Real Estate:UK response to DWP & FCA CP26/25: The Value for Money Framework: Consultation

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Real Estate:UK

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With over 500 member organisations spanning investors, developers, advisers and operators, we represent the full breadth and diversity of the commercial real estate market, worth £950bn to the UK economy.

We connect UK and international investors with the insight, networks and opportunities that make the UK one of the world's most dynamic and investable markets.

Working closely with national governments and their agencies, as well as regional and local leaders, we promote the UK real estate sector as a premier destination for capital. Through direct engagement with ministers, policymakers and advisers, we help shape a regulatory environment that unlocks growth and builds investor confidence.

We support thriving communities across the UK through the homes, workplaces, critical infrastructure such as logistics and data centres, and retail and leisure centres our members build, maintain and operate.

Response

The Value for Money Framework: Consultation on draft regulations and draft FCA rules

RE:UK welcomes the opportunity to respond to this latest Department of Work and Pensions ('DWP') and Financial Conduct Authority ('FCA') consultation on the Value for Money Framework ('Framework'). RE:UK was formed earlier this year from three organisations; The Association of Real Estate Funds ('AREF'), The British Property Federations ('BPF') and the Investment Property Forum ('IPF'). AREF responded to the previous consultations on the Framework (Joint DWP, FCA (CP23/4) and The Pensions Regulator ('TPR') consultation paper in 2023 and the follow-on consultation papers from the FCA, CP24/16 and CP26/1).

We support a Framework that enables industry stakeholders to assess and compare the value for money pension schemes are providing. We are pleased to see the DWP, FCA and TPR are continuing to work closely together to develop a robust Framework. We believe strongly in the Framework facilitating investment by DC pension schemes in a wider range of asset classes, including less liquid assets such as real estate, by increasing focus on value for money rather than cost.

We have not responded to individual questions in the consultation paper. However, we have reiterated and expanded on our responses to previous consultations regarding the definition of investment charges. We feel that it is important that changes are made to the Framework regulations in relation to the definition of investment charges to ensure there is consistency with other regulations and industry best practice.

Investment charge – Property level costs

We would like to express our disappointment that no clarification has been provided confirming that, for investment in real estate as an asset class, property level costs should not be regarded as an investment charge. This would ensure consistency with existing rules for schemes regulated by the DWP and TPR.

The relevant provisions relating to this are in *The Occupational Pension Schemes (Charges and Governance) Regulations 2015, regulation 2* (changes inserted by *The Occupational Pension Schemes (Administration, Investment, Charges and Governance) (Amendment) Regulations 2021).* This states:

(1) In these Regulations -

> *"charges" means administration charges other than:*
>
> > *(f) costs solely attributable to holding physical assets.*
>
> *"physical asset" means an asset whose value depends on its physical form, including—*
>
> > *(a) land,*
> >
> > *(b) buildings and other structures on land or sea,*
> >
> > *(c) vehicles, ships, aircraft or rolling stock, and*
> >
> > *(d) commodities*

(1A) For the purposes of the definition of "charges", the costs solely attributable to holding a physical asset include—

(a) *the costs of managing and maintaining the asset;*

(b) *fees for valuing the asset;*

(c) *the cost of insuring the asset;*

(d) *ground rent, charges, rates, taxes and utilities bills incurred in relation to the asset.*

These property level costs are deducted in calculating the net rental profit rather than being treated as an investment charge. This should be clarified in the Framework's regulations.

This treatment is also followed in Pension UK's Cost Transparency Initiative, the industry standard for institutional investment cost data. In both the main account template and the private market template, property costs are dealt with separately from investment costs and charges.

Investment charges – Performance fees

We note that the Framework's definition of 'investment charges' continues to be the one set out in CP24/16:

> *Fees and charges in relation to the investments of an in-scope arrangement, including any performance-based fees but excluding transaction costs.*

As we have mentioned before in our responses to consultations on the Value for Money Framework, including performance-based fees in investment charges is out of line with industry best practice. This is not consistent with the Government's exclusion from the charge cap of 'specified performance-based fees'. (*Statutory guidance: Disclose and Explain asset allocation reporting and performance-based fees and the charge cap – 30 January 2023*) Carried-interest and similar performance-related fees that are a share of profits, may be distortive if included in ongoing charges. We believe that performance fees and carried interest should be disclosed separately from ongoing investment charges.

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Conclusion

We urge that within the Value for Money Framework regulations:

(i) There is clarity that, for investment in real estate as an asset class, property level costs should not be regarded as an investment charge.

(ii) Performance fees and carried interest are disclosed separately from other investment charges.

If you would like to discuss our response, please do contact me at jbungay@realestateuk.org.

Kind regards
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