

**DRAFTING NOTE:**

The following sets out draft legislation applicable to occupational pension schemes. The local government pension scheme and contract-based (personal) pension schemes are subject to separate regulatory rules and legislation. To provide consistency across the pensions sector, lawmakers and regulators should make rules with equivalent effect for the local government pension scheme and contract-based schemes.

**Proposed amendments to the Occupational Pension Schemes (Investment) Regulations 2005 SI 2005/3378, based on text of the regulations as in force on 8 January 2025**

**DRAFTING NOTE:**

The following sets out definitions applicable to the proposed regulations.

**In Regulation 1 (Citation, commencement and interpretation) -**

- (a) in paragraph (2) after the definition of “the FSM Act” and before the definition of “collective investment scheme”, insert:

“**appropriate time horizon**” means what the trustees of a trust scheme consider to be the expected remainder of the lifetimes of members and beneficiaries while benefits that are or were attributable to the trust scheme will be payable;”
- (b) in paragraph (2) after the definition of “specified qualifying insurance policy” and before the definition of “Taxes Act”, insert:

“**system-level considerations**” means, over the appropriate time horizon, risks and opportunities relevant to the scheme that:

  - (a) cannot be fully managed through diversification alone; and
  - (b) arise from circumstances at the level of one or more economic sectors, financial markets or economies, including but not limited to those relating to environmental or social matters.”

**Notes:**

1. *The definition of “appropriate time horizon” is broad, enabling schemes to look across the whole period up to and including the long-term over beneficiaries’ lifetimes while scheme benefits are payable (either directly by the scheme or by a third-party provider).*

**DRAFTING NOTE:**

The following new para.(2A) would be introduced to Regulation 1 and would be a non-exhaustive list of factors that trustees are **permitted (but not required)** to take into account in determining what is in members' interests for the purposes of Regulation 4(2).

*Regulation 4(2)*

*The assets must be invested –*

*(a) in the best interests of members and beneficiaries; and*

*(b) in the case of a potential conflict of interest, in the sole interest of members and beneficiaries.*

(c) after paragraph (2) and before paragraph (3) insert:

“(2A) When interpreting the best interest or sole interests of members and beneficiaries under section 36 of the 1995 Act and these regulations, the trustees of a trust scheme may take account of (amongst other matters) the following considerations:

- (a) system-level considerations;
- (b) the reasonably foreseeable impacts over the appropriate time horizon of the assets or organisations in which the trust scheme invests upon financial systems, the economy, the community and the environment;
- (c) the reasonably foreseeable impacts over the appropriate time horizon of assets or organisations in which the trust scheme invests upon members' and beneficiaries':
  - (i) standards of living; and
  - (ii) health and social and economic well-being, as determined by the trustees of a trust scheme; and
- (d) the views of the members and beneficiaries (including but not limited to their views in relation to the social or environmental impacts of the assets or organisations in which the trust scheme invests).”

1. *Paragraph (2A)(d) allows trustees of trust schemes to take members' and beneficiaries' views into account when considering their best or sole interests when trustees are satisfied it is appropriate or possible to do so, but it does not require this. This enabling provision may be particularly relevant for DC schemes and DC sections of hybrid schemes where investment-related risks and opportunities may be borne by members at any point during their lifetime.*

**DRAFTING NOTE:**

The following sets out ancillary content requirements for the Statement of Investment Principles in relation to the mandatory consideration of system-level considerations set out below.

**In Regulation 2 (Statement of Investment Principles) –**

(a) delete sub-paragraph (3)(b)(vi) and replace it with the following new sub-paragraph (3)(b)(vi):

“financially material considerations over the appropriate time horizon of the investments, including matters within Regulation 4(3A), and how those considerations are taken into account in the selection, retention and realisation of investments”; and

(b) in paragraph (4), delete the definition of “appropriate time horizon”.

**DRAFTING NOTE:**

The following new para.(3A) would be introduced to Regulation 4 and would thus be a **mandatory** obligation on trustees when exercising their powers of investment.

*Regulation 4(1)*

*The trustees of a trust scheme must exercise their powers of investment, and any fund manager to whom any discretion has been delegated under section 34 of the 1995 Act (power of investment and delegation) must exercise the discretion, in accordance with the following provisions of this regulation.*

**In Regulation 4 (Investment by trustees) -**

(a) after paragraph (3) and before paragraph (4) insert:

“(3A) The powers of investment, or the discretion, must be exercised in a manner that considers and manages the matters specified in regulation 1(2A)(a)-(c) where they are financially material.”; and

(b) after paragraph (8) and before paragraph (9) insert:

“(8A) For the purposes of paragraph (3A) the exercise of the powers of investment, or the discretion, may include the carrying out of any or all of the activities referred to in regulation 2(3)(c).”