The Law Debenture Pension Trust Corporation p.l.c.
8th Floor, 100 Bishopsgate, London, EC2N 4AG
Tel: 020 7606 5451
Fax: 020 7606 0643
www.lawdeb.com

9 March 2021

pensions.governance@dwp.gov.uk

Climate Governance & ESG Team
Department for Work & Pensions
Caxton House
Tothill Street
London
SW1H 9NA

Dear Ms Walmsley, Mr Rhodes and Mr Farrar

DWP's Consultation Response & Consultation on regulations ("the Consultation")

The Law Debenture Pension Trust Corporation p.l.c.[1] welcomes the response to the above consultation issued by the Department for Work and Pensions. We recognise the important challenge, and the investment opportunities, of climate related matters and look forward to embracing the TCFD framework with the boards of our larger pension schemes and master trusts.

We have three areas on which we would like to comment:

- Question 3, Governance
- Question 8, Targets
- "As far as they are able" requirements

Governance

Your draft regulation states:

Paragraph 2(b) requires that trustees must establish and maintain processes for the purpose of satisfying themselves that any person – other than a legal adviser of the trustees – who advises or assists the trustees in respect of governance activities, takes adequate steps to identify and assess climate-related risks and opportunities which are relevant to the matters in respect of which they are advising or assisting.

Wording that captures any person who assists the trustees on governance activities (aside from legal advisers) is very broad and in our opinion may go beyond persons who would be reasonably be expected to assist the trustees in

[1] Law Debenture acts as trustee for 190+ pension schemes with around 3 million members and £300bn of assets under management. We write to you in our capacity as a professional pension trustee and focus on the impacts on pension schemes and their key stakeholders, namely the sponsoring employers and members. The view of the trustee boards on which we serve are not necessarily the same as ours and we are not writing on their behalf.

identifying and assessing climate risks, for example support to scheme secretariat or a communications expert.

Targets

Trustee boards have a fiduciary responsibility to act in member's best financial interests. We agree that climate related risks are a financial risk that should be appropriately managed and mitigated and furthermore that the transition to a low carbon economy will offer investment opportunities.

However, we are concerned that aiming to deliver on a climate target that takes no account of the market price of, for example, carbon-light investments, might conflict with the trustees' fiduciary responsibility. It would seem to equate to seeking to reduce one particular risk without necessarily taking into account the relative costs and benefits of doing so. It would be helpful if clarity around trustee duties in regard to this point is explicitly covered in the Statutory Guidance.

"As far as they are able" requirements

We welcome the fact that the draft statutory guidance recognises that there may be instances where it will be disproportionate in terms of time and expense for trustees to collect all the data that would be required for full disclosure of climate metrics and comprehensive scenario analysis. That said, in the absence of guidance as to what is or is not 'proportionate' we feel that there is the potential for some boards to incur excessive costs to attempt to guarantee compliance. There is also the risk that boards less engaged with TCFD will accept data gaps too readily. It might therefore be helpful to provide more specific guidance on what may or may not be acceptable in this respect.

We hope that you find the contents of this letter of assistance. We would be happy to discuss them further if that is helpful. In that event, please contact me at natalie.winterfrost@lawdeb.com.

Yours sincerely

Natalie Winterfrost
Director