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Rt Hon Frank Field MP
Chair, Work and Pensions Committee
[redacted]
London
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13 April 2018

Dear Mr Field

During the evidence session on February 22 you asked for a note on which stakeholders had suggested that The Pensions Regulator (TPR) was being too tough with sponsoring employers in respect of pension scheme funding, prior to the announcement of TPR's sustainable growth objective in 2014 (at Q694 of the transcript).

I attach a note as an appendix to this letter, which explains the very different climate towards the start of the decade when there were ongoing calls from both the business and pensions lobbies for Government and TPR to allow greater breathing space to help pension schemes and sponsoring employers to cope with the impact of low interest rates and quantitative easing, as businesses sought to recover from the financial crisis. The debate on these issues led to the announcement in the Budget 2013 that TPR would be given a new statutory objective requiring it to explicitly take into account the sustainable growth of sponsoring employers of defined benefit schemes.

Yours sincerely

Lesley Titcomb

Lesley Titcomb
Chief Executive

**Appendix**

**Background to The Pensions Regulator (TPR) being given its sustainable growth objective in respect of the regulation of defined benefit (DB) pension schemes**

During 2012-14, groups representing the business and the pensions industry lobbied Government for breathing space to mitigate the impact of economic conditions, including low interest rates and quantitative easing (QE), on defined benefit (DB) pension schemes and the sponsoring employers supporting them.

Industry stakeholders including the Confederation of British Industry (CBI) and National Association of Pension Funds (NAPF) called for TPR to be given a new statutory objective to explicitly take into account affordability pressures upon employers and the long-term nature of pension funding horizons, to balance its other statutory applicable to DB schemes. They also called for a rethink of the calculation of discount rates used to value liabilities to allow for the impact of low interest rates and QE, which some at the time argued were artificially inflating pension liabilities and diverting investment away from jobs and growth.

The *Financial Times* (15/7/12)[1] reported that: *"Pressure is growing on the UK government and Pensions Regulator to follow their US and European counterparts and give corporate pension funds more flexibility in how they calculate their level of funding for setting company contributions."* The article explained that a number of pensions trade bodies including the NAPF, CBI and Society of Pension Consultants were calling on the Government to examine whether there should be a move away from mark-to-market valuations and consider a "smoothing" approach to take pressure off pension schemes and sponsoring employers.

The same month, the then Director General of the CBI John Cridland was quoted in a CBI press release (25/7/12) as saying: *"A solvent, profitable company as sponsor is the best protection for a pension scheme and its members. Artificially high deficits will only hold businesses back further from investing and creating new jobs because of demands for higher funding from trustees. A move of the gilt yield by just 0.4%, can add up to £100bn in costs to business, despite nothing about the scheme or the employer having changed. This makes no sense – pension schemes have liabilities that run for a century or more and can afford to be more long-term. We're urging the Government to act to address this important issue by taking three steps: stop the rollercoaster deficits by smoothing the measure of the gilt yield for businesses; halt a possible 25% rise in PPF levies next March; and ensure the Pensions Regulator takes account of businesses' ability to grow."*

In respect of TPR's objectives Mr Cridland added: *"The Pensions Regulator's main role is to safeguard scheme members' benefits. And the best way for it to do this is ensuring employers are able to balance the needs of the business with their duty to fund members' retirement. The regulator has already given firms some flexibility in their funding plans – but the best way to ensure that this is always the case would be to add it to their statutory objectives. Over-funding diverts essential cash from business investment, which is vitally important to securing economic growth. That's why we're calling for The Pensions Regulator to be required to promote growth under a new statutory objective."*

During this period, TPR emphasised that there was already significant flexibility within the DB funding framework where affordability was a challenge, including a longer recovery plan where appropriate, and the ability to obtain guarantees and security from sponsoring employers. TPR set out that most sponsoring employers should be able to maintain their

[1] https://www.ft.com/content/4f722488-cb74-11e1-916f-00144feabdc0

levels of contributions and make only limited adjustments to their plans[2]. TPR argued that it should not be assumed that gilt rates were artificially low and would revert back to 'normal' levels in the near term, and we resisted calls for smoothing of discount rates, which we argued risked ignoring the reality of the situation[3].

Pressure for change within the balance of the regulatory framework continued to mount during the autumn. In October 2012, responding to the publication of analysis by TPR as to how pension schemes were using the flexibility within the Pensions Act 2004 funding framework, Neil Carberry, then CBI Director for Employment and Skills, commented to the media: *"The Pensions Regulator is right to acknowledge that pension deficits are putting businesses under pressure. Many firms are being forced to divert cash to their schemes which could be invested in business growth and job creation, and will welcome the flexibility that has been signalled.*

*"But simply offering firms more time to pay ignores the fact that the deficit figures that are being reported have been distorted by the impact of the financial crisis on gilt yields. Pension schemes, which run over periods of up to a century, have the capacity to adapt over time to changes in the gilt yield, and to ride out economic storms.*

*"The current approach to scheme funding forces schemes to estimate liabilities based on gilt prices on a single day. This is pro-cyclical – many businesses are being forced to pump yet more cash into their schemes, which does nothing for their key goal of delivering growth in the business. Companies need the Government to allow schemes to take a longer-term view of liabilities by smoothing the discount rate used in liability calculations. This is one of the few steps the Government can take to boost growth without spending a penny."*

In its October 2012 paper 'DB Funding – a call to action'[4], the NAPF stated: *"If TPR had a more explicit objective which required it to give consideration to the longer-term health of the sponsoring employer and the future sustainability of pension provision, it might feel enabled to take a more balanced approach to scheme funding. This is important for the 8 million or so active members of private sector DB schemes in the UK who have a strong interest in their sponsoring employers keeping their schemes open and their contributions manageable."*

The *Financial Times* (17/10/12)[5] reported that: *"Britain's Pensions Regulator faces pressure to relax efforts to make companies fill their pension scheme deficits, as a trade body calls on the Chancellor George Osborne to publicly commit to rein in oversight efforts in his Autumn Statement",* and quoting then Chairman of the NAPF Mark Hyde Harrison[6] as saying: *"The authorities need to say to those running pension schemes that it's OK for a higher rate to be used, at least until things return to some normality. The current approach to pricing pension funds risks undermining our faltering economy. Businesses are very worried about*

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[2] http://webarchive.nationalarchives.gov.uk/20140703151801/http://www.thepensionsregulator.gov.uk/press/pn12-12.aspx and
http://webarchive.nationalarchives.gov.uk/20140703151805/http://www.thepensionsregulator.gov.uk/press/pn12-29.aspx

[3] http://www.bbc.co.uk/news/business-19967194

[4] https://www.plsa.co.uk/portals/0/Documents/0267_DB_funding_a_call_to_action.pdf

[5] https://www.ft.com/content/ab379d9e-17b8-11e2-9530-00144feabdc0

[6] See also https://www.plsa.co.uk/Press-centre/Press-Releases/Article/Pension-funds-need-discount-rate-relief-to-cope-with-QE and http://www.bbc.co.uk/news/business-19967194

*channelling cash away from jobs and investment and into pension deficits. This could damage the wider economy, which is the opposite of what QE is meant to do."*

HM Treasury announced in the 2012 Autumn Statement[7] that *"the Government is determined to ensure that defined benefit pensions regulation does not act as a brake on investment and growth."* The Autumn Statement announced that DWP would consult on whether to allow smoothing of asset and liability values and whether to provide TPR with a new statutory objective *"to consider long-term affordability of deficit recovery plans to sponsoring employers"*. In January 2013, the DWP published its call for evidence.

Giving evidence to the Treasury Committee's inquiry on QE[8] (29/1/13), then NAPF Chairman Mark Hyde Harrison said: *"The Government should give a direction to The Pensions Regulator to be more flexible in the way it interprets the regulations. We are grateful that it is considering changing one of the objectives of The Pensions Regulator to consider the affordability of pension contributions from the employer's perspective. If we do get a change in the pressure put on The Pensions Regulator, that would go a long way to helping deal with the distributional effects of QE."*

In its March 2013 Budget, the Government announced a new sustainable growth objective for TPR[9]: *"Across the entire regulatory system, the Government is taking action to shift the balance of regulation in favour of private sector investment and growth. This is particularly important for the regulation of DB pensions as recent economic conditions have put companies sponsoring DB schemes under significant financial pressure. The Government will provide The Pensions Regulator with a new objective to support scheme funding arrangements that are compatible with sustainable growth for the sponsoring employer and fully consistent with the 2004 funding legislation."*

The Budget announcement also confirmed that the Government was not proposing legislative changes on asset and liability smoothing, as the call for evidence had not revealed a strong case for such measures. The Government provided more detail on its rationale in May 2013 in its response to the consultation process[10].

The Pensions Act 2014 provided TPR with a new statutory objective, *"in relation to the exercise of its functions under Part 3 only, to minimise any adverse impact on the sustainable growth of an employer"*. TPR implemented the new objective in its approach to scheme funding via its updated Funding Defined Benefits code of practice published in July 2014.

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[7] https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/221550/autumn_statement_2012_complete.pdf

[8] At Q27 https://publications.parliament.uk/pa/cm201213/cmselect/cmtreasy/uc902-i/uc90201.htm

[9] https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/221885/budget2013_complete.pdf

[10] https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/194217/pensions-and-growth-government-response.pdf