

Pensions Investment Academy

ESG Regulation and TCFD - Legal background

26 May 2021

Ralph McClelland

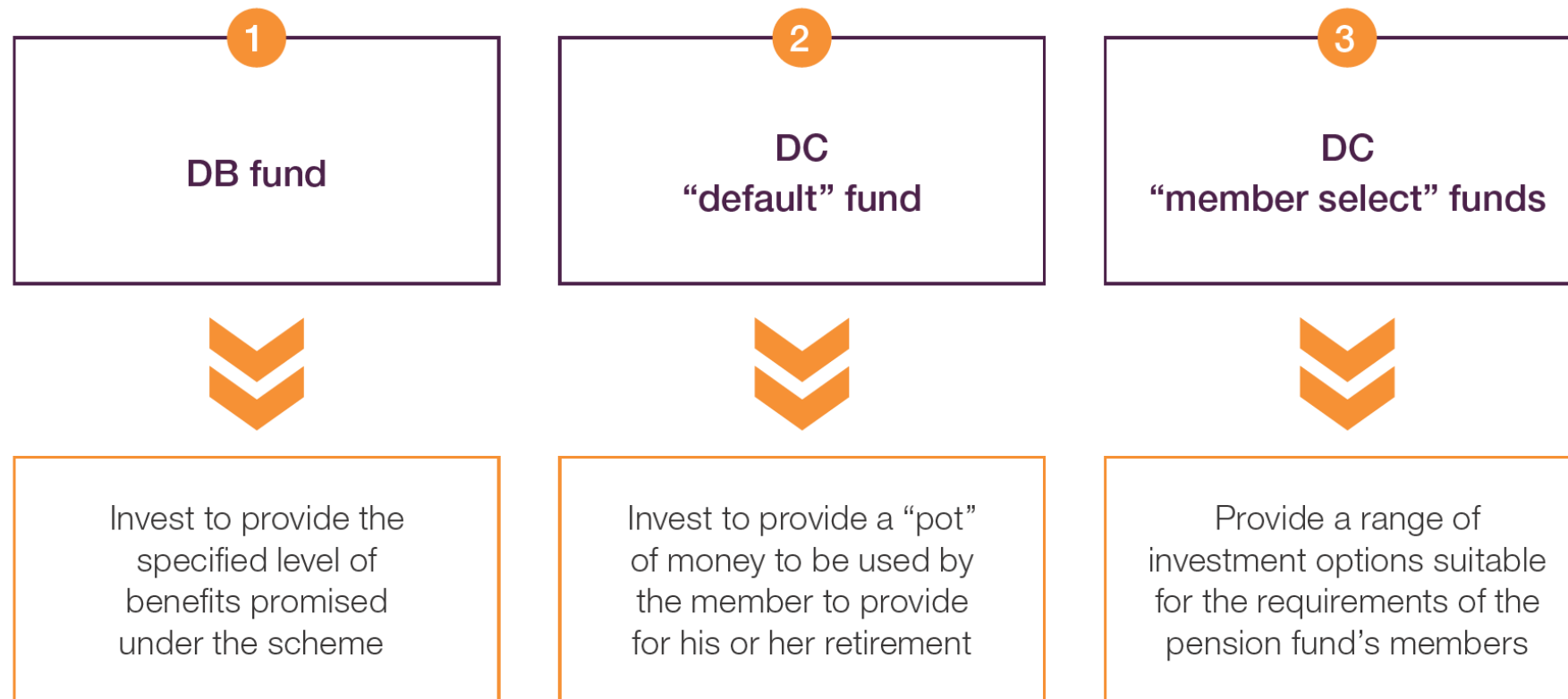


The current legal view

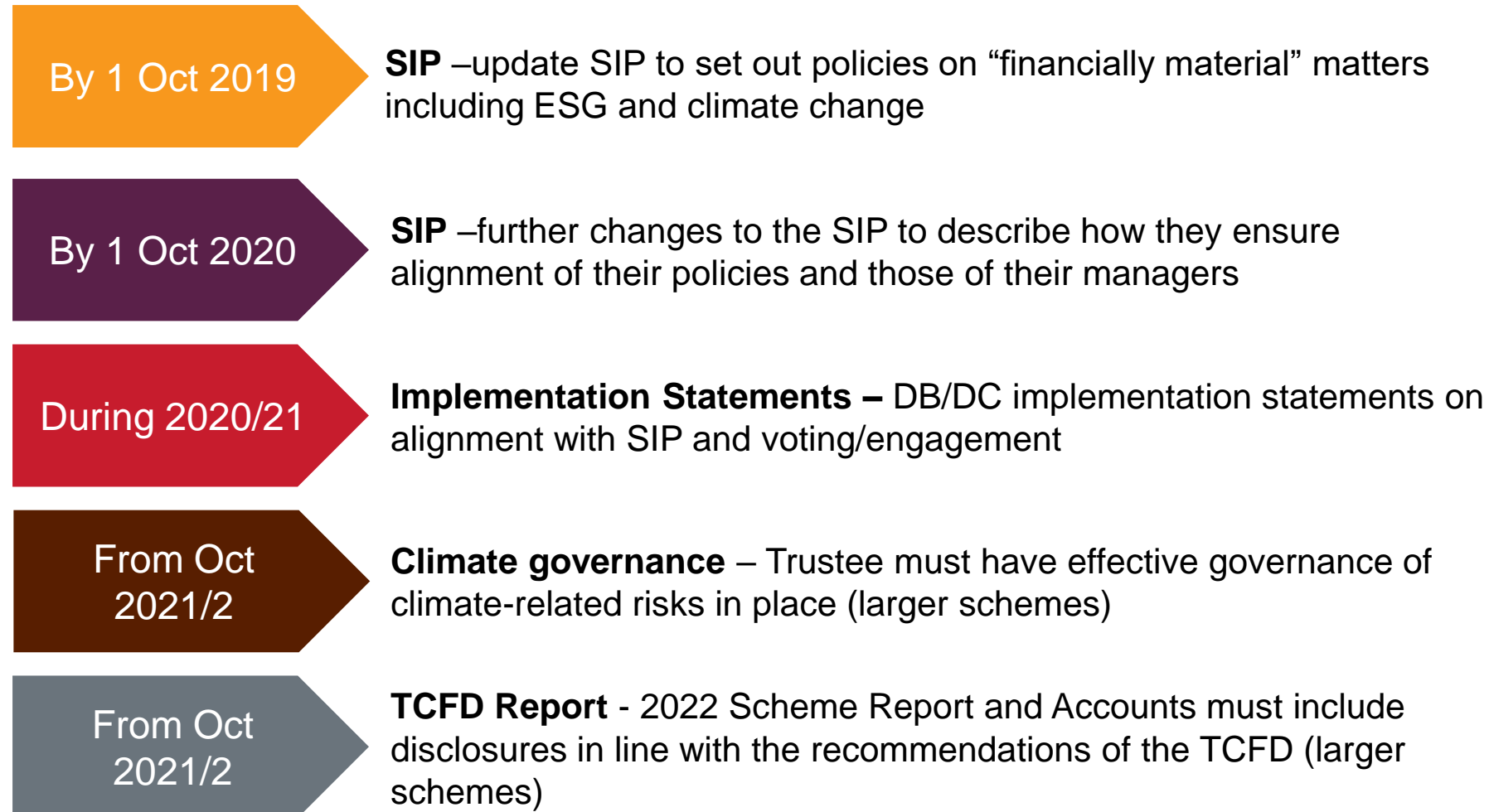
a “bundle” of fiduciary and trust law duties



The “purpose” of the investment power



Regulatory timeline





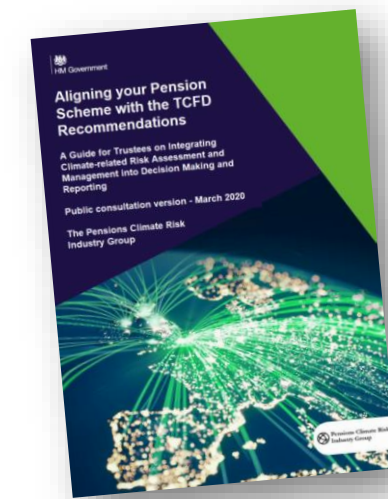
DWP Consultation launched on 26 August 2020

- Pre-cursor to regulations to be made under the Pension Schemes Bill
- Seeks views on policy proposals for larger schemes to put effective governance measures in place for managing climate risks and opportunities and then reporting on them
- Consultation closed on 7 October 2020
- 99 Consultation responses received by DWP

Consultation on draft Regulations and Guidance 27 January 2020



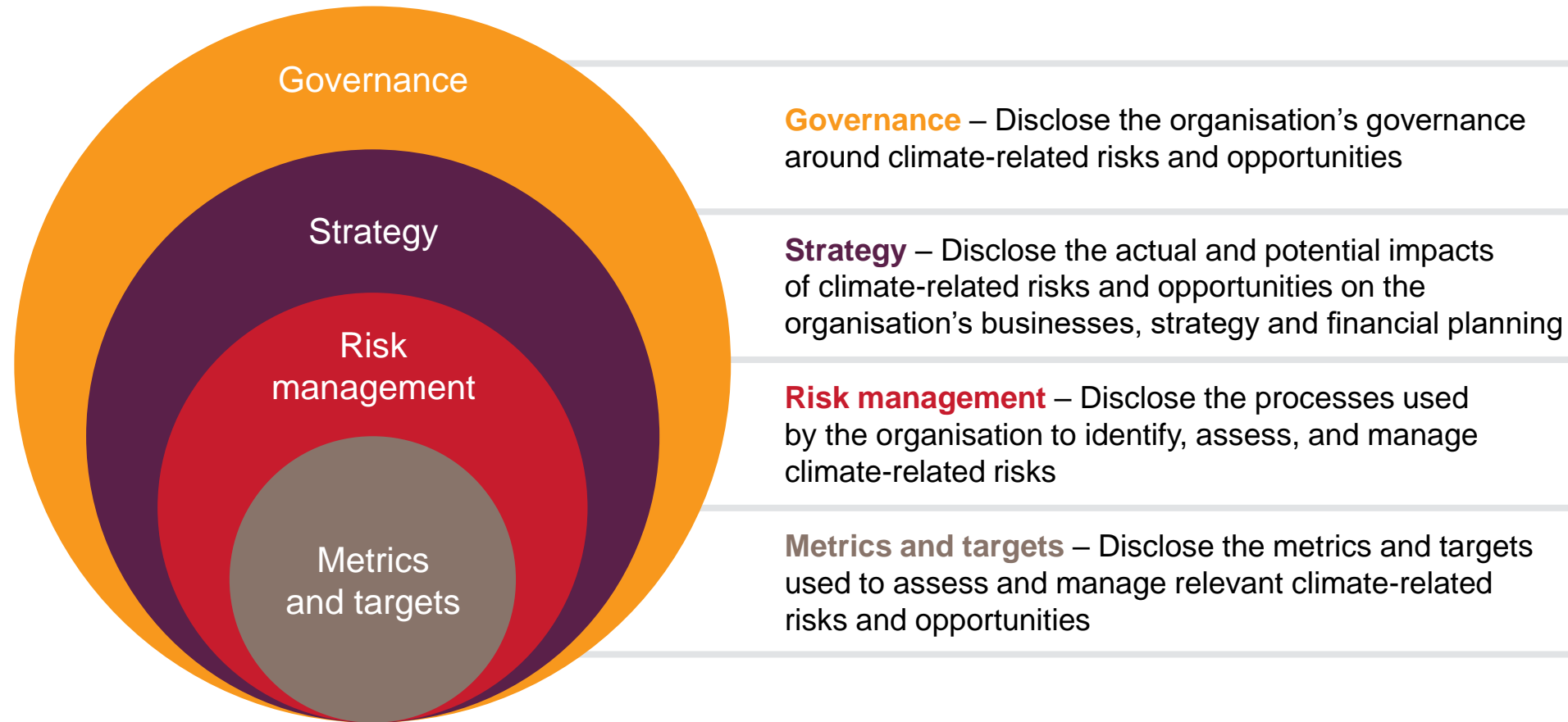
- Draft regulations
 - Draft statutory guidance
 - Consultation closed 10 March 2021
 - Final regulations June 2021
-
- Also accompanied by industry (non-statutory) guidance from the Pensions Climate Risk Industry Group (PCRIG)



Schemes in scope (and timing)

	Comply	Report
Net assets of £5bn or more*	1 Oct '21	Within 7 months of year end
Authorised master trusts		
Authorised CDC		
Net assets of £1bn or more*	1 Oct '22	Within 7 months of year end

* = Excludes buy-ins



DWP Consultation Governance



- Trustees of schemes in scope must:
 - maintain oversight of relevant climate-related risks and opportunities
 - maintain processes to satisfying themselves that persons undertaking governance on their behalf are taking adequate steps
- Trustee knowledge and understanding



- Trustees of schemes in scope must:
 - identify the climate-related risks and opportunities which they consider will have an effect on the scheme's investment strategy (and funding strategy where applicable) and assess their impact.
 - identify these risks and opportunities and their impact over the short, medium and long term.

DWP Consultation

Risk management



- Trustees of schemes in scope must:
 - establish and maintain, on an ongoing basis, processes for identifying, assessing and effectively managing climate-related risks which are relevant to the scheme and integrate them into the trustees' overall risk management of the scheme.
 - describe the processes they have established in their TCFD report and how these are integrated within the overall risk management of the scheme.

DWP Consultation

Metrics and targets



- Select and report on at least three climate-related metrics:
 - one “absolute emissions” metric (total GHG emissions of the portfolio)
 - one “emissions intensity” metric (tonnes of GHG emissions for each million (£m) of the scheme’s assets)
 - one “additional” climate change metric
- Obtain the data required to calculate their chosen metrics on an annual basis. Should include the Scope 1, 2 and 3 GHG emissions.
- Set a non-binding target for the scheme in relation to at least one of their chosen metrics.

“As far as they are able”

1

Trustees must carry out scenario analysis, obtain data, calculate and use metrics and measure performance against trustee-set targets ‘as far as they are able’.

2

This means taking all such steps as are reasonable and proportionate in the particular circumstances taking into account the costs, or likely costs, which will be incurred by scheme and the time required to be spent by the trustees or people acting on their behalf.

3

Steps trustees should take to meet requirements “as far as they are able” are set out in the draft statutory guidance.