

The background of the slide features the coat of arms of the Government of Nunavut. It is a shield divided into four quadrants. The top-left quadrant shows a yellow cross on a blue background. The top-right quadrant shows a white caribou head on a blue background. The bottom-left quadrant shows a white sailing ship on a blue background. The bottom-right quadrant shows a white eagle on a blue background. Above the shield is a crown with four points, each topped with a white flower. Below the shield is a banner with the text "ANE FOR A'" data-bbox="78 25 921 975"/>

Agenda Item 5

General Governance Matters

Falkirk Council

Subject: General Governance Matters

Meeting: Joint Meeting of Pensions Committee and Pension Board

Date: 23 August 2018

Submitted by: Director of Corporate and Housing Services

1. Purpose of Report

- 1.1 This report updates the Board and Committee on miscellaneous matters associated with the business of Falkirk Council Pension Fund.
- 1.2 A more comprehensive update will be provided at the next meeting of the Committee and Board.

2. Recommendation

- 2.1 **The Pensions Committee and Board are invited to note the contents of this report.**

3. Investment in Bank Hapoalim

- 3.1 Committee and Board members will recall that prior to the June meeting a number of requests had been received from members of the public and from a Trade Union branch all urging the Fund to disinvest from Bank Hapoalim, a major financial institution in Israel.
- 3.2 At the meeting, it was reported that the manager in question, having re-evaluated the stock, had decided to sell the holding. It can now be reported that the sale was completed at the end of June.
- 3.3 Several media outlets have since reported these events as Falkirk Council having decided to disinvest from the Bank when in fact the decision to sell was made by the manager without direction from the Fund. The following clarification has therefore been released via the Council's Press office:

“Falkirk Council Pension Fund has £2.3bn of globally invested assets.

Until recently, the Fund had a holding of around £6m in the Israeli Bank Hapoalim.

The Fund engages a number of external investment managers to make specialist investment decisions on its behalf. The investment manager holding the Bank Hapoalim recently re-evaluated the stock in terms of its risk and return characteristics and decided to sell the stock. There was no instruction to sell given to the manager by the Fund.

In general terms, the Fund does not have a policy of divestment from companies. Where corporate governance matters are of a concern the Fund prefers to engage with and, if necessary, apply pressure to companies by being part of collaborative organisations such as the Local Authority Pension Funds Forum.

The Fund does not invest to further ethical or political aims but in order to meet its fiduciary responsibilities to scheme members and sponsoring employers.”

4. LGPS Regulations

- 4.1 A new set of LGPS Regulations came into effect on 1 June 2018, having been issued by the Scottish Public Pensions Agency (SPPA) on behalf of the Scottish Ministers.
- 4.2 The new (2018) regulations combine the old 2014 regulations with various amendments made since 2014. Amongst several new provisions introduced, the most prominent now gives members the right to take their benefits on retirement from age 55
- 4.3 Certain protections afforded to former members are contained in the Local Government Pension Scheme (Transitional Provisions and Savings) (Scotland) Regulations 2014. It is now recognised that these regulations should also have been amended to cross refer to the new 2018 regulations.
- 4.4 The Scottish ministers have issued a Letter of Comfort to clarify that there has been no intention to remove any historical member protections. A further set of amending regulations will be made in due course to correct matters.
- 4.5 A copy of the Letter of Comfort is attached as an appendix to this report.

5. Forthcoming Events

- 5.1 Committee and Board members may wish to consider attending the undernoted events which are taking place in the coming weeks.

Scottish LGPS Conference – 10th September 2018 – 10am to 4pm
Venue – Cosla's Offices, Haymarket, Edinburgh

LGC Investment Seminar Scotland – 23rd and 24th October 2018 (lunchtime to lunchtime)
Venue - the Principal on George St, Edinburgh.

- 5.2 An e-mail publicising the events has already been circulated. Those wishing to attend should contact Debbie.Macrae@falkirk.gov.uk.

Director of Corporate & Housing Services

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Date: 13 August 2018

Appendices

Letter dated 30 July 2018 from Minister for Public Finance and Digital Economy

List of Background Papers:

None

Minister for Public Finance and Digital Economy
Kate Forbes MSP



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To whom it may concern,

The Scottish Public Pensions Agency (**SPPA**) is aware that there are a number of inconsistencies and omissions in the Local Government Pension Scheme (Scotland) Regulations 2018 (SSI 2018/141) (**2018 Regulations**) that need to be rectified. Draft Local Government Pension Scheme (Scotland) Amendment Regulations 2018 (**Amendment Regulations**) are therefore being prepared in order to address these issues and to ensure that they do not adversely impact on the administration of the pension scheme.

Separately, it is acknowledged that the 2018 Regulations revoke the Local Government Pension Scheme (Scotland) Regulations 2014 (SSI 2014/162) (**2014 Regulations**) in their entirety, but that certain provisions of the Local Government Pension Scheme (Transitional Provisions and Savings) (Scotland) Regulations 2014 (SSI 2014/233) (**Transitional Regulations**) still cross-refer to the 2014 Regulations. The purpose of the Transitional Regulations is to protect and preserve benefits accrued by members of pension schemes constituted by earlier sets of LGPS regulations. Certain protections contained within the Transitional Regulations are not currently effective for any retirements processed under 2018 Regulations. The SPPA confirms that the policy behind the 2018 Regulations did not intend to make the Transitional Regulations ineffective in respect of any previous provisions. Accordingly, whilst the Transitional Regulations do cross-refer to legislation that has been revoked, such references to the 2014 Regulations should be read as references to the corresponding provisions of the 2018 Regulations; and the Amendment Regulations will expressly save the relevant provisions.

SPPA will consult on the terms of the Amendment Regulations in the usual way. Thereafter the Amendment Regulations (which will be subject to the negative resolution procedure pursuant to section 12(6) of the Superannuation Act 1972 and section 23(2) of the Public Services Pensions Act 2013) (the **2013 Act**) will be laid before the Scottish Parliament and brought into force as soon as reasonably practicable (given the Parliament is currently in recess). The Amendment Regulations will have retrospective effect (as authorised by section 12(1) of the Superannuation Act 1972 and section 3(3)(b) of the 2013 Act).

In order to ensure the efficient administration of member's pension benefits in the period prior to the enactment of the Amendment Regulations, the SPPA hereby confirms that:

1. administering authorities responsible for the payment of pensions and other benefits are advised to proceed on the basis that the Transitional Regulations are still effective, with references therein to the 2014 Regulations to be read as references to the corresponding provisions of the 2018 Regulations; and
2. any inconsistencies and omissions in the 2018 Regulations will be addressed in the Amendment Regulations with retrospective effect.

Where administering authorities, members or employer bodies require clarity on a particular point of administration of the 2018 scheme, they should contact the SPPA for confirmation and assurance.

This letter of comfort covers the period from 1 June 2018 (i.e. the date on which the 2018 Regulations came into force) and the coming into force of the Amendment Regulations.

Signed



A Member of the Scottish Government

30 July 2018