of Public Policy, UKSIF said:

"We welcome the Government's decision to implement the Law Commission's recommendations and will require schemes to consider financially material environmental, social and governance factors, including climate change. There is no trade-off between consideration of sustainability factors and good returns – in fact sustainable and responsible investment has been shown to enhance returns to the benefit of savers, investors and the wider economy. Our own research has shown that 90% of fund managers expect climate risk to significantly impact the valuation of oil companies over the next two years, so it is vital asset owners are aware of and responding to such risks. The new regulations send a strong message throughout the entire investment chain that sustainability factors must be considered."

- *ENDS* -

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<u>Notes to Editors:</u>

- The Law Commission report into social investment by pension funds is available at https://www.lawcom.gov.uk/project/pension-funds-and-social-investment/
- The Government's final response to pension funds and social investment is available at https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/717375/pension-funds-and-social-investment-final-response-to-law-commission-report.pdf
- The Government consultation on clarifying investors' duties is available at https://www.gov.uk/government/consultations/pension-trustees-clarifying-and-strengthening-investment-duties
- UKSIF's response to the consultation is available at http://uksif.org/wp-content/uploads/2018/07/UKSIF-response-to-DWP-consultation-on-clarification-of-investor-duties.pdf

About UKSIF:
We are a membership organisation for those in the finance industry committed to growing sustainable and responsible finance in the UK.

Our vision is a fair, inclusive and sustainable financial system that works for the benefit of society and the environment.

UKSIF was created in 1991 and has 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.