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Myners consultation team
Room 3/20
HM Treasury
1 Horse Guards Road
London SW1A 2HQ

16 June 2008

Dear Sir/Madam

Updating the Myners principles: consultation response

We welcome the joint consultation on updating the Myners principles and believe it comes at an important juncture for pension scheme governance.

Myners principles are now several years old but we believe they remain valuable, particularly if they are seen as principles for governance in the broad sense rather than more narrowly applying only to investment. While the principles have already done much to support and improve pension trustee investment decision-making, there is still plenty of room for improvement, especially as the Pensions Act 2004 and the Pensions Regulator have changed the way companies and the trustees are looking at pension funds.

We are supportive of maintaining the voluntary nature of the principles and simplifying the principles to be less prescriptive, supported by examples of best practice and a series of tools to achieve implementation. Flexibility is very important as one size does not fit all. Our comments on the questions posed in the consultation are set out below.

Question 1:
Will the proposed approach (comprising an updated set of principles, best practice guidance, trustee tools, better quality reporting and greater industry ownership of the principles) improve standards of investment decision-making and governance?

- *We cannot say for definite that the proposed approach is the right one, but it will definitely assist in improving existing standards. Key criticisms from the industry since Myners first proposed the principles was how to apply the principles in practice, as there was very much a “one size fits all” approach. Therefore, we welcome the stance to make the principles more scheme-specific. We also agree with maintaining the voluntary nature of the principles, as this will ensure extra undue pressure is not placed on trustees.*

- *However, we would like clarity over how the Myners principles fit in with other guidance issued by the Pensions Regulator. There is a vast range of guidance for both trustees and employers on the Regulator’s website, and so there is a definite need for a joined up approach. This is especially the case as this consultation has been issued jointly by HM Treasury, DWP and the Pensions Regulator.*

Question 2:
Do you agree with the proposed updated principles (as set out in full in Annex C) and the proposed best practice supporting guidance (as set out in full in Annex C)?

Updated principles:

- *Second principle - we feel the principle should expressly state that objectives should be communicated to advisers and investment managers by way of a statement of some form.*

- *Fourth principle – we welcome the principle that trustees should monitor their own performance as well as that of their advisers. This is an area of great importance because if trustees are not prepared to allow themselves to be evaluated and take steps to improve any weakness identified, then they are not going to be as effective as they could be. There is no "one-size-fits-all" solution, so decisions need to be made on what works for each scheme and each trustee, taking account of the following:*

  - *assessment can be self-assessment or independent/objective (or both)*
  - *assessment can be of individuals or collective (or both)*
  - *changing behaviours can be a difficult and lengthy process and so the aim should be to achieve this in small steps while monitoring progress.*

- *Sixth principle - we favour greater disclosure of compliance with an amended set of principles, either through the Statement of Investment Principles or the scheme accounts. This would encourage better practice on investment issues.*

- *What is not addressed (because it is possibly beyond the remit of the consultation) is the issue of employer consent. In our view, as investment matters, as for funding, employer consent should be obtained. It is the sponsoring employer who is paying into the scheme and so their consent ought to be obtained when the trustees are deciding on the investment strategy.*

- *We recognise the principles can be applied more generally to all aspects of pensions governance and not just investment.*

Proposed best practice supporting guidance:

- *While we agree with the idea of best practice supporting guidance, all the trustee tools set out in Annex C are very wide-ranging and some do not currently exist (i.e. Regulator's proposed guidance on longevity and guide on covenant assessment). The danger of referring to a lot of guidance is that it could have the effect of "turning off" trustees. We believe it would be a really good goal for trustees to have one document to refer to – this might be a task the Regulator could embark on by creating a trustee "bible".*

Question 3:
Would pension fund trustees benefit from guidance on the content of reporting against the updated principles?

- *Yes. We also believe that there is a significant role for the Pensions Regulator to play in supervising the conduct of trustees in governance in general, together with the Investment Governance Group.*

- *The Myners principles could naturally be incorporated into a Code of Practice by the Regulator including the requirement for a regular (perhaps annual and possibly self-assessed) report by the trustees on their compliance, to be available on demand to the Regulator or members. The Regulator would then be better able to publish guidance to support smaller schemes to better understand and improve their compliance with the principles.*

- *Guidance would also assist those schemes that have a high level of trustee turnover from time to time, which brings in new "amateur" trustees who require the same level of basic training.*

Question 4:
Should the proposed Investment Governance Group consider the need for guidance on the location of reporting by trustees on their application of the principles?

- *We are not convinced there is much merit in further prescription, but having this on the list of responsibilities of the Investment Governance Group sounds reasonable.*

Question 5:
Should the proposed Investment Governance Group own the updated principles (on the basis set out in Annex B)? If yes, are the proposed Terms of Reference for the Investment Governance Group (in Annex B) the right ones?

- *As the proposed Investment Governance Group will have the role of monitoring and reporting on the updated principles, then we firmly believe the Group should own the updated principles. We are strongly of the view that there should be clear ownership of the principles for the future. However, any setting of best practice and monitoring should sit with the Regulator.*

- *The terms of reference appear sensible.*

- *A concern we have is over timings and how long the Group will take to implement the key issues which need addressing. For example, all the "hard to do" decisions regarding DC schemes, smaller schemes and the LGPS have been left to the Group to deal with. The consultation refers to all these issues and acknowledges them but does not suggest any solutions.*

Question 6:
Should the DC principles be updated by the Investment Governance Group to reflect the changes to DB principles and those market changes affecting DC provision?

- *Yes – our view is that the Myners principles should be relevant to all types of schemes, including DC schemes. This is especially so given the recent focus placed by the Regulator on DC schemes*[1] *in the past year.*

- *We believe that the Myners principles for DC schemes have probably had less attention than those for DB schemes. The increasing level of provision through DC schemes and personal pensions means that the DC Myners principles are now of a much higher level of importance to employees. We think considerably more attention should be paid to the way in which trustees manage and review the ranges of funds which can be chosen by the members and the manner in which the risk/return trade-off is communicated. The Statutory Money Purchase Illustration (SMPI) regime fails to convey risk adequately to member*s.

- *DC schemes also raise new issues such as a need for employers or trustees to focus on levels of contributions, how these are communicated and encouraged, whether there should be auto-enrolment or automatic escalation of contribution levels.*

- *However, the principles should take account of the fact that DC investment is different from DB investment. The key issues for employees in DC are very different as they bear the investment risk, whereas for DB schemes the employer has the greatest interest in successful management of the investments.*

[1] (1) Occupational DC schemes – good practice in member retirement options and the open market option (May 2008) (2) DC research (January 2008) (3) DC update (January 2008) (4) A guide on the regulation of work place contract-based pensions (November 2007) (5) How the Pensions Regulator will regulate DC schemes (April 2007)

Question 7:

Should the Investment Governance Group take forward work to help small schemes in their application of the updated principles?

- *Yes – small schemes need all the help that they can get. The consultation document recognises, but does nothing to resolve, the debate about the application of the principles to smaller schemes. The problems of how smaller schemes apply the Myners principles have always been in the "too hard" box.*

Question 8:

Should the proposed updated principles be adopted for LGPS use and LGPS stakeholders be involved in the Investment Governance Group process?

- *Yes, since the issues for members and taxpayers respectively are no different from those for members and shareholders in companies.*

We would be very happy to discuss any of the points above. I can be contacted on 020 7804 3458.

Yours faithfully

Peter Tompkins

Peter Tompkins
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