

Trusteeship of the CBF Church of England Funds

INTRODUCTION

1. The CBF Church of England Funds ('the Funds') were set up under the Church Funds Investment Measure 1958 ('the 1958 Measure') as a means of providing an integrated investment and cash deposit service for parishes, dioceses, cathedrals and other Church of England bodies wishing to avail themselves of it. That intention has proved very successful; a substantial proportion of investment funds (other than glebe) held by dioceses, parishes and cathedrals are now invested in the Funds.
2. The Central Board of Finance ('CBF') (whose membership is coterminous with that of the Archbishops' Council) has been trustee of the Funds since their inception. The CBF decided it was timely to conduct a review to consider whether the current arrangements remained appropriate. This paper reports on that review, particularly the recommendation that General Synod should now transfer trusteeship to a new trustee body which has been set up for the purpose.

THE HISTORICAL BACKGROUND

3. From early on, the CBF Investment Office shared its staff, its facilities and the joint costs on an informal basis with the Local Authorities Mutual Trust ('LAMIT') and COIF (formerly the Charities Official Investment Fund), with staff reporting directly to three bodies of trustees. Under the 1958 Measure the CBF effectively exercised the role of trustee and manager. This is like the pension fund model where the trustee is ultimately responsible and may delegate management to a separate manager. It is unlike a unit trust structure where the manager and trustee are independent of each other and it is the manager who appoints, and can replace, the trustee.
4. When the Financial Services Act 1986 came into force, the CBF, COIF and LAMIT Funds were specifically exempted from the Act, but it was necessary to form a management company, CCLA Investment Management Ltd, ('CCLA') that could be authorised and regulated to provide investment services covered by the new legislation. CCLA's role with regard to the CBF Funds became formalised in due course in investment management agreements under which the CBF, as Trustee and Operator of the Funds, delegated the investment management, administration, registrar and secretarial functions of the Funds to CCLA.

THE CURRENT STRUCTURE

5. CCLA provides investment management, marketing, client services, reporting, registrar, administration and company secretarial services to CBF, COIF and LAMIT Funds. It also provides ethical and responsible investment services to the COIF Trustees, CBF Funds and other church bodies. It currently has a

Board of nine, with the possibility of increasing to ten. Of the four non-executive directors, two (including the Chairman) are currently appointed by the CBF (Mr James Dawney and Mr Miles Roberts), one by COIF (Mr Richard Fitzalan Howard) and one by LAMIT (Mr Roy Wilson). There is a 'deadlock' structure such that company business requires the consent of a non-executive director representing each of the three shareholders. There are five executive directors appointed by the Board of CCLA. CCLA has over £4.5 billion under management.

6. The Funds account for about 43% of CCLA's funds under management. Details of each of the Funds is available at the 'Churches' section of <http://www.ccla.co.uk/>. The largest number of accounts (as opposed to the largest amount in value) is held by PCCs (who are free to hold a number of accounts for different purposes). The current amount invested in each of the CBF Funds is as follows:-

At 31.12.06	£m*	Clients	No of a/cs
CBF Investment Fund	993.31	3,329	18,827
CBF Fixed Interest Securities Fund	77.86	990	3,307
CBF Property Fund	176.66	192	446
CBF UK Equity Fund (from Dec 04)	138.63	21	31
CBF Deposit Fund	842.18	11,760	29,636
TOTAL	2,228.63	13,143	52,247

* total excluding cross holdings £1,994.15 million

7. As trustee of the Funds the CBF is therefore responsible for nearly £2 billion of assets. The CBF as trustee is not considered to be operating the investment funds by way of business within the terms of the Financial Services and Markets Act 2000, hence the CBF is not regulated and authorised by FSA and the members of the CBF are not required to be authorised by the FSA for this purpose. The CBF exercises its role as trustee through its Executive Committee, which in turn looks to the CBF's Investment Committee to monitor and review the performance of the Funds quarterly. The Executive Committee has a twice-yearly report. The memberships of the CBF and its Executive Committee are coterminous with those of the Archbishops' Council and its Finance Committee respectively.
8. The 1958 Measure provides that the CBF may by instrument in writing, confirmed by resolution of the General Synod, appoint some other body corporate having objects concerned with the work of the Church of England to hold and administer the Funds as trustee in place of the CBF.
9. The present structure of the Funds has the character of a collective with the Church having a trustee role. Management charges are below market norms. Investments held in the Funds comply with the Church's ethical guidelines, as currently defined by the Ethical Investment Advisory Group. CCLA has a reputation for efficient administrative arrangements and is responsible for the management of the relationship with the underlying investors.

CONTEXT: REVIEW OF STRUCTURE AND REGULATION MATTERS (2003-6)

10. It was opportune to review the structure and regulation of the CBF Funds, as this had not been done recently and this was an area in which the Church would rightly expect to be assured that arrangements were in place that were appropriate to the present time. There is now much greater awareness of risk and it is important that a trustee body is equipped to manage reputational and financial risk associated with its responsibilities. The position as regards regulation by both the FSA and the Charity Commission also needed to be considered. Finally, the CBF's own decision in January 2004 to work towards the CBF ceasing to exist meant that a change of trusteeship from the CBF, even if only to the Archbishops' Council, was necessary.
11. The CBF established a Structure and Regulation Committee in late 2002 to review these matters. It reported to the CBF a year later on matters primarily concerned with internal relationships and reporting; and those recommendations were accepted and implemented. Its work then went into abeyance for about a year whilst the Charity Commission conducted a review of common investment funds. The Committee was in a position to report to the CBF Executive Committee in September 2005 and, after very careful consideration and an iterative process on certain matters between the CBF and the Executive Committee advising it, the CBF took final decisions in April 2006. GS Misc 820 summarised the position to General Synod the following month and invited any Synod members with concerns to raise them with Mark Humphriss (Head of Financial Policy) or me; no one did so.
12. The review considered whether there should be radical changes to the form of the Funds, such as converting them into common investment funds under a scheme made by the Charity Commission, or unit trusts / open-ended investment companies regulated by the FSA, or even winding up the Funds. It also considered whether it remained appropriate for the CBF Investment Fund to hold 60% of the shares in CCLA. An important factor in assessing a number of options was the need to recognise the implications for the other funds managed by CCLA and the deadlocked structure of that company. Professional advice was taken throughout the process and the Charity Commission was consulted. The arguments canvassed in relation to these issues are not rehearsed here as they are not directly relevant to the decision General Synod is being asked to make.
13. The CBF ultimately concluded unanimously (a) that it was in the best interests of the Church at the present time for the Funds to continue to operate under the Church Funds Investment Measure, (b) that the Investment Fund's majority stake in CCLA did not present an unmanageable difficulty, but (c) that there should be a change in trusteeship. The remainder of this report sets out the agreed new trusteeship structure, which the Synod is asked to endorse.

A NEW TRUSTEE BODY: CBF FUNDS TRUSTEE LTD

14. A new trustee body is proposed for the Funds for the following reasons:
- The current arrangement whereby the CBF is the trustee of the Funds is unsatisfactory because those elected and appointed to the Archbishops' Council do not in general have the specialist experience or skills required properly to discharge the responsibilities attached to trusteeship of such a large investment portfolio.
 - Best practice suggests that trusteeship should rest with those who will actually carry out its responsibilities, whereas the CBF has needed to delegate its responsibilities in this area to its Executive Committee, which has in turn delegated most of the decision-making to its Investment Committee.
 - The Church will be best served by having a trustee for the Funds with a constitution and membership chosen specifically with those responsibilities, and the specialist skills and experience required to fulfil them, in mind.
 - When required, the Archbishops' Council should be able to take an arms-length and fully-rounded look, on behalf of the Church, at any issues that arose with regard to the management of the Funds.
 - Freed from any conflict with their trustee responsibilities as members of the CBF, the members of the Council could more easily take decisions on where the Funds for which it has direct responsibility should be invested (as, like other Church investors, it has a number of investment vehicles open to it).
15. A new company – CBF Funds Trustee Limited ('CBFFT') – has accordingly been formed with the intention that it carry on the sole function of acting as trustee of the Funds in place of the CBF. CBFFT will also in future appoint the two non-executive directors of CCLA currently appointed by the CBF. CBFFT was incorporated in October 2006 and has been registered with the Charity Commission. Its Memorandum and Articles of Association are available on request. The Memorandum and Articles provide that those provisions of greatest concern to the Church – such as over appointment of its directors (who will collectively fulfil the responsibility of trustees) and the duty “to have regard to the recommendations of the Ethical Investment Advisory Group” – are protected by a 'golden Vote' requiring the Archbishops' Council's agreement if the trustees ever wanted to alter them.

APPOINTMENT OF CBFFT TRUSTEES

16. As regards the appointment of trustees, on the first occasion appointments have been made by the Archbishops' Council. On all subsequent occasions decisions will be taken by a nominations committee composed of:
- a) two individuals appointed by the Inter-Diocesan Finance Forum (reflecting the fact that dioceses and parishes own the majority of the funds under management),

- b) two Trustees of CBFFT, appointed by resolution of the Trustees, and
 - c) the Chair for the time being of the Archbishops' Council's Finance Committee.
17. It is intended that whenever vacancies for trustees arise, an opportunity should be given through advertisement so that names can be put forward from across the Church and the investment community for consideration as trustees. It would be expected that (as at present in the case of the CBF's Investment Committee) there would be an appropriate balance of trustees between (a) those with investment and other relevant skills and (b) those who are appointed by or on behalf of the investors in the Funds. Appointments will be for no more than five years (some of the initial appointments are for three years to ensure all appointments do not come up for renewal or replacement at the same time).
18. We advertised in the Church press and the *Financial Times* in late May 2006 for trustees. I am pleased to say that we had an excellent response with individuals of a high calibre offering to carry out this (unpaid) role. A panel appointed by the Archbishops' Council comprising Katherine McPherson, Robin Broadhurst and myself interviewed shortlisted candidates and references were taken up. The Council subsequently appointed the nine individuals described in **Annex 1** to form the initial members of CBFFT. Five are currently members of the CBF Investment Committee and so will provide helpful continuity in dealing with the issues; the four new members will provide an invaluable fresh perspective. The Council has appointed Mr Robin Broadhurst as Chairman of CBFFT for a five year term. (Subsequent appointments will be for the nominations committee constituted as set out in CBFFT's Articles.)

TRANSFER OF TRUSTEESHIP TO CBFFT

19. Paragraph 17 of the Scheme set out in the Schedule to the 1958 Measure (as amended) provides for a transfer of trusteeship as follows:-
- The Central Board may by instrument in writing, confirmed by resolution of the General Synod of the Church of England, appoint some other body corporate having objects concerned with the work of the Church of England to hold and administer all or any of the Investment Funds for the time being constituted hereunder in place of the Central Board and generally to exercise in relation to such Investment Fund or Investment Funds all functions vested in the Central Board by this Scheme; and as from the execution and confirmation of such an instrument this Scheme (including this present paragraph) shall, in relation to such Investment Fund or Investment Funds, operate as if for any reference in this Scheme to the Central Board were substituted a reference to such other body, save only where the reference relates to the Central Board as holder of its own corporate funds.
20. Paragraph 26 applies paragraph 17 to any Deposit Fund or Funds constituted under the 1958 Measure.
21. The CBF approved at its meeting on 27 November 2006 the Instrument at **Annex 2** to transfer trusteeship to CBFFT. The resolution set out in the final paragraph of this paper which General Synod is now asked to pass will accordingly have the effect of transferring the trusteeship of the Funds from the CBF to CBFFT with effect from the date the resolution is passed.

FINANCIAL AND OTHER IMPLICATIONS

22. It would thereafter fall to CBFFT to propose any further change in trusteeship. In the interests of the Church being fully protected from any adverse consequences of making this change, we have considered the remote possibility of the Church having serious concerns at some point in the future about the way trusteeship of the Funds was being exercised and in consequence wanting to change CBFFT's membership or replace it against its wishes. Were such a situation to arise and not be resolved satisfactorily through discussion, steps could be taken to influence the position through the appointments mechanism, in which the majority stake is held by the Archbishops' Council and dioceses acting together.
23. Were that not to provide a resolution of the concerns, it would of course remain open to the Archbishops' Council to promote primary legislation to amend the trusteeship arrangements under the 1958 Measure. Additionally, with the implementation of the Charities Act 2006 the Funds will cease to be Exempt Charities and thereby coming under the purview of the Charity Commission. The Council will have the additional reassurance of being able to raise with the Charity Commission any concerns that it might have about the exercise by CBFFT of its powers as trustee of the Funds. The Synod can therefore be satisfied that it is not in any sense 'signing away' forever its ability to protect investments held by Church bodies through this transfer of trusteeship.
24. Moreover, transferring trusteeship would not necessarily mean that the General Synod's ability to influence the administration of the Funds was diminished by the transfer of trusteeship: a report could still be made to the General Synod when policy issues arose, in the same way as applies, for example, to the Church Urban Fund or to the Methodist Central Finance Board in relation to their equivalent body.
25. There have been costs associated with this process, both in terms of staff time and professional advice, which have been borne by the Funds themselves. The Church cannot operate investment responsibilities of the magnitude of £2 billion without being ready to incur such costs periodically. The costs involved in effecting the actual transfer of trusteeship will be very modest as most of the work has already been done in establishing the new charitable company (which had to be done before Synod could transfer trusteeship to it) and as the Charity Commission has agreed to make a vesting order to transfer the properties in England in the CBF Property Fund *en bloc* from the CBF to CBFFT. Both the CBF and CBFFT (in the latter case at its inaugural meeting in December) have approved an indemnity agreement between the two parties which covers respective rights and responsibilities and envisages the novation of existing contractual relationship with CCLA and other parties.

CONCLUSION

26. The process of reviewing the structure and regulation of the CBF Funds has been a long one but the CBF and Archbishops' Council are confident that we have arrived at exactly the right outcome for the Church at the present time. In passing trusteeship to CBFFT – which was communicated to all investors in the

Funds in November 2006 to give 90 days' notice of the change in accordance with best industry practice – I believe the Funds will be in good hands. The Funds will continue under the ultimate control of the General Synod through the 1958 Measure and will continue to be run having regard to the recommendations of the Ethical Investment Advisory Group in relation to socially responsible investment issues. The new trustee body will have the ongoing responsibility of ensuring that the structure and operation of the CBF Funds and CCLA continue to serve the best interests of its investors in an ever-changing and competitive environment.

27. I therefore commend the following Resolution to Synod for its approval:-

“This Synod confirms the Instrument in writing dated 27 November 2006 of the Central Board of Finance of the Church of England (‘the Central Board’) appointing CBF Funds Trustee Limited to hold and administer all the Funds for the time being constituted under the Scheme contained in the Schedule to the Church Funds Investment Measure 1958 in place of the Central Board and generally to exercise in relation to such Funds all functions vested in the Central Board by that Scheme.”

MICHAEL CHAMBERLAIN
On behalf of the Central Board of Finance

29 January 2007

Initial Membership of CBFFTAppointed to October 2011

Mr Robin Broadhurst CBE (Chairman)	Chairman of CBF Investment Committee since 2005. European Chairman of Jones Lang Lasalle until 2003 having worked for over 30 years advising clients on real estate investment both in the UK and overseas. He joined Credit Suisse as a senior advisor in 2004 and is a non-executive Director of Grainger Trust, Grosvenor and Invista Real Estate Investment Management, Chelsfield and the British Library. He is a Member of the Princes' Council of the Duchy of Cornwall and is associated with a number of charities. Age 60
Mr James Clunie	Director for the MSc programme in Finance and Investment at Edinburgh University. Until 2002 Head of Global Equities at Aberdeen Asset Managers. Trustee for the Church of Scotland Pension Fund, where he had a major role in a change in asset allocation. Chartered Financial Analyst. Church Treasurer. Age 38
Mr Nicholas Pearson OBE	Head of Charity Development at Charles Stanley. In 1987 he created the first ever Charity Specialist Development at Cazenove, which grew to advise more than 550 Charities. Designed and set up two Common Investment Funds in 1989 in conjunction with the Charities Aid Foundation. Council Member for the Royal Commonwealth Society for the Blind (Sightsavers) for ten years and is the independent Treasurer of a Pension Fund. Chairman of the Charity Investors' Group since 1998. Age 62
Mrs Sara Steele	Director and Deputy Investment Manager of Reed Elsevier Pension Investment Management Ltd from 1989 until retirement in April 2006; with responsibility for management and investment strategy of UK equity and property portfolios. Previously with Barings and Unilever Superannuation Fund. Age 58

Mr Richard Williams Chief Investment Officer of Fischer Francis Trees & Watts, overseeing £256 bn of global fixed income assets. Previously a consulting actuary. Churchwarden. Age 38

Appointed to October 2009

Mr Stephen Burley Head of Pension Investments at Rio Tinto. He holds a number of investment advisory positions. Age 59

Mrs Lesley Farrall Diocesan Secretary, Bristol Diocese from 1992. Has worked in a variety of dioceses in both provinces since 1974. Member of the Ethical Investment Advisory Group and Legal Advisory Commission. Age 56

Revd Dr Richard Turnbull Principal of Wycliffe Hall Theological College. Until 2005 Vicar and Chairman Winchester House of Clergy, Chair of the Business Committee and Member of Archbishops' Council and Finance Committee. Chartered Accountant. Age 46

Revd Canon Justin Welby Sub-Dean of Coventry Cathedral and Co-Director of its International Centre for Reconciliation. Previously a parish priest for 10 years and before that a senior manager in oil companies in the UK and France. Age 50

[INSTRUMENT]