The Market for Stewardship and the Role of the Government

Law Working Paper N° 556/2020
December 2020

Dionysia Katelouzou
Kings College London

Eva Micheler
London School of Economics and Political Science and University of Economics in Vienna

ECGI Working Paper Series in Law

The Market for Stewardship and the Role of the Government

Working Paper N° 556/2020
December 2020

Dionysia Katelouzou
Eva Micheler

Abstract

In this contribution, we focus on the market for stewardship, as this has been developing in the UK. We observe that the 2020 UK Stewardship Code more clearly than previous stewardship codes (both in the UK and elsewhere) articulates the concept of a market for stewardship. The UK Code 2020 now more openly than before takes into account the position of end-investors and beneficiaries. The hope is that stewardship will be delivered because those whose money is invested ask for it. We agree that stewardship does start with those who contribute the funds invested in the market. The focus on endinvestors and beneficiaries is, however, not enough. As this paper explains, by limiting the analysis to these groups, the UK government overlooks the fact that it is itself a financial contributor to the market. A study commissioned by the Competition and Markets Authority (CMA) finds, for example, that 90% of the revenue of investment consultants and fiduciary managers derives from pensions. The government contributes to pension investments through the provision of tax credit. It is a significant financial investor in the market. Tax credit also deprives end-investors and beneficiaries of a financial incentive to oversee asset owners, asset managers and other service providers. We, therefore, suggest that the UK government should act as a steward in relation to its own investment and tailor tax credit to investments that are stewardship active.

Keywords: Stewardship, UK, Government, Tax Credit, Pensions, Corporate Governance, Institutional Investors, Sustainability

JEL Classifications: K20, K34, L50, E61

Dionysia Katelouzou
Senior Lecturer
Kings College London, The Dickson Poon School of Law
Somerset House East Wing, Strand
London WC2R 2LS, United Kingdom
e-mail: dionysia.katelouzou@kcl.ac.uk

Eva Micheler*
Houghton Street
London School of Economics and Political Science
Houghton Street
London WC2A 2AE, United Kingdom
phone: + 44 20-7955-7311
e-mail: e.micheler@lse.ac.uk

*Corresponding Author

The Market for Stewardship and the Role of the Government

Dionysia Katelouzou* and Eva Micheler**

October 2020 Draft

An edited version of the paper will be published as a chapter in Global Shareholder Stewardship: Complexities, Challenges and Possibilities (Dionysia Katelouzou & Dan W. Puchniak eds, Cambridge University Press, Forthcoming)

ABSTRACT

In this contribution, we focus on the market for stewardship, as this has been developing in the UK. We observe that the 2020 UK Stewardship Code more clearly than previous stewardship codes (both in the UK and elsewhere) articulates the concept of a market for stewardship. The UK Code 2020 now more openly than before takes into account the position of end-investors and beneficiaries. The hope is that stewardship will be delivered because those whose money is invested ask for it. We agree that stewardship does start with those who contribute the funds invested in the market. The focus on end-investors and beneficiaries is, however, not enough. As this paper explains, by limiting the analysis to these groups, the UK government overlooks the fact that it is itself a financial contributor to the market. A study commissioned by the Competition and Markets Authority (CMA) finds, for example, that 90% of the revenue of investment consultants and fiduciary managers derives from pensions. The government contributes to pension investments through the provision of tax credit. It is a significant financial investor in the market. Tax credit also deprives end-investors and beneficiaries of a financial incentive to oversee asset owners, asset managers and other service providers. We, therefore, suggest that the UK government should act as a steward in relation to its own investment and tailor tax credit to investments that are stewardship active.

I. INTRODUCTION

In this paper, we focus on the market for stewardship, as this has been developing in the UK. We observe that the 2020 UK Stewardship Code (UK Code 2020 hereinafter) more clearly than previous stewardship codes (both in the UK and elsewhere) articulates the concept of a *market* *for stewardship*.[1] The UK Code 2020 now more openly than before takes into account the position of end-investors and beneficiaries.[2] The hope is that stewardship will be delivered because those whose money is invested ask for it. We agree that stewardship does start with those who contribute the funds invested in the market. The focus on end-investors and beneficiaries is, however, not enough. As this Chapter explains, by limiting the analysis to these groups, the UK government overlooks the fact that it is itself a financial contributor to the market. A study commissioned by the Competition and Markets Authority (CMA) finds, for example, that 90% of the revenue of investment consultants and fiduciary managers derives from pensions.[3] The government contributes to pension investments through the provision of tax credit. It is a significant financial investor in the market. Tax credit also deprives end-investors and beneficiaries of a financial incentive to oversee asset owners, asset managers and other service providers.[4] We, therefore, suggest that the UK government should act as a steward in relation to its own investment and tailor tax credit to investments that are stewardship active.

The Chapter proceeds as follows. Part II introduces the market for stewardship and explains its development out of the preceding and complementary market for corporate governance. We then focus on the demand side of the market for stewardship and argue that there are two reasons why contributors to financial markets would request stewardship activity from asset owners, asset managers and other service providers.[5] The first reason is financial return. The second reason motivating demand for stewardship is altruism. We analyse both motives in Part III.

In Part IV we take a closer look at the current structure of the market for stewardship. We create a taxonomy of market participants and examine their respective perspectives. We distinguish between beneficiaries of work place and personal pensions, small portfolio end-investors and large portfolio end-investors. We also examine the role of pension trustees and members of independent governance committees and the position of investment consultants and fiduciary managers. We conclude that demand for stewardship can most realistically emerge from large scale portfolio end-investors who are prepared to be guided by altruistic reasons. It is also possible that younger individuals will be prepared to forgo financial return to support good causes when they start making investment decisions. These investors benefit from the UK Code 2020. Their market share is, however, not large enough yet to make a significant difference.

---

* Senior Lecturer, King's College London
** Associate Professor, London School of Economics

[1] Dionysia Katelouzou, *Institutional Shareholders and Corporate Governance: The Path to Enlightened Stewardship* (CUP 2021) (forthcoming).
[2] As defined in Part IV A-C below.
[3] Competition & Markets Authority, Investment Consultants Market Investigation, Final Report (2018), <https://assets.publishing.service.gov.uk/media/5c0fee5740f0b60c8d6019a6/ICMI_Final_Report.pdf> accessed 5 March 2020, page 29 para 1.14.
[4] As defined in Part IV D and E below.
[5] As defined in Part IV D and E below.

We then examine in Part V the role of the UK government and argue that the government acts as a regulator of the industry ensuring that end-investors and beneficiaries give informed consent and that the contractual promises made to them are kept. It does, however, fall short of appreciating that it is a financial contributor. The government heavily subsidises pension investments. The cost of tax relief of registered pension schemes in 2017-8 (the most recent available data) is £37.8 billion.[6] In that capacity the government should act as a steward in the same way it expects everybody else to.[7] Tax credit should be available only for stewardship active investments. Part VI concludes.

II. STEWARDSHIP AS A MARKET-DRIVEN CONCEPT

A. A Market for Corporate Governance and a Market for Stewardship

The UK approach to corporate governance and stewardship is to encourage the market to deliver good corporate governance through stewardship. The UK Government is generally reluctant to legislate in the area of corporate law and governance.[8] The preferred approach is to develop standards in cooperation with market participants. These standards then set an example of best practice which the government hopes will be adopted. Shareholders and institutional investors perform a key role in this context.

The 1992 Cadbury Code, for example, was designed as a ready-made agenda enabling institutions and individual shareholders to make representations to boards.[9] The Cadbury Committee explicitly and primarily looked to market-based enforcement for the nineteen principles of its Code of Best Practice.[10] The expectation was that the development of best practice standards would encourage pressure from shareholders to hasten a widespread adoption of these standards.[11] The Cadbury Report also states that institutional investors 'now

---

[6] HM Revenue and Customs Personal Pension Statistics, (2019) <https://www.gov.uk/government/collections/personal-pensions-statistics#national-statistics> assessed 29 April 2020.

[7] This paper draws a distinction between the government acting as a regulator and the government acting as a financial contributor to the market. When the government acts as a regulator the rules apply to all investors. We propose in the paper that as far as the government subsidises certain investments such as pensions through preferential tax treatment it is an investor in its own right and should thus act as a steward.

[8] On the traditionally self-regulatory approach to financial market regulation in the UK, see e.g. Marc T Moore, Corporate Governance in the Shadow of the State (Hart Publishing: Oxford and Portland, Oregon, 2013) 167-174.

[9] Adrian Cadbury, 'Report of the Committee on The Financial Aspects of Corporate Governance' (1992) para 6.16: '[t]he obligation on companies to state how far they comply with the Code provides institutional and individual shareholders with a ready-made agenda for their representations to boards'.

[10] Ibid, para 6.16 ('[it] it up to them [the shareholders] the put it [the Code] to good use. The Committee is primarily looking to such market-based regulaiton to turn its proposals into action) and para 1.10 ('We believe that our approach, based on compliance with a voluntary code coupled with disclosure, will prove more effective than a statutory code. It is directed at establishing best practice, at encouraging pressure from shareholders to hasten its widespread adoption, and at allowing some flexibility in implementation').

[11] Ibid, page 11 para 1.10, page 51 para 6.16; page 18 para 3.14 and page 53 para 4.

own the majority of the shares in quoted companies'.[12] It observes that the readiness of institutional investors to make good use of their voting power turns on the degree to which they see their engagement 'as … in the interest of those whose money they are investing'.[13] It recommends that institutional investors disclose the policies on the use of their voting rights and warmly welcomes the 1991 statement by the Institutional Shareholders' Committee (ISC) on the Responsibilities of Institutional Shareholders in the UK.[14] That statement encourages pension funds, insurance companies and investment trusts and other collective investment vehicles to involve themselves actively in the governance of investee companies. It also makes the point that this engagement forms part of the fulfilment of their obligations to end-beneficiaries.[15]

The combination of a ready-made Corporate Governance Code with a set of industry led guidelines for institutional investors which evolved into an ISC 'Code on the Responsibilities of Institutional Investors' in 2009 did, however, not produce the desired effect.[16] In the post-mortem of the 2008 financial crises the Walker Review criticised the passivity and widespread acquiescence to (or even encouragement of) excessive risk-taking by some banks and other financial institutions.[17] The remedy to the problem was to take the development of stewardship principles out of the hands of the industry. The Financial Reporting Council (FRC) was given the responsibility to develop and encourage stewardship principles for institutional investors and asset managers. The hope was that this would attract and promote more adherence to best practice in stewardship as a matter of public interest and would facilitate informed decisions by beneficiaries, trustees and other end-investors.[18]

---

[12] Ibid, page 49 para 6.9. For more recent data on the institutionalisation of the UK public equity see Office for National Statistics, Ownership of UK quoted shares: 2018, <https://www.ons.gov.uk/economy/investmentspensionsandtrusts/bulletins/ownershipofukquotedshares/2018> assessed 23 April 2020.

[13] Adrian Cadbury, 'Report of the Committee on The Financial Aspects of Corporate Governance' (1992) page 49 para 6.10. Subsequent reports have also emphasised the corporate governance role of institutonal shareholders highlighting at the same time the responsibility of investors to their clients. See Committee on Corporate Governance Final Report (1998) pages 40-1; Paul Myners 'Institutional Investment in the UK: A Review' (2001) and Derek Higgs, 'Review of the role and effectiveness of non-executive directors' (2003), para 15.21.

[14] Ibid, page 49 para 6.11 – 6.12, page 55 para 16 and page 56 para 19.

[15] Memorandum of the Institutional Shareholder Committee, The Responsibilities of Institutional Shareholders and Agents – Statement of Principles <https://publications.parliament.uk/pa/cm200203/cmselect/cmtrdind/439/439ap09.htm> assessed 23 April 2020.

[16] The current corporate governance code in the UK (effective for accounting periods commencing or on after 1 January 2019) is the UK Corporate Governance Code 2018. This was evolved out of the Combined Code 2010 and the earlier Cadbury Code of Best Practice. For a recent assessment of the effectiveness of the comply-or-explain approach in the UK, see Bobby V. Reddy, (2019) 'Thinking Outside the Box – Eliminating the Perniciousness of Box-Ticking in the New Corporate Governance Code' 82(4) Modern Law Review 692.

[17] David Walker, 'A Review of Corporate Governance in Uk Banks and Other Financial Industry Entities: Final Recommendations' (2009) 17, 71–3.

[18] Walker Report (n 17), para 5.9.

Stewardship was promoted by the FRC as an activity that has benefits for end-investors and beneficiaries.[19] The preface to the 2010 UK Stewardship Code states that stewardship helps to 'improve the long-term returns to shareholders and the efficient exercise of governance responsibilities'.[20] Along similar lines the 2012 revision of the UK Stewardship Code contends that stewardship 'aims to promote the long term success of companies in such a way that the ultimate providers of capital also prosper'.[21]

A parallel assertion has always been that good corporate governance and stewardship is good for the economy. The Cadbury Report opens with the claim that '[t]he country's economy depends on the drive and efficiency of its companies'.[22] The 2010 UK Code stresses the importance of stewardship in enforcing good standards of corporate governance.[23] The 2012 UK Code states that '[E]ffective stewardship benefits companies, investors and the economy as a whole'.[24]

However, neither the 2010 nor the 2012 UK Code have achieved their goals. The Kingman Review concluded in December 2018 that '[t]he Stewardship Code, whilst a major and well-intentioned intervention, is not effective in practice'.[25] The FRC directly responded to the criticisms made by the Kingman review and revised the UK Code 2012 with a focus on outcomes. The 2020 version of the UK Stewardship Code is different from its precedent code in many ways. In addition to the focus on outcomes rather than policies it adopts a broader concept of stewardship and an emphasis on environmental, social and governance (ESG) factors, especially climate change.[26]

From our perspective, the UK Code 2020 continues to stress that stewardship creates 'long-term value' for investors' clients and beneficiaries.[27] In addition it embeds this assumption into a market framework of its own right. A key aim of the 2020 revisions is the

[19] For a Polanyian-influenced analysis of stewardship which connects the interests of the beneficiaries and end investors with the public interest, see Dionysia Katelouzou, 'Shareholder Stewardship: A Case of (Re)Embedding Institutional Investors and the Corporation?', in Beate Sjåfjell and Chris M. Bruner (eds), *Cambridge Handbook of Corporate Law, Corporate Governance and Sustainability* (CUP, 2019) 581-595.
[20] Financial Reporting Council, The UK Stewardship Code (July 2010), p. 1. See also Paul Davies, 'The UK Stewardship Code 2010-2020 from Saving the Company to Saving the Planet', ECGI Law Working Paper No 506/2020 available from https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3553493, last visited 3 October 2020 (characterising the 2010 version as an 'Engagement Code').
[21] Financial Reporting Council, The UK Stewardship Code (September 2012), p.1. See also John Kay, 'The Kay Review of UK Equity Markets and Long-Term Decision Making' (2012), p. 65: 'The equity investment chain will best serve the interests of savers and companies if relationships along it are based on the concept of stewardship'.
[22] Adrian Cadbury, 'Report of the Committee on The Financial Aspects of Corporate Governance' (1992) page 10 para 1.1.
[23] UK Code 2010 (n 20), 1.
[24] UK Code 2012 (n 21), 1. Further on the evolution of the notion of stewardship, see Katelouzou (n 1).
[25] John Kingman, 'Independent Review of the Financial Reporting Council' (2018), p.8.
[26] Further on the differences between the two stewardship codes, see Paul Davies, 'The UK Stewardship Code 2010-2020 from Saving the Company to Saving the Planet', ECGI Law Working Paper No 506/2020 available from https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3553493, last visited 3 October 2020.
[27] Financial Reporting Council, The UK Stewardship Code 2020, p. 4

creation of 'a *market for stewardship* [own emphasis] driven by a demand from asset owners and beneficiaries for better quality information about how asset managers and service providers fulfil their responsibilities'.[28]

This constitutes a transformation of the idea that 'stewardship is good for beneficiaries and end-investors' into 'beneficiaries and end-investors should be able to ask for stewardship because it is good for them'. Traces of this notion of a 'market for stewardship' can be found in the Kay Review which preceded the UK Code 2012 and emphasised the promotion of trust and confidence along the investment chain.[29] The FRC's tiering exercise introduced in 2016 also aimed at developing such a market by providing a reputational incentive on signatories to join the top tier.[30] But, as the next section shows, with the UK Code 2020 the aspiration for a market for stewardship is taking more distinctive shape.[31]

B. The role of the 2020 UK Stewardship Code

The UK Code 2020 more clearly than its predecessors articulates the idea of a market for stewardship that starts with end-investors and beneficiaries. It aims to support such a market by encouraging standardised disclosure. This is designed to help market participants to make informed choices. Signatories are thus required to explain their organisation's purpose, strategy and culture and how these enable them to practice effective stewardship.[32] They are also expected to show they are demonstrating this commitment through appropriate governance, workforce, resourcing and incentives.[33]

Compared to the previous two versions, the UK Code 2020 defines its scope of application in a more targeted way. The aim is to better capture the different roles performed by the different participants in the investment industry.[34] The Code distinguishes between asset owners, asset managers and other service providers. Asset owners are, for example, trustees of occupational pension schemes, trustees of defined contribution pension schemes, insurers and re-insurers. Asset managers are instructed by asset owners to take investment decisions. Other service providers serve either asset owners or asset managers for example in the form of consultancy or proxy advice.

---

[28] FRC, Proposed Revision to the UK Stewardship Code (January 2019), p.1; FRC/FCA, Building a regulatory framework for effective stewardship, Discussion Paper DP 19/1 (January 2019).
[29] Kay review, (n 21), para 13.18 (highlighting the need to recreate 'an equity investment chain that meets the needs of users and that is based on trust, respect, confidence and cooperation).
[30] More information on the tiering exercise can be found here: <https://www.frc.org.uk/news/november-2016/tiering-of-signatories-to-the-stewardship-code> assessed 23 April 2020. For a criticism, see Kingman Review, (n …), p.46 (highlighting that 'the existing tiering approach focuses predominantly on checking the content of stewardship statements, not on actual effectiveness or outcomes). Generally on the role of market enforcement in the context of shareholder stewardship, see Dionysia Katelouzou and Konstantinos Sergakis, 'Shareholder Stewardship Enforcement' ECGI Law Working Paper No 514/2020 available from https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3564266.
[31] On a detailed analysis of the supply and demand side of this market for stewardship see Katelouzou (n 1).
[32] UK 2020 Code, (n 27), Principle 1.
[33] UK 2020 Code, (n 27), Principle 2.
[34] FRC, Feedback Statement, October 2019, pg1

The UK Code 2020 sets out twelve principles for asset owners and asset managers. These Principles are supported by reporting expectations. The Code acknowledges that some reporting expectations may be more relevant for asset owners while others will be more relevant to asset managers.[35] In addition, there are six separate principles for service providers which are also supported by reporting expectations.[36]

Moreover, the UK Code 2020 aims to 'help align the approach of the whole community in the interest of end-investors and beneficiaries'.[37] To this end Principle 3 encourages signatories to 'put the best interests of clients and beneficiaries first'.[38] Principle 6 states that: 'signatories take into account of client and beneficiary needs and communicate the activities'. These suggest a concern for the immediate clients of signatories but also for the interests of end-investors and beneficiaries who may not have a direct relationship with a signatory.

The UK Code 2020 is also broader in scope than its predecessors. Both the 2010 and 2012 versions applied to shares only. The 2020 version is designed to apply across all asset classes including but not limited to listed and private equity, fixed income, real estate and infrastructure, and in investments outside the UK.

Sustainability also features prominently in the new Code. In addition to focussing on governance the UK Code 2020 now also refers to environmental and social factors, particularly climate change.[39] Principle 7 requires that 'signatories systematically integrate stewardship and investment, including material environmental, social and governance issues, and climate change, to fulfil their responsibilities'.[40]

Unlike its predecessors and the UK Corporate Governance Code which all adopted the 'comply or explain' model, the UK Code 2020 applies on an 'apply and explain' basis.[41] Market participants who have adopted the UK Code are referred to as signatories.[42] Signatories have to report annually on stewardship activity and its outcomes in a Stewardship Report.[43] The focus on reporting on 'activity and outcome' is new. The previous two stewardship codes

[35] UK 2020 Code (n 27) p. 5.
[36] ibid 23–29.
[37] FRC, Feedback Statement, October 2019, pg1
[38] UK 2020 Code (n 27), Principle 3. For service providers, see Principle 3.
[39] UK 2020 Code (n 27), p 4. Further on sustainability and stewardship see Dionysia Katelouzou and Alice Klettner, 'Sustainable Finance and Stewardship: Unlocking Stewardship's Sustainability Potential' ECGI Law Working Paper No 521/2020, available from https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3578447, last visited 3 October 2020.
[40] UK 2020 Code (n 27), p 15.
[41] UK 2020 Code (n 27), p 4. Further on the coerciveness of this approach, see Dionysia Katelouzou and Peer Zumbansen, 'Corporate Governance as a Transnational Regulatory Concern: Charting the New Political Economies of Corporate Law Production' (2020) 42 Pennsylvania Journal of International & Comparative Law _ (forthcoming).
[42] Information on the current signatories is available here: https://www.frc.org.uk/investors/uk-stewardship-code/uk-stewardship-code-statements accessed 27 February 2020.
[43] UK 2002 Code (n 27), p 5.

solely focused on policy statements.[44] Under the UK Code 2020 signatories are expected to apply the Principles and make a clear statement to explain which activities they have carried out in the previous year and what the outcome has been. Boilerplate reporting is actively discouraged. Reports should be engaging, succinct and in plain English. They should be as specific and as transparent as possible giving a clear picture of how the organisation has applied the Code. Reporting should acknowledge setbacks experienced and lessons learnt as well as successes.[45]

To smoothen the transition to the new Code, the FRC will assess the Stewardship Reports of all applicants seeking to be included in the first list of signatories in summer 2021, but it will not identify subscribers to the Code as either tier one or tier two participants, at least for the first year of reporting.[46]

From the perspective of the market for stewardship, the new rendition of the UK 2020 Code puts the ball more clearly into the court of beneficiaries and end-investors. It also leans more specifically on asset owners, such as pension trustees and insurance companies offering pensions, by setting higher standards as to how they integrate stewardship responsibilities into their investment decision making and mandates and promoting outcomes-focused stewardship to meet their information needs.[47]

In addition, the UK Code 2020 takes the 'public good' component of stewardship further than its predecessors to what Katelouzou terms 'enlightened stewardship'.[48] In the 2020 version of the Code stewardship is defined more broadly than in previous versions as creating long-term value 'for … the economy, the environment and society'.[49] The UK 2020 Code expresses that 'asset owners and asset managers play an important role as guardians of market integrity and in working to minimize systemic risks as well as being stewards of the investments in their portfolios'.[50]

The authors of the UK Code 2020 hope that beneficiaries and end-investors will encourage those acting for them to be stewardship active. The government itself role-models the attitude it would like to encourage. To facilitate automatic enrolment (introduced in 2012) it has set up a work-place pension scheme referred to as NEST. The promotional video for NEST uses the following statement:

---

[44] Cf. FRC, Proposed Revision to the UK Stewardship Code, Annex A – Revised UK Stewardship Code (January 2019) page 3, proposing two different disclosures: a Policy and Practice Statement and an annual Activities and Outcomes Report.
[45] UK 2002 Code (n 27), p 6.
[46] FRC, Feedback Statement: Consulting on a revised UK Stewardship Code (October 2019), p 12.
[47] See e.g. UK Code 2020, (n 27), p.16 (differentiating the reporting expectations to Principle 8 for asset managers and asset owners).
[48] Katelouzou (n 1).
[49] UK 2020 Code, (n 27), p. 4 and Principle 1.
[50] UK 2020 Code, (n 27), p. 4. See also Financial Conduct Authority, 'Building a Regulatory Framework for Effective Stewardship: Feedback to DP 19/1' (2019) page 8.

> We believe in investing all your contributions responsibly including with companies who we encourage to meet high standards of environmental, social and corporate governance, not only because it's the right to do, but because it's been shown to give you better returns over time.[51]

Growing the demand for responsible investment and stewardship presents a great opportunity, but also a great challenge, a subject to which the next Part turns to.

III. Demand for stewardship – Motivating Factors

As the preceding discussion explains, the UK Code 2020 aims to stimulate 'demand' for stewardship. It is therefore important to take a comprehensive view examining how to best generate demand for stewardship and where such demand can come from. In this Part we examine two motivating factors that can give rise to demand for stewardship: the promise of financial return and altruism.

A. Financial Return

The statement that stewardship benefits end-investors and beneficiaries contains an empirical claim. Whether or not "stewardship as such" contributes to financial returns has yet to become the subject of a vibrant academic debate, but there exists an extensive empirical literature analysing the impact of ESG activism by investors and the returns of social responsible investment (SRI). While neither ESG activism and nor SRI are always synonymous to stewardship,[52] this empirical literature is the closest kin to stewardship especially after the heavy emphasis of the UK Code 2020 on ESG.[53] Contributors have analysed the effect of ESG activism and SRI from three perspectives: financial return for investors, the financial well-being of issuers and the economy as a whole.

1. Financial return for investors

The literature examining the relationship between ESG activism and engagement, on the one hand, and financial return for investors, on the other, does unfortunately not support a general claim that ESG activism leads to better returns for investors over time. The evidence is mixed. On one the hand, some studies conclude that ESG activism is associated with financial benefit for investors. For example, a 2015 study on CSR engagements focused on a single investment firm in the US finds positive abnormal returns but only for successful engagements.[54] Another

[51] https://www.nestpensions.org.uk/schemeweb/nest/aboutnest/welcome-to-NEST.html; The video can be found here: https://www.youtube.com/watch?v=BBtxfLKPRhU.
[52] For a comprehensive analysis of stewardship, see Katelouzou (n 1).
[53] UK Code 2020, Principles 5 and 7.
[54] Elroy Dimson, O Karakas and X Li, 'Active Ownership' (2015) 28 Review of Financial Studies 3225.

recent study concludes that coordinated engagements targeting environmental or social issues are value-enhancing (in the sense of significant abnormal stock returns), especially when they are headed by a lead investor and are successful.[55] On the other hand, another recent study examines 847 engagements around the globe and finds that ESG activism comes only with modest financial returns during the engagement period from the perspective of the activist fund.[56] For index funds, in particular, academic contributors increasingly question whether engagement and stewardship are cost-effective and meaningful from the perspective of beneficiaries.[57]

Another body of the empirical literature compares the performance of funds that invest in SRI funds with their conventional competitors. The conclusions on the whole are that both types achieve similar returns and that there are at best negligible gains for SRI funds.[58] There is some evidence that responsible investing acts as a 'risk mitigation' tool.[59] But, the overall conclusion from the empirical literature seems to be that 'at the worst case, investors in ESG mutual funds can expect to lose nothing compared to conventional fund investments'.[60]

More generally, the UK Competition and Markets Authority (CMA) has recently investigated the market for investment consultants and concluded that it is not possible to claim that once fees have been taken into account managed funds do better than index trackers.[61]

This creates a situation where there seems to be no clear evidence that ESG activism and responsible investment more broadly is good for investors, but where there also is no clear evidence that it is bad for them. From the perspective of the market for stewardship, the evidence currently available cannot sufficiently incentivise end-investors and beneficiaries to demand stewardship. But it also means that overall ESG activism and responsible investment

---

[55] Elroy Dimson and others, 'Coordinated Engagements' (2019) <https://ssrn.com/id=3209072>.
[56] Tamas Barko, Martijn Cremers and Luc Renneboog, 'Shareholder Engagement on Environmental, Social, and Governance Performance' (2018) <https://ssrn.com/abstract=2977219>.
[57] Jill Fisch, 'The Uncertain Stewardship Potential of Index Funds', ECGI Law Working Paper No 490/2020, available from https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3525355, last visited 3 October 2020.
[58] For comprehensive literature reviews, see Joshua D Margolis, Hillary Anger Elfenbein and James P Walsh, 'Does It Pay to Be Good ... And Does It Matter? A Meta-Analysis of the Relationship between Corporate Social and Financial Performance' (2009) <https://ssrn.com/abstract=1866371>. Barko, Tamas & Luc Renneboog 'Mutual Funds: Management Styles, Social Responsibility, Performance, and Efficiency' in H. K. Baker, G. Filbeck & H. Kaymaz (eds.), *Mutual Funds and Exchange-Traded Funds* (OUP, 2016), 268-290; see also Samuel M. Hartzmark and Abigail B. Sussman, 'Do Investors Value Sustainability?: A Natural Experiment Examining Raking and Fund Flows', ECGI Finance Working Paper No 565/2018.
[59] See Rajna Gibson and others, 'Responsible Institutional Investing Around the World' (2019), Swiss Finance Institute Research Paper No. 20-13, <https://ssrn.com/abstract=3525530>, assessed 23 April 2020. For earlier evidence focusing on the US market see Rajna Gibson and Philipp Krueger, 'The Sustainability Footprint of Institutional Investors' (2018), Swiss Finance Institute Research Paper No. 17-05; European Corporate Governance Institute (ECGI) - Finance Working Paper No. 571/2018, <https://ssrn.com/abstract=2918926> accessed 23 April 2020.
[60] Gunnar Friede, Timo Busch and Alexander Bassen, 'ESG and financial performance: aggregated evidence from more than 2000 empirical studies' 5 Journal of Sustainable Finance & Investment 210, 226.
[61] Competition & Markets Authority, Investment Consultants Market Investigation, Final Report (2018), <https://assets.publishing.service.gov.uk/media/5c0fee5740f0b60c8d6019a6/ICMI_Final_Report.pdf> accessed 5 March 2020, page 16, para 50.

does not obviously expose them to harm. We argue below that this can explain why beneficiaries and end-investors are generally passive. We will show that the government is a financial contributor to pension investments. It therefore should connect its own contribution to pension investments with a requirement for stewardship.

2. Financial return for issuers

Another section of the literature examines if ESG activism is good for the financial performance of issuers. Here too the results are mixed. The FRC and the FCA cite academic contributions showing that 'deep engagement' by asset managers with investee companies can make it more likely that these companies pursue innovative strategies,[62] have reduced 'downside risk' (especially when target firms respond with material actions to the activists' requests),[63] and are less likely to become entrenched and engage in value-destroying M&A activity.[64] However, a recent paper reviews the breadth of the empirical literature analysing the relationship between ESG activism and firm value and concludes that the results are mixed.[65] Results are also mixed for the relationship between ESG activity and firm performance measured in accounting terms.[66] It is therefore not possible to assert that ESG activity on the whole enhances firm value. But, again, there is no evidence that ESG activity is generally harmful to issuers.[67]

3. Benefits for the Economy

The joint FRC-FCA discussion paper preceding the introduction of the UK Code 2020 references an article in which the authors conclude that a high quality financial market has a strong positive impact on macro-economic performance and supports sustainable economic growth over the long term reduces the risk of financial crises and thereby improves economic

[62] FRC and FCA, Building a regulatory framework for effective stewardship, Discussion Paper DP19/1 (2019) page 11-12 para 3.7 citing Aghion et al (2013).

[63] FRC and FCA, Building a regulatory framework for effective stewardship, Discussion Paper DP19/1 (2019) page 11-12 para 3.7 citing Andreas GF Hoepner et al, 'ESG Shareholder Engagement and Downside Risk' (2018) <https://ssrn.com/abstract=2874252>; see also Jedrzej Bialkowski & Laura T. Starks, 'SRI Funds: Investor Demand, Exogenous Shocks and ESG Profiles', (2016) Working Papers in Economics 16/11, University of Canterbury, Department of Economics and Finance.

[64] FRC and FCA, Building a regulatory framework for effective stewardship, Discussion Paper DP19/1 (2019) page 11-12 para 3.8 citing Schmidt et al (2017).

[65] Hans B Christensen, Luzi Hail and Christian Leuz, 'Adoption of SCR and Sustainability Reporting Standards: Economic Analysis and Review', ECGI Finance Working Paper 623/2019, 33; for a recent theoretical analysis on when mutual funds should vote see Sean Griffith, 'Opt-In Stewardship: Toward Optimal Delegation of Mutual Fund Voting Authority', (2020) 98 Texas Law Review _

[66] Hans B Christensen, Luzi Hail and Christian Leuz, 'Adoption of SCR and Sustainability Reporting Standards: Economic Analysis and Review', ECGI Finance Working Paper 623/2019, 33.

[67] But see Daniel Ferreira, David Kershaw, Tom Kirchmaier, and Edmund-Philipp Schuster, Measuring Management Insulation from Shareholder Pressure (June 13, 2016). LSE Legal Studies Working Paper No. 01/2016; ECGI - Finance Working Paper No. 345/2013; Asian Finance Association (AsFA) 2013 Conference, available at SSRN: https://ssrn.com/abstract=2170392 or http://dx.doi.org/10.2139/ssrn.2170392.
They argue that banks with actively engaged shareholders were more likely to need a bailout during the financial crisis.

performance.[68] This is a positive outcome from the perspective of the UK government but it does not directly translate into positive financial return for investors. The argument does not suggest that end-investors and beneficiaries do better by demanding stewardship activity. They may well be financially better off in the long term by having their service providers act strategically agile in the short term.

4. Conclusion

To conclude, our read of the empirical literature is that there is no such thing as evidence supporting claims along the lines of 'end-investors and beneficiaries will benefit in the long term' from stewardship activities translated to ESG and SRI investments. What is good for the return of beneficiaries depends on their respective circumstances. Overall there appears to be no harm in stewardship either, but that is not enough to justify that end-investors and beneficiaries spend their own resources to become stewardship-active.

B. Altruism

The UK Code 2020 defines in its introduction stewardship as the 'responsible allocation, management and oversight of capital … leading to sustainable benefits for the economy, the environment and society'.[69] This suggests that stewardship is 'the right thing to do' irrespective of financial returns. By asking for stewardship end-investors and beneficiaries can make a contribution to the common good. They are encouraged to take investment decisions with a view to creating a better world. We show below that there exists a group of suppliers of 'responsible' investment products who believe that their market will grow in the future. They are encouraged by the fact that younger pension beneficiaries and retail individuals say in surveys that they are interested in using their investment to further the common good. For the time being that investment market is, however, relatively small.[70] In addition, there exists a group of investors which large portfolios who actively pursue altruistic aims.[71]

IV. The Market Participants

In this Part the market for stewardship in the UK is analysed from the perspective of its respective participants. A distinction is drawn between beneficiaries of work place and personal pensions, small portfolio end-investors and large portfolio end-investors. We also

[68] FRC and FCA, Building a regulatory framework for effective stewardship, Discussion Paper DP19/1 (2019) page 11 para 3.5.
[69] UK 2002 Code (n 27), p 4.
[70] See below Parts IV.A and IV.B.
[71] See below Part IV.C.

analyse the perspective of pension trustees and members of independent governance committees and the role of investment consultants and fiduciary managers.

A. Beneficiaries of work place and personal pensions

Beneficiaries of pension schemes are a significant group of investors. In the UK they make up 90% of the revenues of investment consultants and fiduciary managers.[72] In terms of motivation they mainly focus on financial return and tax benefits. For instance, the Law Commission cites a study carried out by Ignition House for the FCA. The respondents to this study report that they interact with pension providers to enquire what their fund is currently worth, to find out whether they could access tax free cash, and to let the providers know they wanted access to their pension money due to a change in circumstances such as redundancy or health issues.[73]

The purpose of a pension scheme is to accumulate money for retirement, so it is not a surprise that financial value, including employer contribution levels, investment returns and tax allowance, is a dominant factor for beneficiaries. When asked to describe what they were thinking about when they were making retirement plans, the most common unprompted consideration was how much tax free cash they can have and what the maximum level of income was that they can generate with the rest. Beyond this, respondents needed to be prompted to consider factors such as longevity, health and inflation.[74]

We have seen above that the empirical evidence as to whether ESG activism and SRI enhances the financial performance of funds is mixed.[75] It is therefore no surprise that pension beneficiaries in the UK revert to default investment choices. This default option bias is well-documented across many countries.[76] In addition pension beneficiaries report that they are 'uncertain about their ability to make equity-based investments'.[77] They also felt that they received too much narrative information that was difficult to navigate and full of jargon.[78]

The Law Commission observes further that members of pension schemes view pension decisions as 'complex, unpleasant, boring, time consuming and something to be put off indefinitely'.[79] In addition, most pension savers do not appear to know how much of their

---

[72] Competition & Markets Authority, Investment Consultants Market Investigation, Final Report (2018), <https://assets.publishing.service.gov.uk/media/5c0fee5740f0b60c8d6019a6/ICMI_Final_Report.pdf> accessed 5 March 2020, page 29 para 1.14.
[73] Ignition House, Exploring Consumer Decision Making and Behaviour in the At-Retirement Landscape, prepared by Ignition House for the Financial Conduct Authority (FCA) (December 2014) page 40.
[74] Ignition House, Exploring Consumer Decision Making and Behaviour in the At-Retirement Landscape, prepared by Ignition House for the Financial Conduct Authority (FCA) (December 2014) page 45.
[75] See Part III.A.
[76] For Singapore see eg Joelle H Fong 'Taking control: Active investment choice in Singapore's national defined contribution scheme' (2020) 17 The Journal of the Economics of Ageing 1.
[77] Ignition House, Exploring Consumer Decision Making and Behaviour in the At-Retirement Landscape, prepared by Ignition House for the Financial Conduct Authority (FCA) (December 2014), page 16.
[78] Ibid, page 40.
[79] Law Commission, Penson Funds and Social Investment, Law Com No 374 (2017) paras 1.41 and 9.7.

pension is invested ethically.[80] This suggests that most beneficiaries of pensions are not likely to view their pension investment as a means through which they actively contribute to the common good.

There exists industry-funded empirical research showing that only a small proportion of investors are prepared to sacrifice return with a view to ensuring that their savings support a good cause.[81] As a result, altruism does not seem to be the main contributing factor for stimulating demand for stewardship. Younger respondents (18-24 year olds), however, express a greater interest in investing in a stewardship active way than older individuals.[82] It remains to be seen if this interest translates into decisions that prioritise stewardship over returns once the members of this group begin to make investment decision in relation to pension. It is nevertheless encouraging that the investment industry has identified stewardship active investment as a market with growth potential.

From the perspective of this Chapter we need to conclude that the beneficiaries of work place and personal pensions while collectively very significant are currently unlikely to be a source for demand for stewardship activity. The UK Code 2020 does not change this. This is a shame because they are the major source for the assets invested through investment consultants and fiduciary managers.

It is worth noting, however, that for this group tax is a critical factor. We argue in Part V below that through tax credit the government is an investor in its own right. At present the government makes pension credit available irrespective of how the money is invested. We take the view that a good way of achieving better stewardship is to design pension credit in a way that favours stewardship-active investment.

B. Small portfolio end-investors

---

[80] Madeleine Dates, 'Savers blind to how pensions are invested' Church Times (28 September 2018), <https://www.churchtimes.co.uk/articles/2018/28-september/news/uk/savers-blind-to-how-pensions-invested> assessed 24 April 2020.

[81] Movement Research, 'Identifying new ways to engage with savers in Defined Contribution Pensions', Defined Contribution Investment Forum (2013), < https://www.dcif.co.uk/wp-content/uploads/2017/06/identifying-new-ways-toengage-with-savers-in-defined-contribution-pensions-.pdf> assessed 27 April 2020.

[82] 'New Good Money Week/YouGov poll results announced', <https://www.goodmoneyweek.com/media/press-releases/new-good-money-weekyougov-poll-results-announced> assessed 24 April 2020; Madeleine Dates, 'Savers blind to how pensions are invested' Church Times (28 September 2018), <https://www.churchtimes.co.uk/articles/2018/28-september/news/uk/savers-blind-to-how-pensions-invested> assessed 24 April 2020; Franklin Templeton and Adoreboard, The Power of Emotions: Responsible Investment as a Motivator for Generation DC, <https://www.franklintempleton.co.uk/download/en-gb/common/k03xuf49> assessed 24 April 2020; there also exists experimental evidence that investors value sustainability: Samuel M Hartzmark and Abigail B Sussman, 'Do Investors Value Sustainability?: A Natural Experiment Examining Raking and Fund Flows', ECGI Finance Working Paper No 565/2018.

Small portfolio end-investors are individuals who hold financial investments. In 2016, the BIS conducted a study on the intermediated shareholding model.[83] They found that 76% of individual investors had a low interest in voting or attending AGMs although there were equity investors who valued their shareholder rights.[84] There exists, however, a group of investors who belong to shareholder representative organisations such as the Shareholders Society (ShareSoc) and the UK Shareholders Association (UKSA). For this group shareholder rights are important. They frequently describe their investment as a 'hobby' suggesting that they do not expect the time spent in researching companies and engaging with them to be compensated by returns.[85] Such investors articulate demand for stewardship.[86] The study commissioned by the BIS focused on engagement for governance purposes. It did not ask questions about ecological and social motives for engagement.

The market for stewardship-active retail investment appears to be currently relatively small. There exists research examining the attitude of retail investors towards altruistic investment strategies. A study making recommendations on how to encourage social impact investing, for example, found that only 13% or respondents have previously invested in impact investments and that only 18% of respondents were more than moderately interested in such investments.[87] A number of suppliers of what can loosely be termed 'responsible investment products' have conducted empirical research predicting substantial future growth in the market for responsible investing. Younger respondents appear to be more willing than older individuals to forgo financial return in favour of positive social or environmental outcomes.[88] It is encouraging that there exists a group of suppliers of stewardship active investment products who envisage a robust future for their market. If this demand materialises the UK Code 2020 will have a role to play in supporting the provision of disclosure.

---

[83] Department for Business, Innovation & Skills, Exploring the Intermediated Shareholding Model, BIS Research Paper Number 261 (January 2016)
[84] Ibid, p 16.
[85] Ibid, p 16.
[86] For an analysis of the impact of shareholder sponsored proposals see Nickolay Gantchev and Mariassunta Giannetti, 'The Costs and Benefits of Shareholder Democracy', ECGI Finance Working Paper Series 586/2018.
[87] Greg B Davies and Centapse, 'SII Attitudinal and Behavioural Research' (2017), <https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/659060/Social_Impact_Investment_Attitudinal_and_Behavioural_Research__Centapse.pdf > assessed 27 April 2020 at page 6.
[88] IFF Research (Ethex), Understanding the positive investor (2017), <https://www.ethex.org.uk/understanding-the-positive-investor-2017_1923.html > assessed 27 April 2020; Annual Triodos Bank Impact Investing Survey: Socially Responsible Investing market on the cusp of momentous growth, press release (5 September 2018), https://www.triodos.co.uk/press-releases/2018/socially-responsible-investingmarket-on-cusp-of-momentus-growth> assessed 27 April 2020; Barclays, Investor motivations for impact: a behavioural examination (2018) https://www.barclays.co.uk/content/dam/documents/wealthmanagement/investments/impact-investing-product/investor-motivations-for-impact.pdf> assessed 28 April 2020; AXA Investment Managers UK, Consumer Survey, (2018) < https://adviser.axa-im.co.uk/a-more-responsible-approach-toinvesting?linkid=consumersurvey2018-navigationbanneramoreresponsibleapproachtoinvesting > assessed 27 April 2020; Newton Investment Management, 'Matching Strategies to Investors' Goals' (2019), < https://www.newtonim.com/uk-institutional/insights/articles/social-investmentmatching-strategies-to-investors-goals/> assessed 27 April 2020.

C. Large portfolio end-investors

There exists a group of end-investors who have portfolios that are sufficiently large for them to be able to stimulate demand for stewardship. Examples are endowment funds and sovereign wealth funds (SWFs). These are potential candidates from which demand for stewardship can emerge.

Empirical evidence systematically surveying the attitudes of these investors in relation to stewardship is, however, scarce.[89] The Schroder 2019 survey among institutional investors (pension funds, insurance companies, foundations, endowments and SWFs) confirms that sustainable investing gains traction globally. 50% of the respondents state that they have increased their sustainable investments over the last five years, while 75% believe that 'sustainability will play a more important role in the next five years'. But performance concerns and a lack of transparency are reported as institutional investors' biggest sustainability challenges. In fact, 49% of the respondents (up from 34% in 2018) consider performance as the most important driver for future adoption of sustainable investing.[90] While this survey is not limited to endowment funds and SWFs, it suggests that the extent to which large portfolio end-investors engage in stewardship depends on their respective investment strategy. If their focus is on generating a financial return, they will take a view on how this is best achieved. This may lead to engagement in stewardship.[91] It may, however, also lead to the conclusion that their financial goals are best served by adopting an agile short-term strategy. Either way the fact that there is no clear evidence that ESG and sustainable investing leads to better financial results means that financial return is hardly going to be motivator encouraging this group to embark stewardship activities.

There are, of course, some large portfolio beneficiaries who pursue investment strategies that, in addition to financial return, are also influenced by wider aims. The Norwegian Government Pension Fund Global, the world's largest sovereign wealth fund, is a key example of an early adopter of sustainable investing practices.[92] But while there is some evidence that the Norwegian SWF can effect changes in the corporate governance policies of its portfolio

[89] There is, of course, a body of literature analysing family-controlled businesses but these are not the focus of this Chapter.
[90] Schroders, Institutional Investor Study: Sustainability (2019) <https://www.schroders.com/en/sysglobalassets/digital/institutional-investor-study/sustainability/pdf/Schroder2019_SIIS_Sustainabilityv2.pdf> assessed 28 April 2020
[91] There is evidence that SWFs do take climate change and sustainability seriously. See, for instance, the One Planet Sovereign Wealth Funds: https://oneplanetswfs.org/
[92] For the investment approach adopted by the Norwegian Government see https://www.nbim.no/en/the-fund/about-the-fund/. For how stewardship is exercised in Norway, see generally Jukka Mähönen, Beate Sjåfjell and Monica Mee, 'Stewardship Norwegian-Style: Fragmented and State-Dominated (but not without potential), available from https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3635359, last visited 3 October 2020.

firms,[93] there are academic voices that warn that sustainability and stewardship is not given any priority at the expense of financial returns.[94]

Charitable organisations with a large investment portfolio also fall in this category.[95] A survey including 75 non-profits in the US finds that while sustainable investing strategies are gaining traction (38% invest in sustainability and a further 12% plan to do so in 2019), 60% of the respondents cite 'concerns about performance' as the key factor preventing them from investing in sustainable investments.[96] Some of them receive scrutiny from the public. In the UK the Church of England falls in this category.[97] Another UK example is the Duchy of Cornwall which funds the public, charitable and private activities of the Prince of Wales and his family. Investments held by the Duchy of Cornwall have been publicly scrutinised against the values promoted by the current holder of the title.[98]

Some large portfolio end-investors are therefore motivated to generate demand for stewardship. It is worth noting, however, that the focus of the public interest in this context is on environmental and social factors. There is less public scrutiny in relation to the level of engagement in the area of governance. The public interest in governance tends to scrutinise issuers rather than investors.

For end-investors with large portfolios we can assume that, given the empirical evidence, financial return is likely to be a weak factor motivating demand for stewardship. Some in this group are nevertheless motivated to exercise and deliver demand for stewardship for altruistic reasons. They will benefit from better disclosure of stewardship activity. They also have the bargaining power to carry out negotiations with their respective service providers. It is doubtful, however, how far their efforts on their own can go to generate the desired demand for stewardship.

---

[93] Ruth V Aguilera, Ruth, Vicente J. Bermejo, Javier Capapé and Vicente Cuñat, 'The Systemic Governance Influence of Universal Owners' (2020), European Corporate Governance Institute - Finance Working Paper No. 625/2019; Northeastern U. D'Amore-McKim School of Business Research Paper No. 3411566, <https://ssrn.com/abstract=3411566> assessed 27 April 2020.

[94] For a critical view see Beate Sjafjell, Heidi Rapp Nilsen & Benjamin J. Richardson, 'Investing in Sustainability or Feeding on Stranded Assets: The Norwegian Government Pension Fund Global', (2017) 52 Wake Forest Law Review 949.

[95] Based on recommendations by the Law Commission, the duties of charitable trustees in relation to social investment have recently been clarified [Law Commission, Social Investment by Charities, The Law Commission's Recommendations (2014); The Charities (Protection and Social Investment) Act 2016, 2016 c 4].

[96] SEI Institutional Investors Sustainable Investment Survey 2018, <https://seic.com/sites/default/files/inline-files/SEI%20Sustainable%20Investing%20Survey%202018.pdf> assessed 28 April 2020.

[97] For the approach adopted by the Church of England see https://www.churchofengland.org/more/media-centre/news/finance-news/church-commissioners-england-achieve-positive-return-18-2018. On social shareholder engagement by religious organizations in general, see Jennifer Goodman 'Religious Organizations as Shareholders: Salience and Empowerment' in Maria Maranova and Lori V. Ryan (eds.) Shareholder Empowerment (Palgrave, 2015) 201.

[98] https://www.theguardian.com/news/2017/nov/07/prince-charles-profit-best-friend-hugh-van-cutsem-offshore-firm-paradise-papers.

D. The role of pension trustees and members of independent governance committees

Most workplace pension schemes are overseen by trustees.[99] There are also pension schemes which operate on the basis of a contract rather than a trust. The providers of personal pensions are overseen by the FCA which has imposed a requirement for an independent governance committee. The committee has the duty to scrutinise the value for money of the provider's pension schemes taking into account transaction costs. They must act solely in the interests of the relevant scheme members and independently of the provider.[100]

Both pension trustees and members of governance committees are appointed to ensure that pensions are adequately managed. They have the mandate to protect the interests of beneficiaries. Pension trustees identify the service providers who manage pension assets. They rely on advice from investment consultants in taking these decisions. They also appoint and oversee fiduciary management services.

Pension trustees and committee members are bound by the terms on which they have been appointed. Invariably the core focus of their mandate is the generation of financial return. They have to consider ESG factors when these are financially material.[101] The law is sufficiently flexible to permit pension trustees to make investment decisions that are based on non-financial factors (such as environmental and social concerns) provided that they have a good reason to think that the scheme members share the concern, and that there is no risk of significant financial detriment to the fund.[102] Investment by a default fund therefore should not provide a significantly lower return that one available elsewhere.[103]

From the perspective of generating demand for stewardship trustees and committee members are likely to tread carefully.[104] Financial materiality is an over-riding factor and there is no evidence that ESG activity leads to generally better financial returns. Even if pension trustees have good reasons to think that beneficiaries hold values that favour investments with a certain impact, they cannot risk significant financial detriment. Trustees are therefore only able to integrate ESG in their assessment of financial risk. They are likely to be more acutely aware of short-term risk factors. These are easier to identify and require a timely response.

[99] Pensions Act 1985, section 16-21; Pensions Act 2004, sections 241-243.
[100] FCA, COBS 19.5.
[101] Law Commission, Pension Funds and Social Investment (2017) Law Com No 374, page 2, page 5 para 1.25 and page 130 para 1.20; Law Commission, Fiduciary Duties of Investment Intermediaries (2014) Law Com No 350, para 6.99 – 6.102; There exists, for example, empirical evidence that climate risk is a factor that institutional investors including pensions funds incorporate into their decision making (https://ecgi.global/working-paper/importance-climate-risks-institutional-investors).
[102] Law Commission, Pension Funds and Social Investment (2017) Law Com No 374, 2; Law Commission, Pension Funds and Social Investment (2017) Law Com No 374, page 5 para 1.26.
[103] Law Commission, Pension Funds and Social Investment (2017) Law Com No 374, page 5 para 1.26.
[104] Barriers, for instance, are posed by the ‘interpretative pluralism’ of the concept of fiduciary duties. See Anna Tilba and Arad Reisberg ‘Fiduciary Duty under the Microscope: Stewardship and the Spectrum of Pension Fund Engagement’ (2019) 82 Modern Law Review 436.

Medium- or long-term risk factors are more difficult to integrate into decision making. They are harder to predict. Moreover, it is for the trustees' discretion to evaluate which risks are material and how to take them into account.[105] From the perspective of financial return engaging with issuers may not be the best strategy to address medium- to long-term risk. The better strategy may be to avoid exposure to issuers associated with these risks. The Church of England has, for example, recently announced that it will withdraw from investing in carbon intensive industries.[106]

From 1 October 2019 trust-based DC pension schemes are required to set out in their Statement of Investment Principles (SIP) how they take into account financial material considerations, including those arising from ESG, and their policies in relation to stewardship, including the exercise of voting rights and other engagement and monitoring activities.[107] A survey by the UK Sustainable Investment and Finance Association (UKSIF) finds that two thirds of trustees have not complied with the new requirement to publish their policies by mid-November 2019. Among those who have published their SIPs, policies are mostly vague and they have all given their investment manager full discretion for managing financially material ESG risks and stewardship. The survey concludes that 'building a market in stewardship will require a step change in trustees' approaches'.[108]

The UK Code 2020 does not substantially change the approaches adopted by trustees. As we have seen above, stewardship is defined as the responsible allocation, management and oversight of capital to create 'long-term value' for clients and beneficiaries 'leading to sustainable benefits for the economy, the environment and society'.[109] Along similar lines Principle 1 states that signatories' purpose, investment beliefs, strategy and culture enable stewardship that creates long-term value for clients and beneficiaries 'leading to sustainable benefits for the economy, the environment and society'. Neither the phrase 'leading to sustainable benefits for the economy, the environment and society' nor the phrase 'long-term value' is intended to modify the mandates governing the decisions making of trustees. Trustees would not be able to bind themselves to the Code if it required them to act in breach of duty. The UK Code 2020 itself acknowledges that trustees need to act in the best interests of clients and beneficiaries. Principe 6 states that signatories take account of client and beneficiary needs and communicate the activities and outcomes of their stewardship and investment to them.[110]

---

[105] Law Commission, Pension Funds and Social Investment (2017) Law Com No 374, page 130 para 1.20.
[106] https://www.independent.co.uk/news/uk/home-news/church-of-england-climate-change-investment-withdraw-paris-agreement-fossil-fuels-a8437781.html.
[107] See the Occupational Pension Schemes (Investment) Regulations 2005, 2(3)(b)(vi) and 2(3)(c) for financially material ESG considerations and stewardship, respectively. On the relationship between these new rules and the UK Code 2020, see Katelouzou (n 1).
[108] UK Sustainable Investment and Finance Association (UKSIF), 'Changing course? How pensions are approaching climate change and ESG issues following recent UK reforms' (February 2020) <https://www.responsible-investor.com/reports/uksif-or-changing-course-how-pensions-are-approaching-climate-change-and-esg-issues-following-recent-uk-reforms> assessed 28 April 2020.
[109] UK Code 2020 (n 27), p 4.
[110] See also UK Code 2020, (n 27), page 8, second bullet point under the heading 'Outcome'.

They are encouraged to disclose the length of the investment time horizon they have considered appropriate to deliver to the needs of clients and beneficiaries.[111]

Moreover, the government has expressly stated that it does not intend to direct the investment decisions or strategies of trustees of pension schemes. They ‘will never exhort or direct private sector schemes to invest in a particular way. Trustees have absolute primacy in this area’.[112] Notwithstanding the work that went into the clarification of the duties of trustees and the updating of the UK Code, financial materiality continues to be the over-riding factor. In addition, there exists a structural problem. The CMA finds that trustees of small schemes and trustees of defined contribution schemes are less engaged.[113] Less engaged trustees do, for example, not set objectives against which the quality of their investment consultants can be judged.[114] This observation that engagement and stewardship is difficult for small scheme trustees and trustees for defined contribution schemes seems to still exist notwithstanding the 2019 regulatory changes.[115]

Small schemes are likely to suffer from the fact that they do not have sufficient resources. Defined contribution schemes suffer from the limited oversight by their beneficiaries. In defined contributions schemes the beneficiaries are the individual members and we have already seen that they do not take great interest in their pensions. In defined benefit schemes members receive retirement income depending on the years worked and depending on their final salary. The employer thus bears the risk of poor investment outcomes.[116] It is possible that trustees of such schemes benefit from greater engagement by employers. The CMA has made recommendations addressing the lack of engagement by trustees.[117] These however do not modify the mandate of trustees to prioritise in the financial interest of their beneficiaries.

From the perspective of this Chapter we therefore need to conclude that the financial materiality requirement presents a barrier to the ability of trustees to make a stewardship contribution for the benefit of the public good and prioritise altruism over financial return.

E. Investment consultants and fiduciary managers

[111] 2020 UK Code, (n 27), page 13 second bullet point under the heading 'Context'.
[112] Department for Work & Pensions, Clarifying and strengthening trustees' investment duties (September 2018) page 3.
[113] Competition & Markets Authority, Investment Consultants Market Investigation, Final Report (2018), page 13 para 32.
[114] Ibid, page 11 para 24 and page 15 para 48.
[115] Law Commission, Pension Funds and Social Investment (2017) Law Com No 374.
[116] Competition & Markets Authority, Investment Consultants Market Investigation, Final Report (2018), page 17 para 58-59; for an analysis of decisions taken by pension trustees acting for defined benefit schemes see https://ecgi.global/working-paper/corporate-governance-defined-benefit-pension-plans-evidence-united-kingdom.
[117] Competition & Markets Authority, Investment Consultants Market Investigation, Final Report (2018), page 7.

Investment consultants provide advice in relation to strategic asset allocation, manager selection, fiduciary management. Fiduciary managers (using the CMA terminology) make and implement investment decisions including but not limited to the responsibility for asset allocation and fund/manager selection.[118] These services providers are able to supply stewardship. Service providers who operate as consultants can incorporate stewardship into their advice. Service providers who are in position to exercise shareholder rights can integrate stewardship ensuring that they make appropriate use of the rights they have been entrusted with.

The conclusion of the previous Sections has been that these providers are receiving limited demand for stewardship.[119] Beneficiaries of work place and personal pensions contribute 90% to the revenue of these providers. [120] But their focus is on financial return and there is no equivocal evidence that responsible investment increases the return of investors. Small portfolio end-investors who care about stewardship are unlikely to use the services of investment consultants or fiduciary managers. They are more likely to put together their own portfolios and hold securities directly and hold savings accounts or ISA.[121] There is a hope that the market for stewardship will grow in the future when younger individuals who have expressed an interest in stewardship active investment products come into money. Some large portfolio end-investors care about stewardship and exercise demand but while their efforts can serve as role-models their market share is too small to bring about a market for stewardship. On the whole, therefore, the terms on which investment consultants and fiduciary managers are appointed are very likely to focus on the generation of financial return without substantially integrating stewardship factors.

In addition, the CMA has identified problems with competition. The CMA observes that customers do not have sufficient information to judge the quality of their provider. There is also limited information for prospective customers to compare investment consultant's fees and quality of service. It is very difficult for prospective customers to assess the quality of different providers. For example, the different ways used by investment consultants and fiduciary management providers to show performance of their recommended asset management products

---

[118] Competition & Markets Authority, Investment Consultants Market Investigation, Final Report (2018), <https://assets.publishing.service.gov.uk/media/5c0fee5740f0b60c8d6019a6/ICMI_Final_Report.pdf> accessed 5 March 2020, page 8 para 3.

[119] For previous literature highlighting the lack of incentives to engage in stewardship arising from the perspective of the internal governance and business structures of funds Roger M Barker and Iris HY Chiu, *Corporate Governance and Investment Management: The Promises and Limitations of the New Financial Economy* (Edward Elgar Publishing 2017). Davies, (n 20) and Fisch, (n 57) also highlight the limited ability of institutional investors and index funds (respectively) to deliver stewardship activity.

[120] Competition & Markets Authority, Investment Consultants Market Investigation, Final Report (2018), <https://assets.publishing.service.gov.uk/media/5c0fee5740f0b60c8d6019a6/ICMI_Final_Report.pdf> accessed 5 March 2020, page 29 para 1.14.

[121] See e.g. Ethex, Understanding the positive investor (n 88) (finding that most of the UK population are most interested in less sophisticated savings and investment products (44% interested in savings accounts, 43% in current accounts and 40% in a positive ISA) as the method of making a positive investment).

makes this information difficult to compare.[122] Investment performance is often reported on a gross of fee basis which does not reflect the real outcome for the pension scheme.[123] Moreover, there are concerns about investment consultants using their position to steer clients into their own fiduciary management services.[124]

There is also a concentration occurring in the market for fiduciary management services.[125] In the US funds managed by BlackRock, Vanguard and State Street have become the largest investors in capital markets. They now have significant influence on issuers.[126] While this means that they have the bargaining power to be actively engaged with issuers, it unfortunately also means that they are becoming increasingly immune to pressures from their clients.

There is also evidence that asset managers in particular are reluctant to respond to demand from trustees in relation to stewardship. The Association of Member Nominated Trustees (AMNT) has been active in engaging with asset managers in relation to stewardship and voting. They have developed a model policy for shareholder engagement.[127] The AMNT has published a report reviewing the voting policies and practices of fund managers in 22 May 2019.[128] They found that the efforts of their members to engage with service providers on stewardship had not been welcomed by them. Trustees were told that they should leave stewardship to fund managers as they have the resources and expertise to develop voting policies. They were also told that if clients do not like their fund manager's approach to stewardship they should take their business elsewhere.[129]

The AMNT expressed the view that the use of ambiguous and seemingly boiler plate language, coupled with the small number of fund managers disclosing a voting guideline on this leaves trustees with little information to ascertain the degree of seriousness the fund managers takes the issue.[130] This fits with views expressed by pension beneficiaries in the survey conducted for the FCA. They mentioned that they received too much narrative information that was difficult to navigate and full of jargon.[131]

---

[122] Competition & Markets Authority, Investment Consultants Market Investigation, Final Report (2018), <https://assets.publishing.service.gov.uk/media/5c0fee5740f0b60c8d6019a6/ICMI_Final_Report.pdf> accessed 5 March 2020, page 10-11 paras 24-29.
[123] Ibid, page 12 para 27.
[124] Ibid, page 13 para 36 and 39.
[125] Ibid, page 17 para 56.
[126] Marcel Kahan and Edward Rock, 'Index Funds and Corporate Governance: Let Shareholder be Shareholders', ECGI Law Working Paper 467/2019 (https://ecgi.global/working-paper/index-funds-and-corporate-governance-let-shareholders-be-shareholders).
[127] http://redlinevoting.org.
[128] Association of Member Nominated Trustees, AMNT review into fund managers' voting policies and practices (2019).
[129] Ibid, page 5.
[130] Ibid, page 8.
[131] Ignition House, Exploring Consumer Decision Making and Behaviour in the At-Retirement Landscape, prepared by Ignition House for the Financial Conduct Authority (FCA) (December 2014) page 40.

Another example pointing towards low levels of motivation for stewardship engagement on the part of asset managers is the Investor Form. It was set up following a recommendation by the Kay Review to facilitate co-operation across the industry but has generated a small amount of collective activity. Its website reports that it in four (!) years it conducted 23 engagements at board level with individual issuers, conducted 8 major stewardship projects and 12 full stewardship and strategy fora.[132]

We have already seen that the UK Code 2020 is trying to address the problem of boilerplate reporting by requiring reports to set out activities and analyse outcomes. This should inspire signatories to improve the quality of their reporting. On its own this is, however, not sufficient to bring about a market for stewardship.

V. THE ROLE OF THE GOVERNMENT

We argue in this Part that the UK Government fall short of fully appreciating its role in relation to stewardship. It commits substantial resources to overseeing the market but does not give sufficient weight to the fact that it makes a significant financial contribution by subsidising the provision of pensions through the tax system. We will first show how the government currently oversees the market and then suggest that the government is an investor in its own right. It should do what it expects of other market participants and insist on stewardship active investment.

A. The government as a facilitator and supervisor of the market

The UK Government defines its role as facilitating a market for stewardship and also as overseeing financial services providers ensuring that they live up to the commitments they have made to their clients. This puts beneficiaries and end-investors at the centre stage of the market for stewardship.

The immediate responsibility for the Stewardship Code lies with the FRC/ARGA.[133] But this is only the tip of the iceberg. Several departments and government bodies have active workstreams in the area addressing the topic from their respective responsibilities. The entities that are involved in addition to the FRC are the FCA, the Treasury, the Department for Business, Energy & Industrial Strategy (BEIS), the Department for Work and Pensions (DWP) and the Pensions Regulator (tPR).

The FCA oversees financial services providers. It has expressed a strong interest in effective stewardship. It takes the position that high stewardship standards will contribute to

---

[132] https://www.investorforum.org.uk/wp-content/uploads/2019/01/Annual_Review_2018.pdf at page 3.
[133] On the transition of the FRC to the new Audit, reporting and Governance Authority (ARGA), see https://www.frc.org.uk/news/may-2019/the-frc-sets-out-its-transition-pathway assessed 29 April 2020.

the FCA's strategic objective to ensure that markets function well including its three operational objectives: market integrity, consumer protection and effective competition.[134] The FCA believes that stewardship enhances the quality of markets and the effectiveness of capital allocation.[135] It aims to ensure that regulated financial services firms such as asset managers and life insurers deliver good outcomes for their customers.[136] It also believes that it has a role in setting standards for the interaction between issuer companies and their investors.[137] The FCA will consider the extent to which a firm that claims to engage in stewardship is doing it appropriately, and will also review how stewardship contributes to the fulfilment of a firm's stated purpose.[138]

Neither the FRC nor the FCA, however, can and should modify the contractual terms that operate between clients and their service providers. The FCA does take the view that '[f]or many firms, the exercise of stewardship will be integral to the effective delivery of their services to clients and beneficiaries, for example, when an asset manager invests on behalf of asset owners over the long term'.[139] But FRC and the FCA also concede that, '[i]n other cases, stewardship may not be integral to a firm's acting effectively as the agent for its clients'.[140]

The Treasury has conducted work with a view to ensuring that UK based firms have access to long-term (patient) finance allowing them to scale up.[141] One of the aims is to encourage the pension industry and in particular those responsible for the growing pot of money held in defined contribution schemes to invest into innovative high growth firms.[142] The Treasury was also responsible for adopting The Proxy Advisors (Shareholders' Rights) Regulation 2019.[143] None of these efforts, however, override what is agreed contractually between market participants.

The Department for Business, Energy & Industrial Strategy is responsible for company law. It has also published research on the Intermediated Shareholder Model. The aim of the paper was to identify operational barriers to the exercise of voting rights by shareholders.[144] The BEIS was also responsible for the implementation into UK law of the sections relating to

---

[134] FRC and FCA, Building a regulatory framework for effective stewardship, Discussion Paper DP19/1 (2019) page 4 paras 1.13-1.14
[135] Ibid, page 4-5 para 1.15 and page 8 para 2.9.
[136] Ibid, page 4 para 1.14.
[137] Ibid, page 4-5 para 1.15 and page 8.
[138] Ibid, page 5 para 1.16.
[139] Ibid, page 4 para 1.14.
[140] Ibid, page 4 para 1.14.
[141] HM Treasury, Financing growth in innovative firms: one year on (2018) 2.
[142] Ibid 2.
[143] SI 2019/926; the FCA is currently in the process of bringing its rulebook in line with the 2019 Regulation: https://www.fca.org.uk/publications/consultation-papers/cp19-21-proxy-advisors-shareholders-rights-regulation-depp-and-eg.
[144] Department for Business, Innovation and Skills, Exploring the Intermediated Shareholding Model, BIS Research Paper Number 261 (2016), page 14.

the remuneration of Shareholder Rights Directive 2017.[145] It has no powers to cause end-investors and beneficiaries to adopt a particular approach towards investment.

The Department for Work and Pensions is responsible for legislation for private occupational pensions.[146] The Pension Regulator oversees pension trustees and employers. We have seen above that the Pension Regulator's work operates within the framework of financial materiality.

It would be possible to impose a regulatory duty on service providers to exercise stewardship.[147] That would solve the problem that they are currently not receiving sufficient demand from end-investors and beneficiaries to be ESG active. Such a regulatory strategy would, however, be a significant intervention imposing an investment strategy across the market.

The UK Government is fully committed to bringing about stewardship. It has invested a significant amount of effort into reviewing the duties of trustees and developing a Stewardship Code. These efforts have, however, fallen short of appreciating the full range of factors influencing demand for stewardship. While it is right to integrate the interests of end-investors and beneficiaries into the analysis. It is wrong to stop there. It is important that the government should take into account that it is a financial contributor to the market for stewardship in its own right.

B. As a financial investor

The government is a significant financial contributor to the financial services industry and thus a financial stakeholder in the market for stewardship. It has already been mentioned that the CMA concluded that pension schemes represent 90% of the revenues of investment consultants and fiduciary managers.[148]

The current prominence of pension schemes is not a spontaneous market driven phenomenon. The government makes a significant contribution to the monies invested through pensions. It contributes through tax relief. Pension tax relief is only available for financial assets. Non-financial assets such as residential property do not qualify for pension tax relief.[149]

[145] Directive 2017/828/EU and Commission Implementing Regulation (EU) 2018/1212 of 3 September 2018, OJ 4 September 2018 L233/1; the sections relating to proxy advisors were implemented by The Treasury.
[146] Department for Work & Pensions, Clarifying and strengthening trustees' investment duties, Government respons, The Occupational Pensions Schemes (Investment and Disclosure) (Amendment) Regulations 2018 (now the Pension Protection Fund (Pensionable Service) and Occupational Pension Schemes (Investment and Disclosure) (Amendment and Modification) Regulations 2018) (September 2018).
[147] See, further, Iris H-Y Chiu and Dionysia Katelouzou 'Making a Case for Regulating Institutional Shareholders' Corporate Governance Roles (2018) Journal of Business Law 67; Iris HY Chiu 'Is the time ripe to subject asset management to more regulatory governance' (2019] 40(7) Company Lawyer 205-207.
[148] Competition & Markets Authority, Investment Consultants Market Investigation, Final Report (2018), <https://assets.publishing.service.gov.uk/media/5c0fee5740f0b60c8d6019a6/ICMI_Final_Report.pdf> accessed 5 March 2020, page 29 para 1.14.
[149] Only commercial real estate does.

This has channelled money into financial investments and generated demand for the provision of investment consultancy and fiduciary management services.

By giving tax favourable treatment to certain types of investments the government has helped to create a market that has not previously existed. Fifty years ago most shares in UK companies were owned by individuals. They dealt through brokers.[150] From the 1960s the coverage of occupational pension schemes among UK employees was greatly extended.[151] Auto-enrolment has recently further widened the scope of occupational pensions.

In so far as the government makes a financial contribution to investments it is entitled to involve itself in how investment decisions for pensions are taken. It also has a responsibility to engage. Like all other beneficiaries of and contributors to the market the government should act as a steward in relation to its own investment.

Moreover, through its tax contribution the government skews the market. Beneficiaries of pensions make their return through tax savings. This discourages them from paying close attention to the returns generated by their investment portfolios. This in turn deprives the investment consultancy and fiduciary management industry of oversight and thus creates a problem in its own right.

While there is no direct evidence on how tax relief affects the demand of stewardship, when it comes to sustainability investing, it seems that tax relief on the investment is not considered as a key factor when selecting an investment that supports a social or environmental cause. Transparency of where the funds are going, the expected financial risks and returns of the investment are considered more important. But the same survey reports that for younger, higher income, investment savvy and educated city-dwellers (impact-maximisers) tax relief is an important aspect in trading-off financial for social outcomes.[152]

The government is also a financial stakeholder as a residual loss bearer. When the financial system collapsed in 2008 the government bore the financial burden of the rescue. The government is likely to feel obliged to intervene if the pension system experiences a shock.

The problem that there is not sufficient demand for stewardship could be solved through a regulatory duty imposed on service providers to be stewardship active.[153] Such a duty would, however, cover all investments in particular also those to which the government has not made a financial contribution. For these the government has no right to insist om any particular investment strategy. An indiscriminate regulatory duty also does not resolve the problem that the government is currently distorting the market.

---

[150] Kay Review, (n 21) para 3.1.
[151] Kay Review, (n 21) para 3.2.
[152] Greg B Davies and Centapse, 'SII Attitudinal and Behavioural Research' (2017), <https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/659060/Social_Impact_Investment_Attitudinal_and_Behavioural_Research__Centapse.pdf > assessed 27 April 2020.
[153] See Chiu and Katelouzou, n 147.

In our view the government's decision to invest, by granting tax breaks, its own money into the pension sector without insisting on ESG engagement is a significant contributor to the problems the UK Stewardship Code is trying to solve. In addition to providing sets of principles that asset owners and asset managers as well as service providers are encouraged to adopt and that end-investors and beneficiaries are encouraged to demand, the government should acknowledge that it is an investor in the industry. In that capacity the government has its own stewardship responsibilities. It should take these seriously and ensure that its own money is responsibly invested and in line with the stewardship principles it has set for all other market participants. We propose that pension reliefs are attached to conditions that funds invested through these schemes be invested responsibly in a way that promotes stewardship. Reforming pension tax reliefs are already the subject of intense debate in the UK.[154] But no attention has been given so far on the potential social value of tax reliefs.[155] Utilizing tax reliefs to increase the flow of stewardship active capital can place the tax system at the wider service of promoting the sustainability of the financial system and stimulate the demand side of the stewardship market.[156] Such tax reliefs will both have a direct impact on the investment strategies of pension schemes but will also meet the increasing demand – especially for millennials – for social investments.

VI. Conclusions

The UK government believes that stewardship has benefits for investors, issuers and the economy as a whole. The UK Code 2020 is built on this premise. Asset owners, asset managers and other service providers work for the benefit of those who contribute the funds that they invest. They do what they are told to do by their clients. The government is therefore right to conclude that stewardship can be brought about by encouraging those whose money is invested to demand stewardship activity from asset owners, asset managers and other service providers. The government is, however, wrong to limit their encouragement to end-investors and beneficiaries. While some demand for stewardship may grow in the future from younger individuals interested in stewardship active investment or some large portfolio end-investors, their market share is too small on the whole to bring about a market for stewardship.

For a market for stewardship to materialise, the UK government should put its own money where its mouth is. The government contributes substantial funds to the market for financial investments. The government makes its contribution through the provision of tax credit. 90% of the revenue of investment consultants and fiduciary managers derives from

---

[154] House of Commons, Reform of Pension Tax Relief (7 February 2020), <https://commonslibrary.parliament.uk/research-briefings/cbp-7505/> assessed 29 April 2020.
[155] Note that the social value of tax relief in the UK has been already utilised in relation to community investment and the aim to develop a 'social impact investment market'. See e.g. Jay Wiggan, 'Policy Boostering the Social Impact Investment Market in the UK' (2018) 47 Journal of Social Policy 721.
[156] For similar tax proposals in the UK and the US connecting tax reliefs to the mitigation of climate change, see Andrew Baker and Richard Murphy 'Modern Monetary Theory and the Changing Role of Tax in Society' (2020) Social Policy & Society 1, 11.

pensions. In 2017-8 tax credit for registered pension schemes cost £37.8 billion. The Chapter critically argues that as a sponsor of pension and other forms of savings the government has a significant financial stake in the vast majority of financial investments. It should, therefore, act in the same way it expects beneficiaries and end-investors to act and demand stewardship. Tax credit relief should change and be available only for stewardship active forms of financial investments.

about ECGI

The European Corporate Governance Institute has been established to improve *corporate governance through fostering independent scientific research and related activities.*

The ECGI will produce and disseminate high quality research while remaining close to the concerns and interests of corporate, financial and public policy makers. It will draw on the expertise of scholars from numerous countries and bring together a critical mass of expertise and interest to bear on this important subject.

The views expressed in this working paper are those of the authors, not those of the ECGI or its members.

Electronic Access to the Working Paper Series

The full set of ECGI working papers can be accessed through the Institute's Web-site (https://ecgi.global/content/working-papers) or SSRN:

Finance Paper Series	http://www.ssrn.com/link/ECGI-Fin.html
Law Paper Series	http://www.ssrn.com/link/ECGI-Law.html