Smarter Regulation Directorate
Department for Business and Trade
Old Admiralty Building
Admiralty Place
London SW1A 2DY

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By email: smarter.regulation@businessandtrade.gov.uk

Dear Smarter Regulation team

USS response: *Smarter Regulation: Regulating for Growth – Consultation on the Growth Duty, Draft Statutory Guidance*

USS welcomes the opportunity to respond to this consultation on the Growth Duty Draft Statutory Guidance.

About USS

Universities Superannuation Scheme (USS) was established in 1974 as the principal pension scheme for universities and higher education institutions in the UK. We work with around 330 employers to help build a secure financial future for 528,000 members and their families. We are one of the largest pension schemes in the UK, with total assets of around £75.5bn (at 31 March 2023).

The trustee of USS is Universities Superannuation Scheme Limited. It has overall responsibility for scheme management and administration, led by a non-executive board of directors and employs a team of pension professionals in Liverpool and London. The trustee is regulated by The Pensions Regulator and has a legal duty to ensure that benefits promised to members are paid in full on a timely basis.

The trustee delegates implementation of its investment strategy to a wholly-owned subsidiary – USS Investment Management Limited (USSIM) – which provides in-house investment management and

Head Office: Royal Liver Building, Liverpool L3 1PY Tel: +44 (0)151 227 4711 Local: 0845 068 1110 Fax: +44 (0)151 236 3173 Website: www.uss.co.uk
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advisory services to the trustee. USSIM manages 70% of the investments in-house and appoints and oversees external investment managers to manage the rest. USSIM is authorised and regulated by the Financial Conduct Authority.

Our response

While not seeking to respond in detail to the consultation we have several brief observations to make on the draft Guidance and the context within which they sit. These arise from our experience as a long-term patient investor with a number of major investments in the UK in sectors overseen by economic regulators. We also invest in assets subject to economic regulation outside of the UK.

We broadly welcome the intent to encourage regulators to think about the drivers of 'sustainable economic growth' and how regulatory behaviours can best support those drivers. We have a number of observations to make on the draft Guidance and the overarching policy framework within which it sits, which I hope will be helpful, and these are set out below.

Outcomes vs considering drivers

We are concerned that, at times, some economic regulators appear not to take sufficient consideration that only through attracting long term committed capital into the businesses they regulate will those sectors and the wider economy sustainably grow. Understanding why and how both UK and global investors are willing to invest, the alternative opportunities they have, how their decision making works and how they can be best engaged is therefore inherent to having regard to the desirability of promoting economic growth. We therefore welcome the *general intent* of 'Driver 2: Infrastructure and Investment' but it would be helpful to include additional detail to set clear expectations of regulators that they understand where investment to fund infrastructure will come from, why that investment might flow, and that they should seek to foster that.

The draft Guidance is therefore a helpful starting point and could become a useful tool to regulators. We are concerned that the linkage from the statutory duty, through to drivers which are non-exhaustive and intended only to inform decisions, may be insufficient. We therefore support the statutory reporting duty and the requirement for annual reporting. Regulators should have to demonstrate how economic growth has in practice been fostered, rather than just how the drivers have been applied to decision making.

We would also suggest inclusion of case studies (or, where not available, illustrations) for all the drivers. These should be on the basis of the demonstratable impact of fostering economic growth rather than simply being process-focused.

Consistency across regulators – collaboration and extending the Growth Duty

We would like the section *'Behaviour 5: Collaborative'* to more strongly call on regulators to consider where their responsibilities overlap or where separate responsibilities fall on the same business. Better alignment of regulatory cycles, collaboration between regulators to ensure consistency of approach, and reduced duplication of effort will better support growth. We would welcome the 'can' and 'might' language being strengthened to set out a clear expectation that regulators will collaborate in this way.

While the application of the Growth Duty to some regulators was a welcome step, we have continuing ongoing concerns around the forthcoming Defined Benefit Funding Code and associated regulations being taken forward by DWP and the Pensions Regulator (TPR). These may result in greater pressure for pension schemes to de-risk and therefore may result in reduced investment in growth assets. There are clear implications for economic growth of this approach.

While we are engaging closely with DWP and TPR we would welcome further thought by Government on whether regulators such as TPR (and indeed more broadly PRA and FCA) should have greater regard to the implications of their regulatory activity for economic growth. Extending the duty might therefore be appropriate.

I hope the above is useful as you deliberate this important topic and would be happy to meet with you to discuss these points in more detail as helpful.

Yours sincerely,

Simon Pilcher
Chief Executive, USSIM