

21 September 2009

David Lauder
Scottish Public Pensions Agency
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Dear David

**Proposed amendments to the Local Government Pension Scheme
(Management and Investment of Funds) (Scotland) Regulations 1998 and the
Local Government Pension Scheme (Administration) (Scotland) Regulations
2008**

Further to your letter of 16 July 2009, in which you sought comments on the above proposed changes to the LGPS regulations in Scotland, CIPFA is pleased to offer the following comments.

As you may know, CIPFA, via its Pensions Panel, has long had an interest in the LGPS investment regulations and you may recall receiving a copy of our report on the regulations (*Local Government Pension Scheme Investment Regulations: Options for Change*) which arose from a survey of the views of a wide range of LGPS practitioners.

We are pleased to note that several of the recommendations have been incorporated into the proposed changes now under consideration and as ever we are pleased to offer comments on the other aspects of the changes on which opinions are sought.

Investment Regulations

Separate bank account for the pension fund

As noted in our report (a copy is attached for ease of reference), we feel that, although not specifically required in the LGPS by existing pensions legislation, separation of bank accounts would be constituent with private sector requirements. It would also be within the spirit of legislation concerning the limitations on pension fund lending to and investing in sponsoring bodies (i.e. the administering authority and other contributing employers referred to at Recommendation 2) and Article 8 of the EU Pensions Directive which requires legal separation of a pension fund and its sponsoring institutions. Such a move would also address concerns raised by some that the lack of separation of bank accounts raises issues of transparency of pension fund operations. We are therefore happy to support the inclusion of this new regulation.

With regard to the implementation timescales, we are aware that a number of practitioners have concerns about the time necessary to put in place the required accounts and the associated systems and processes. Whilst we recognise that those funds which do not yet operate separate accounts will face some challenges in implementation, we would support the earliest possible implementation of this requirement.



INVESTOR IN PEOPLE

On a related matter concerning separation of administering authority and local authority activity the Panel would also be supportive of a broad message to ensure that funds properly identify and allocate scheme management costs. This might possibly be supported by amending regulation 5(6) of the 1998 regulations to refer to pension "scheme" rather than pension "fund".

Temporary borrowing power

We fully support the inclusion of this regulation. As noted in our report, the flexibility of permitted short-term borrowing will enable funds to better manage short-term cash-flows which can on occasion prove problematic when managing shortfalls between contributions and pension payments; meeting investment commitments where the timings are uncertain; and during transitional periods. The power to borrow will enable funds to meet these commitments without having to liquidate investments (potentially at less than optimal prices) to meet unpredictable cash calls or to hold excessive amounts of cash (achieving less than optimal returns) to cover potential timing gaps.

Statement of Investment Principles (SIP) : stock lending

In the interests of greater transparency, we support the extension of the SIP to include a requirement for funds to make a statement on their securities lending policy and do not believe that this will prove onerous to comply with.

Stocklending – References to COLL

We note the intention to clarify the Regulations regarding the references to the FSA handbook and would agree that it is not necessary to make further reference to FSA Handbook COLL 5.4.8G as these provisions are covered elsewhere in both regulation and in guidance to funds.

The SIP and risk - regulation 11(2)(c)

We welcome the proposed extension of the SIP to include a requirement for schemes to report on their risk management processes. This is an area of increasing concern for LGPS stakeholders and a transparent approach to the reporting of risk management reflects user demands and best practice in local government.

Reference to overriding regulations concerning employer-related investments - regulation 13(1)

We note the proposed inclusion of the Occupational Pensions Scheme Investment Regulations (OPSIR) 2005 provisions in respect of employer-related investment within the investment regulations. We feel that this addition to the regulations will bring some welcome clarity to this area of investment activity and would support its inclusion within the regulations.

Use of Fund Money by the Administering Authority - Revocation of existing regulations 3(4) and 12

We note the intention to revoke the regulations which permit the pension fund to extend loans to the administering authority. This is an area which has caused

considerable confusion of late and the removal of these provisions will help to clarify the relationship between the finances of the administering authority and the pension fund. This move is also entirely consistent with the proposal to bring the LGPS regulations into line with OPSIR in the matter of employer-related investment and is necessary to ensure that there no conflicts arise with the OPSIR provisions. We therefore support the revocation of these regulations.

Administration Regulations

Pension Fund Annual Report

We note with interest the intention to introduce a requirement for LGPS funds in Scotland to produce an annual report. We believe that this measure offers the opportunity to significantly improve the level and consistency of information available to LGPS stakeholders and CIPFA has strongly supported this initiative in England and Wales. On behalf of CLG, CIPFA, in partnership with the Pensions Research Accountant Group (PRAG), has prepared draft statutory guidance for funds on the preparation of such reports and we would be happy to share this with SPPA.

I hope you find these comments a useful contribution to the development of the LGPS regulations in Scotland. If you would like to discuss further any of the points raised or would like further information regarding the pension fund annual reporting guidance referred to above, please do not hesitate to contact the CIPFA Pensions Panel Secretary, Nigel Keogh, at nigel.keogh@cipfa.org.

I would also like to take this opportunity to seek to strengthen the support the Panel can offer to the SPPA and to LGPS practitioners in Scotland. This can only be achieved by the Panel having the right mix of practitioners and policy specialists. I would therefore like to extend an invitation to the SPPA to be represented on the CIPFA Pensions Panel. The next meeting of the Panel will be at the CIPFA offices at the above address on 10 December. If you or a colleague are able to attend or if you have questions regarding the operation or work of the Panel, please contact Nigel Keogh as above or on 01204 592311.

We look forward to hearing from you soon.

Yours sincerely

Bob Summers
Chair, CIPFA Pensions Panel

