

<p>The Pensions Regulator</p>	<p>COMPULSORY REVIEW</p> <p>FINAL NOTICE</p> <p>pursuant to Section 99(4) of the Pensions Act 2004</p> <p>(“the Act”)</p> <p>5G Futures Pension (the “Scheme”)</p>	<p>The Pensions Regulator case ref: C21006988</p>
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1. The Determinations Panel (“the Panel”) of the Pensions Regulator (“the Regulator”) has reviewed its determination made following a Special Procedure hearing on 8 May 2013 when :
 - i. Garry John Williams and Susan Lynn Huxley were suspended as trustees from the Scheme and from trust schemes in general, with effect on and from 8 March 2013 until 7 May 2014;
 - ii. an independent trustee, Pi Consulting (Trustee Services) Ltd, was appointed, with a vesting order, to the Scheme.

Directly affected parties

2. The following parties are directly affected by this determination:

Garry John Williams
Susan Lynn Huxley
Together the “trustees”

5G Futures Ltd
The “provider” or “sponsoring employer”

Pi Consulting (Trustee Services) Ltd
The “new trustee”

Background

3. This is the compulsory review of the decision taken by the Panel on 8 May 2013 to suspend Garry John Williams and Susan Lynn Huxley as trustees and to appoint an independent trustee, Pi Consulting (Trustee Services) Ltd.
4. The decision taken at the special procedure hearing followed concerns being raised by the Regulator regarding the Scheme
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XX
XX

XXXXXXXXXXXXXXXXXX. The Regulator was concerned that the Scheme displayed many indicators that it was being used as a vehicle for pension liberation fraud and the special procedure Request also relied on concerns in relation to breach of investment duties and the trustees' apparent lack of knowledge and understanding.

5. At the special procedure hearing, the Panel determined to suspend Garry John Williams and Susan Lynn Huxley as trustees of the Scheme and schemes in general in light of:-
 - i. XX
XXXXXXXXXXXXXXXXXXXX
 - ii. evidence that some of the assets of the Scheme were being invested in high-risk overseas investments, contrary to the investment duties of pension fund trustees;
 - iii. evidence that some of the assets of the Scheme were being loaned to members and since such loans are necessarily high-risk, these loans were contrary to the investment duties of pension fund trustees;
 - iv. evidence that members of the Scheme were being charged excessive fees, suggesting that the Scheme was not being operated in the interests of its members; and
 - v. evidence that the operation of the Scheme might be deliberately circumventing the regulatory framework.
6. Consequent upon the suspension, the Panel further determined to appoint an independent trustee, Pi Consulting, with exclusive powers to secure the proper use or application of the assets and to protect the interests of the generality of the members of the Scheme.

Compulsory Review

7. For the purposes of the Compulsory Review, the Panel received and considered representations from Susan Lynn Huxley and Garry John Williams, Pi Consulting (Trustee Services) Ltd ("Pi Consulting") and from the Regulator's case team.
8. With regard to the representations received from Mr Williams and Ms Huxley, the Panel noted that, whilst Mr Williams / Ms Huxley agreed with the High Court's decision that the Scheme is an occupational scheme, they made little comment on or challenge of the Panel's determination at the special procedure hearing, their suspension or the substantive issues raised, save to say that they were improving their administration, controls and due diligence procedures. No comment was made in relation to XX XXX or their investment strategy.
9. The Panel gave careful consideration to the issues raised and had regard to the objectives of the Regulator as set out in Section 5 of the Act and to the matters listed in Section 100.

Compulsory Review Determination

10. Following the compulsory review, the Panel determined to confirm the determination referred to in paragraph 1 above, and to confirm the Orders made on 8 May 2013 under sections 4 and 7 - 9 of the Pensions Act 1995.

Reasons for Decision

11. The Panel determined to uphold its previous determination for the following reasons:-

- i. XX
XXX
XXX
XXXXXXXX ;
- ii. From the evidence it appears that assets of the Scheme have been invested in high risk investments that do not comply with legislative requirements including the Occupational Pension Scheme (Investment) Regulations 2005. In particular, most of the investments are in high risk, unregulated investments with insufficient diversification by member making them unsuitable investments for pension schemes;
- iii. The evidence from Pi Consulting indicates an inappropriate lack of oversight of the investments, including no evidence of due diligence on the investments chosen and no proper advice obtained before making an investment as required by section 36(3) of the Pensions Act 1995;
- iv. Mr Williams and Ms Huxley demonstrated significant deficiencies in acting as trustees. Strong evidence provided by PI Consulting demonstrates that they fell far short of doing what was required of them, both in relation to the investments made but also in relation to record keeping and scheme governance.
- v. Mr Williams and Ms Huxley do not demonstrate the level of knowledge and understanding required under the Pensions Act 2004. In particular, the evidence provided suggests that Mr Williams and Ms Huxley do not have a proper understanding of the scheme's governing documentation or the principles underpinning investment and funding of pension schemes.

12 The Panel noted that suspicions of pension liberation whilst not confirmed by further evidence since the original hearing were in no way refuted or groundless. There was also no further evidence that the operation of the Scheme might be deliberately circumventing the regulatory framework. In light of the reasons given above, further evidence of pension liberation was not necessary in order for the Panel to confirm its original determination.

Appendix 1 to this Final Notice contains important information about the Directly Affected Parties' rights of appeal against this decision.

Chairman : Alasdair Smith

Date : 28 January 2014

Referral to the Tax and Chancery Chamber of the Upper Tribunal

You have the right to refer the matter to which this Final Notice relates to the Tax and Chancery Chamber of the Upper Tribunal (“the Tribunal”). Under Section 103 of the Act you have 28 days from the date this Final Notice is sent to you to refer the matter to the Tribunal or such other period as specified in the Tribunal rules or as the Tribunal may allow. A reference to the Tribunal is made by way of a written notice signed by you and filed with a copy of this Final Notice.

The Tribunal’s address is:
45 Bedford Square,
London
WC1B 3DN

(tel 020 7612 9700).

The detailed procedures for making a reference to the Tribunal are contained in Section 103 of the Act and the Tribunal Rules.

You should note that the Tribunal rules provide that at the same time as filing a reference notice with the Tribunal, you must send a copy of the reference notice to the Pensions Regulator. Any copy reference notice should be sent to:

Determinations Panel Support
The Pensions Regulator,
Napier House
Trafalgar Place
Brighton
BN1 4DW

Tel: 01273 811852

A copy of the form for making a reference ‘Reference Notice (Financial Services)’ can be found at:

<http://www.tribunals.gov.uk/financeandtax/Documents/forms/FTC31.doc>