

PENSION FUND COMMITTEE – 25 JUNE 2010

OVERSEAS CUSTODY SERVICES

Report by Head of Finance & Procurement and County Solicitor

Introduction

1. As part of their mandate, Alliance Bernstein (AB) will clearly want to invest directly in overseas markets. This differs from UBS who invest through a pooled fund. Where AB invest in this way, the Fund's custodian, BNY Mellon (BNYM), makes arrangements for custody of the assets in the relevant country. Countries have different regulatory requirements, some of which are more onerous than others. An issue has arisen in relation to Poland that requires Committee consideration.

Investing in Poland

2. Alliance Bernstein have identified a stock in Poland that they wish to purchase as part of their global mandate. Because of the issues related to opening the market in Poland, I asked whether there was an alternative way of achieving this investment. They have confirmed that there is no alternative.
3. Where BNY Mellon do not have a presence in a particular country, they would normally appoint sub-custodians. The contract allows them to do this and BNYM's liabilities under the contract would not be diluted.
4. In relation to Poland, BNYM are not allowed to appoint another organisation to act as sub-custodian on behalf of the Fund. The relevant regulator in Poland will only allow an entity to carry out activities on behalf of another entity if a power of attorney (POA) has been granted in a specific form. Accordingly, in order to open the Polish market, Oxfordshire County Council would need to grant a POA to ING Slaski (a Polish bank) in order for ING Slaski to be able open an account etc in Poland on behalf of the Council.
5. AB have indicated that this is a decision for the Council. If the POA is not granted then it would just preclude the investment being made. As AB have confirmed that they would want to invest in Poland, officers would want the Council to grant the POA to ING Slaski and the Committee is recommended accordingly.

Future Arrangements

6. Similar issues may arise in the future for other markets, particularly if regulators tighten controls in the light of recent financial turmoil. The Committee is asked to consider whether it would be happy for this type of decision to be delegated to the Head of Finance & Procurement and the County Solicitor, after consultation with the Chairman and Deputy Chairman

of the Committee. Delegating the decision in this way does have the advantage of speeding up the decision-making process.

RECOMMENDATION

7. The Committee is RECOMMENDED to:

- (a) grant a Power of Attorney to ING Slaski to enable the Fund to make investments in Poland;**
- (b) consider delegating decision-making related to custody of assets to the Head of Finance & Procurement and the County Solicitor, after consultation with the Chairman and Deputy Chairman of the Committee.**

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Head of Finance & Procurement

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County Solicitor

Background papers: Nil

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