

## Suffolk Pension Fund Committee

<b>Report Title:</b>	Investment in Tobacco Companies
<b>Meeting Date:</b>	28 November 2016
<b>Chairman:</b>	Councillor Andrew Reid
<b>Director:</b>	Geoff Dobson, Director of Resource Management Tel. 01473 264347
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### **Brief summary of report**

1. This report sets out the Fund's current holding of tobacco stocks, the reasoning behind the investment managers decision to include tobacco stocks in the portfolio and summarises the legal advice received regarding the legality of disinvesting from tobacco stocks.

### **Action recommended**

2. The Committee is asked to consider the contents of the report and to continue with its policy not to exclude tobacco investments from the Fund's investment strategy.

### **Reason for recommendation**

3. The Pension Fund has a fiduciary duty to invest assets in the best interests of members and beneficiaries and exercised in a manner to ensure the profitability of the portfolio.
4. The outcome of the legal advice recently received regarding investing in tobacco stocks remains the same as the advice received in February 2015. Nigel Giffin QC is still of the view that it would be unlawful for the Pension Fund Committee to adopt a policy of disinvestment of tobacco stocks.
5. Taking this advice into account the County Council's monitoring officer is of the opinion that the Committee should have due regard to the legal advice received and therefore should not adopt a policy of disinvestment from tobacco stocks.

### **Alternative options**

6. The Committee may make a decision to exclude tobacco investments from its investment strategy.

## Main body of report

### Background

7. The Pension Fund last reviewed whether to exclude tobacco stocks from its investment strategy on 26 February 2015, taking legal advice from Nigel Giffin QC. The Pension Fund did make a commitment to review the strategy on an annual basis.

### Current Investment in Tobacco Companies

8. The Fund's active Equity Managers all have investments in Tobacco companies. The current holdings are set out in the table below and show total holdings of £44.4 million, which is about 1.8% of the Fund.

		Jan-15			Sep-16		
Investment Manager	Tobacco Company	No. of Shares	Share Price £	Holding £'m	No. of Shares	Share Price £	Holding £'m
BlackRock	British American Tobacco	319,550	37.9	12.1	278,026	49.3	13.7
	Imperial Tobacco Group	155,048	31.6	4.9	150,763	39.7	6.0
Newton	British American Tobacco	125,031	37.9	4.7	153,260	49.3	7.6
	Japan Tobacco	253,200	18.2	4.6	313,300	31.3	9.8
	Altria Group	198,998	36.2	7.2	150,797	48.4	7.3
	<b>Total Investment</b>			<b>33.5</b>			<b>44.4</b>

9. BlackRock have decreased the physical holdings in tobacco stocks since the February 2015 report was presented to Committee whereas the holdings with Newton have increased.
10. Blackrock and Newton actively invest in tobacco stocks on behalf of the Suffolk Pension Fund, a brief summary of their reasoning is attached as **Appendix 1**.

11. The share price of the tobacco companies that are directly held for the Suffolk Pension Fund have significantly increased since January 2015. This is shown in the table below:

Investment	Increase in Unit Price £	Increase in Unit Price %
British American Tobacco	11.40	30.1
Imperial Tobacco Group	8.10	25.6
Japan Tobacco	13.10	72.0
Altria Group	12.20	33.7

12. As at 30 September 2016 the Pension Fund also had indirect investments in tobacco companies, through the following pooled funds:

Investment Manager	Holding - £'m
Blackrock (Bonds)	0.3
Legal & General	11.2
M&G (Bonds)	0.9
Pyrford	3.2
Winton	0.3
<b>Total Investment</b>	<b>15.9</b>

13. Pyrford makes an active decision to invest in tobacco stocks whereas Legal & General invest in the stocks if they form part of the indices that they are tracking. Pyrford's reasoning for investing in these stocks is explained in **Appendix 1**.

### Recent Market Developments

14. Over the past 10 years, the MSCI World Tobacco index has returned 13.44%, compared with a 3.89% return for the MSCI World index. **Appendix 2** shows the published returns as at October 2016.
15. In May 2016 AXA announced plans for the insurance arm to disinvest £1.4 billion of tobacco holdings for moral reasons as a health insurer, despite these stocks remaining a lucrative investment. The decision does not affect the fund management side of the business which will continue to invest in whichever stocks they believe will deliver the best returns.
16. The \$290 billion California Public Employees' Retirement System (Calpers), may reinvest in tobacco stocks after a report found that exiting the sector cost it \$3 billion in potential investment returns over 15 years. Calpers is considering making the changes to its investment policy with the realisation that engaging with controversial companies can be a better way to effect change and maximise both social and financial gains.

## Update on Tobacco Investments within the LGPS

17. There have been no announcements recently regarding LGPS Funds disinvesting from tobacco stocks. No Fund within the ACCESS pool excludes tobacco stocks from their investment mandates. If the Suffolk Pension Fund was to make a decision to do so, they would have to bear the cost of the additional sub-funds that will be required to exclude specific stocks within each asset class once the pool is in operation.
18. In October 2016 Marcus Jones MP, Parliamentary Under Secretary of State (Minister for Local Government), during a parliamentary debate on the question of tobacco, said it was up to individual Pension Funds to make investment decisions “provided they comply with the broad principles” in the guidance on the investment regulations. In interpreting the guidance on the investment regulations the minister made it clear, that administering authorities “should not use pension policies to pursue boycotts, divestments or sanctions, except where formal legal sanctions exist and embargoes or restrictions have been put in place by the UK government”.

## Legal Advice

19. The Pension Fund Committee received legal advice from Nigel Giffin QC in February 2015 whose opinion was that the tobacco sector is material to the returns of the Pension Fund and that based on the evidence presented, a disinvestment decision would alter the risk/return profile of the Fund. It was his opinion that it would be unlawful for the Pension Fund Committee to adopt a policy of disinvestment from tobacco investments.
20. A further opinion has been sought from Nigel Giffin QC (**Appendix 3**) which takes into account the Local Government Pension Scheme (Management and Investment of Funds) Regulations 2016 which came into force on 1 November 2016. His conclusions are:
  - I. Tobacco disinvestment would be lawful if it was thought to be desirable on purely financial grounds. It would also be lawful if prompted by social considerations, provided that two conditions were met: first, that there was no significant risk of financial detriment; and secondly, that there was good reason to think that scheme members would support the decision.
  - II. On the basis of current advice, the Council could not lawfully disinvest from tobacco stocks. The advice does not suggest that there would be any financial grounds for disinvestment, and it does suggest (albeit not absolutely explicitly) that to do so would carry a significant risk of financial detriment. One does not therefore reach the issue of member support. It is for the Council to consider whether it wishes to seek any further advice, inter alia in the light of consultation on its investment strategy.
21. In February 2015 the County Council’s Monitoring Officer, who has a duty to report if the Council is proposing to contravene the law, stated that on the basis of Counsels opinion the Committee should not adopt a policy of disinvestment from tobacco investments. The Monitoring Officer has not changed his advice in light of the further opinion received.

**Sources of further information**

Agenda Item 9 Tobacco Investment (Feb 15)

Agenda Item 9 Tobacco Investment Appendix B Nigel Giffin QC Opinion (Feb 15)

