

CIPFA Pensions Network LGPS Pooling Workshops 21 and 22 March 2017

Changing Roles

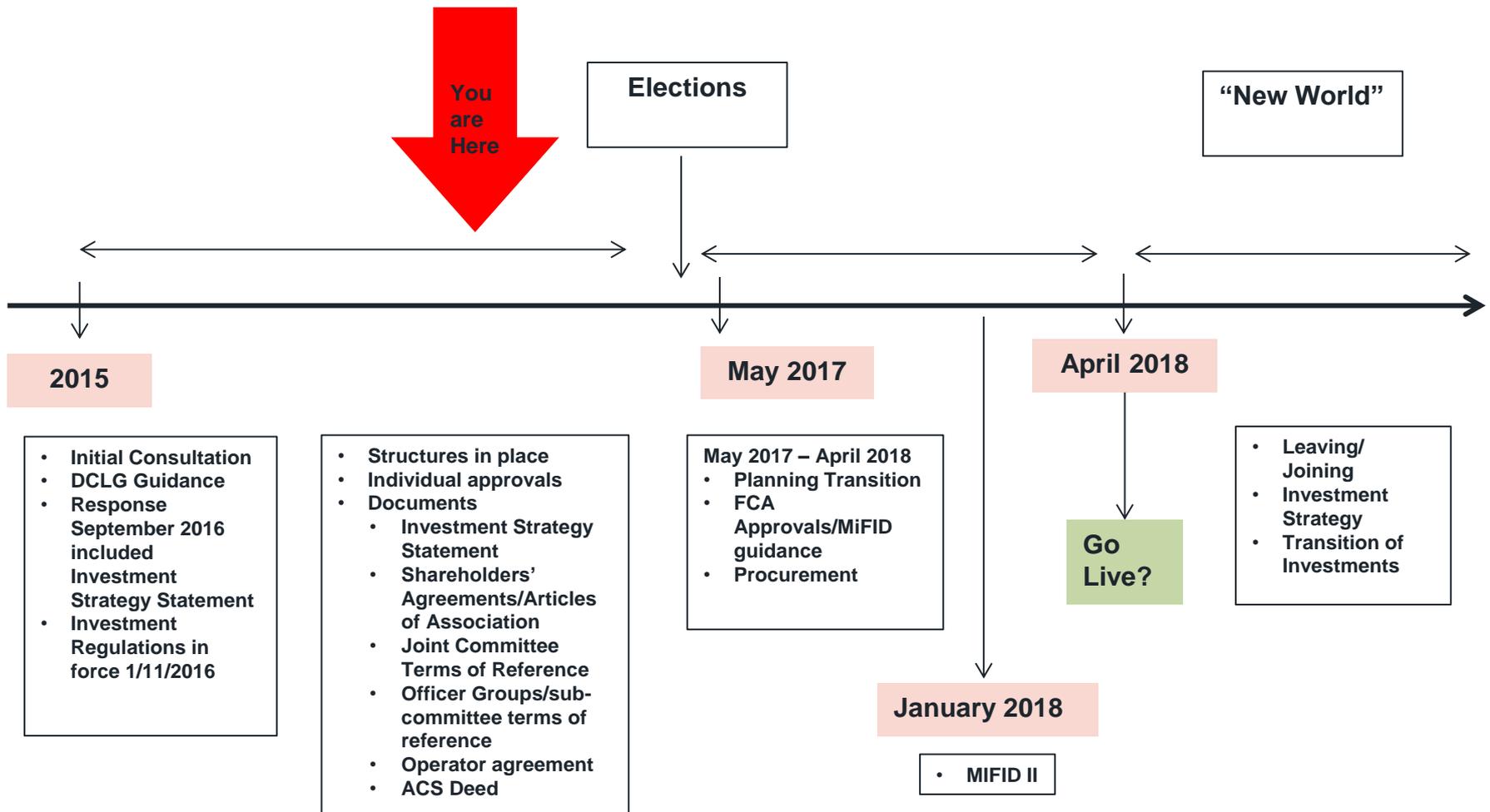
Presented by: Clifford Sims/Kirsty Bartlett



Agenda

- Pooling Timeline
- Legal Framework
- Governance/Oversight Functions
- FCA Compliance
- Procurement
- Other Considerations
- Post April 2018
- Questions

Pooling Timeline

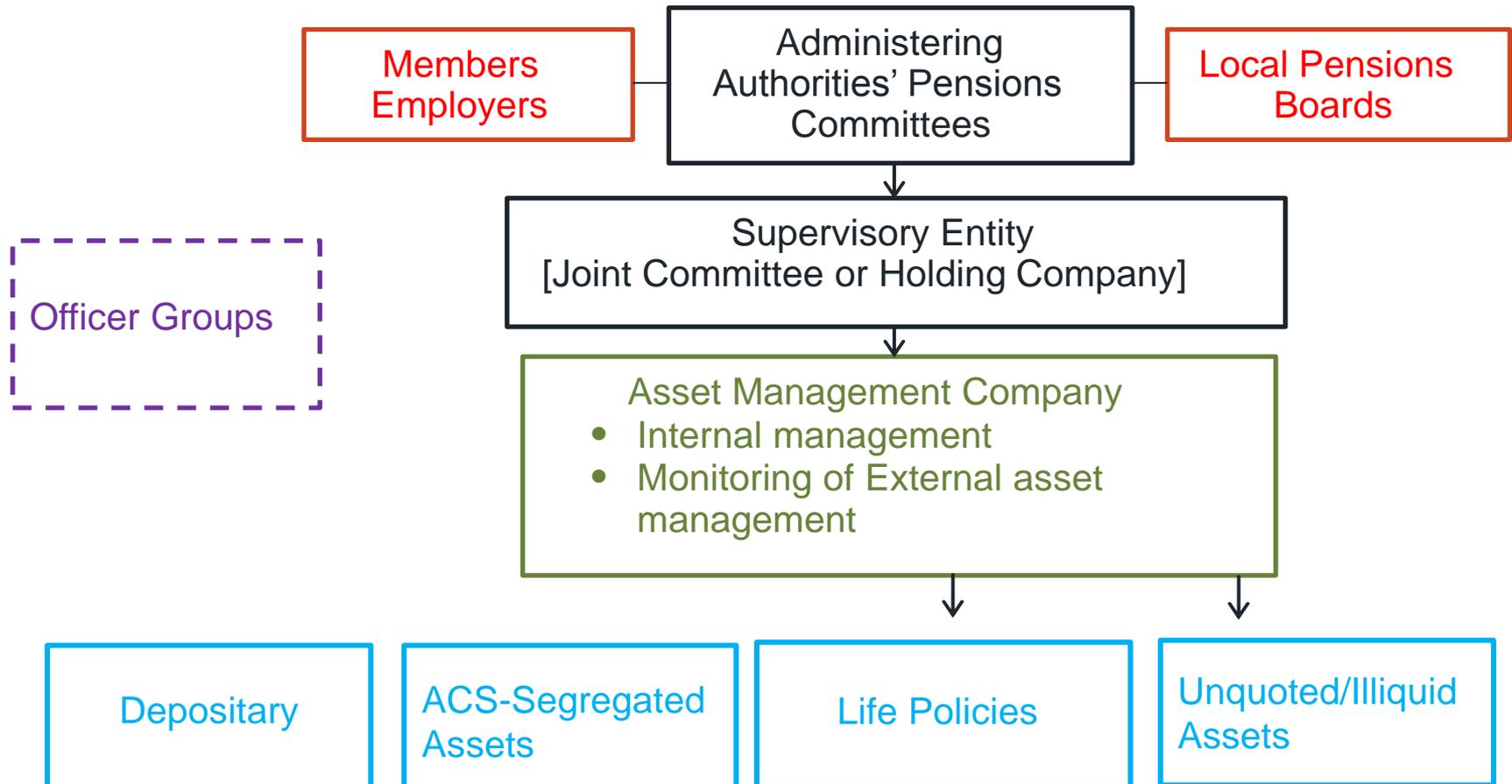


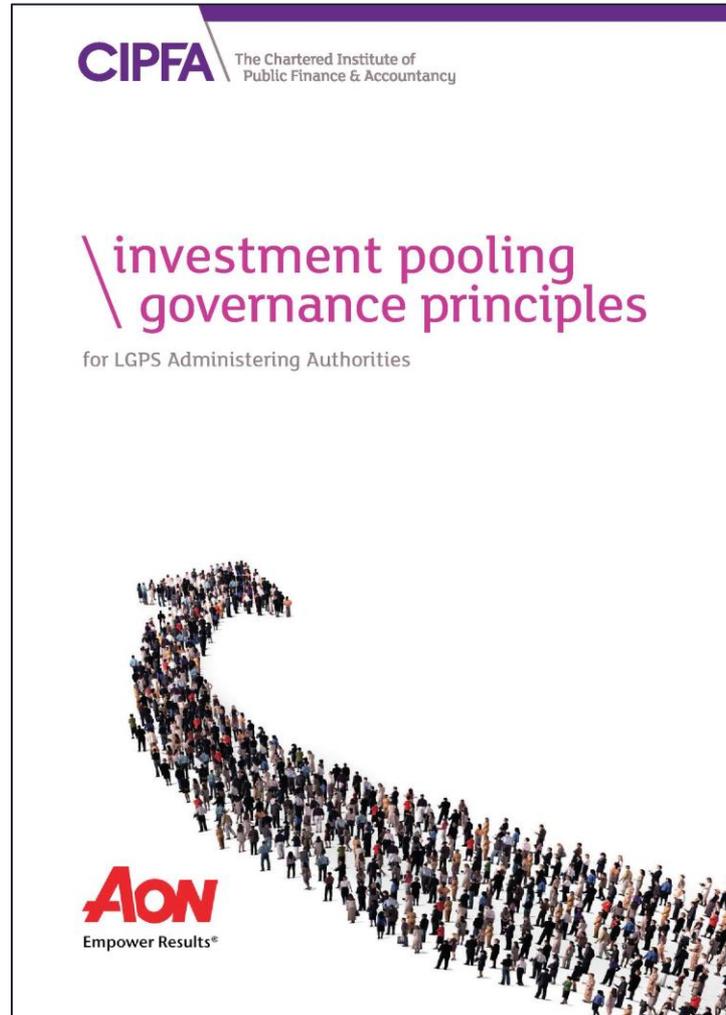
- The DCLG Investment Report Criteria Guidance Paper 2015
 - Does not prescribe a particular approach to pooling
 - “it will be for the authorities to suggest how their pooling arrangements will be constituted and will operate”
 - Secretary of State retains the power to direct that funds invest in a particular way

- Regulation 7(2)(d) of the Local Government Pension Scheme (Management and Investment of Funds) Regulations 2016
 - “pooling investments” is not defined
 - Investment Strategy Statement

- Letters from Ministers

Governance/Oversight: Redrafting Roles





- May elections
- Getting approvals quickly
 - Individual authorities' constitutions
 - Getting member buy-in
- Conflict of Interest
- If members retain responsibility for taking investment decisions, they will have no-one to sue if there is a problem!
- Terminating a manager: no longer the members' role
- Change of investment strategy has to be accommodated by the pool-chicken and egg?
- Withdrawal from a pool: members must retain right to preserve democratic accountability

FCA Compliance

Getting Authorised

- Operator/AIFM
 - Preparing relevant documentation to establish an Operator
 - FCA Application
 - Policies and Procedures
 - Selection of individuals to the Board
 - Shareholders

- ACS
 - ACS Deed

FCA Compliance

Controlled Functions and Significant Influence Functions

- Those employed by the FCA authorised entity and hold a controlled function will need to be approved by the FCA
- Approved persons that perform controlled functions usually have significant influence over the entity's regulatory conduct
- An individual can hold more than one controlled function

FCA Compliance

Approval of Controlled Functions

- The FCA will approve an individual only when it is satisfied that the individual is fit and proper to perform the controlled function(s)
- The FCA will assess applicants to make sure they are up to the job and that they carry out their role effectively
- The controlled function holder must know and meet the FCA's regulatory requirements, as well as understand how they apply them
- More information about approved persons and the application process can be found using this link: <https://www.fca.org.uk/firms/approved-persons/apply-approve-individual>

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- Public Contracts Regulations 2015
 - Establishing an Operator
 - “Teckal” test
 - Procurement of an Operator

Other Considerations

- Regulatory Capital
- Freedom of Information Act 2000
- Equality Act 2010
- Anti-bribery
- Cyber Security/Data Protection

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- MiFID II
 - Asset Transition
 - Pool performance
 - Investment Strategy
 - Pools may be fluid in terms of membership
 - Exit rights
 - Should be equitable
 - Should not tie in Authorities

Questions?

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■ Regional desks and strategic alliances

