

**Welsh Government**

**Regeneration Investment Fund for Wales**

**Governance Arrangements - Internal Review**

**Author: Gilbert C Lloyd FCA CPFA**

**Dated 10<sup>th</sup> April 2013**

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## 1. Background to, and areas of work associated with, the review.

1. This review has been carried out during the period 11 February to 10 April 2013. This report sets out my findings.
2. My role has been to conduct an internal review of the governance arrangements of The Regeneration Investment Fund for Wales (RiFW), on behalf of the Welsh Government.
3. The review sought to answer the questions set out in the terms of my engagement reproduced in Appendix 5
4. In order to respond to the questions I have been asked to investigate, I have worked in liaison with The Wales Audit Office (WAO) team who are conducting a separate Value for Money (vfm) Study of RiFW.
5. I have conducted interviews with a number of key personnel, and attended other interviews led by WAO as part of their own investigation. These interviews have covered each of the current members of the board of management, Chris Munday and Alison Bell.
6. I have also examined
  - The Agenda and Minutes of each meeting of the Board of Management and Audit and Risk Committee respectively. The key issues of each meeting, along with Board and Sponsor Department attendances are set out in Appendices 3 and 4.
  - The Annual Report and Audited Accounts of RiFW as registered at Companies House.
  - Notes of meetings held by the WAO, as part of their vfm study, at which I was not present.
7. I have reviewed
  - Information provided to me as a result of my interviews. This has included
    - Copies of emails providing clarification of matters which arose at meetings.
    - Papers circulated to members of the management board for certain of their meetings, by way of examples of information provided to board members
    - Correspondence with J. Geen (JG) concerning declarations of conflicts of interest.
    - Information provided by R. Anning (RA) relating to the board members' induction programme and other board matters.
  - The RiFW Members' Agreement dated 14th December 2010.
  - Fund Management Agreement dated 14<sup>th</sup> December 2010.
  - Investment Management Agreement dated 14<sup>th</sup> December 2010.
  - RiFW Business Plan – Initial plan draft December 2010 and annual review 18<sup>th</sup> April 2012.
  - EFAT Internal Audit Report dated 11 November 2011.
  - Grant Thornton Reports on internal controls dated March and December 2012 respectively.
  - Ernst and Young external audit planning memoranda and audit findings reports made to those charged with governance.
  - WG Principal Accounting Officer (PAO) Notes.
  - The Civil Service Code and the Welsh Government Terms and Conditions of Service Code.

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8. I have been provided with access to information gathered by the Welsh Government for the purpose of the WAO vfm study, and have examined documentation as I considered appropriate for the purpose of this review.

## **2. The establishment of the RiFW Board, composition of Board membership, roles and responsibilities and associated operating arrangements.**

- i) RiFW was established as a Limited Liability Partnership (LLP) on 17 December 2009. The initial legal and company secretarial aspects of forming RiFW were handled on behalf of WG by Eversheds.

RiFW has been described to me as an organisation which is at “arm’s length” from Welsh Ministers and WG, however it is deemed to fall within the accounting Boundary for WG annual accounting as evidenced by the fact its financial results are consolidated within those of WG. I have not sought to explore the status of “arm’s length” bodies when effective overall control is exercised by WG, as in this instance, as I believe this to be beyond the scope of my review.

Unlike a limited company, governed by the Companies Acts, an LLP does not have an overarching Memorandum and Articles of Association. Its main “constitution” is an agreement between those partners forming the LLP – i.e. a Members’ Agreement (MA).

Welsh Ministers are the RiFW partner with sole voting rights, the current only other partner is Amber Fund Management Ltd (Amber), to whom RiFW has delegated staffing and administrative aspects of the running of the LLP. Amber’s appointment to this role was as a result of a public sector procurement process.

RiFW’s MA was executed on 14<sup>th</sup> December 2010, and sets out the high level operating arrangements as follows

- (a) The roles of the partners of the LLP are defined, as is the requirement for an MA
- (b) Recognition that RiFW, as a Fund, is to be managed by a Fund Manager (FM) and that the FM’s roles and responsibilities are to be set out in a Fund Manager’s Agreement (FMA).
- (c) Given the FM delegates responsibility for managing the Fund’s investments, there is to be an Investment Manager’s Agreement (IMA).
- (d) RiFW has to establish a Business Plan, which is to be updated every year.

The Business plan contains those policies which the board have adopted relating to RiFW’s operating arrangements. I note there is no explicit policy covering Whistleblowing, although I have seen reference to the fact that Amber has its own policy in this regard. Ceri Breeze (CB) has also confirmed to me he believes he would be covered by WG’s Whistleblowing policy with regard to RiFW activities were he to feel such procedures were necessary.

**Recommendation 1:**

**The RiFW board adopt a policy on Whistleblowing and add such to their Business Plan/Operating Manual. This could be akin to that in place for Welsh Government, where there is a defined hierarchy of reporting. In RiFW's case, I suggest that the first point of contact for a whistle blower for the Fund Manger or the Investment Manager be the Chairman of the board of management. For members of the board of management, I suggest the first point of contact would be the Head of the relevant sponsor division of WG, or other contacts as defined in the existing WG policy.**

- ii) The MA provides for the establishment of a Board of Management (The Board) to oversee the activities of the LLP. The initial appointments to the Board were made by Welsh Ministers, and consisted of Welsh Government (WG) officials – Pat Lewis (PL) (the then Head of Regeneration) and Ceri Breeze (CB) (the then Head of Housing). Their appointments were recorded at the first meeting of the board which was held on 15<sup>th</sup> March 2010. It was noted at the board meeting held on 1 September 2011 that PL's membership of the Board was likely to terminate. That was confirmed in the minutes of the meeting held on 19 October 2011. CB is still in post, having taken over as Chairman of the Board from PL. There was delay in replacing PL, and Richard Harris (RH) was recorded as a new member of the board at its meeting held on 18 July 2012.

I have been unable to establish whether the appointments of WG officials were, or should have been, covered by WG public appointments procedures. I have not been provided with copies of any letters, or other forms of confirmation, of their appointment to RiFW's board, neither have I been provided with evidence of instruction to these officials as to the nature of their associated roles and responsibilities. Both CB and RH have confirmed to me they have never received letters confirming their appointments or the terms thereof. I am aware that CB raised this matter with the directorate of the sponsor division in August 2011.

I am unaware as to whether the conditions contained in WG guidance on conduct of employees<sup>3</sup> have been complied with concerning Public Appointments. Namely:

**“Public Appointments**

You must obtain permission from the PPCS Shared Service Centre before accepting an appointment to any Public Board or body financed wholly or in part from public funds. You must also obtain permission from the PPCS Shared Service Centre before accepting an invitation to serve on any National Health Service body. For more information you can read the full policy on Public Appointments”

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<sup>3</sup> WG Guidance – My Employment>During Employment>Conduct> Outside the Workplace

**Recommendation 2:**

**WG Officials on the RiFW board should have their appointments formally recognised in accordance with appropriate public sector procedures and they should be provided with suitable letters of appointment setting out the tenure of their appointment as well as their roles and responsibilities.**

iii) RiFW was established under the WG internal sponsorship of BETS. Following subsequent changes to the machinery of government, the sponsor relationship now falls to Sustainable Futures. Arrangements the sponsor has in place include “observer” attendance at meetings of the board and also its Audit and Risk Committee (ARC).

I have been unable to establish whether any guidance has been issued by WG covering its relationship with RiFW.

I am aware that WG has well defined guidance covering the way in which its sponsored bodies (WGSBs) should be established, and run their affairs<sup>4</sup>. Among other aspects, these include the creation of a Framework Document (which sets out the relationship between WGSBs and Ministers), and guidance on the need for annually updated Remit Letters (which set out high level targets and other deliverables). I have been informed similar guidance has yet to be established covering WG’s “arm’s length bodies” (WGALBs).

I would have expected such formalities associated with RiFW’s operations to have been in place, particularly given the nature of RiFW’s actual and intended future, activities.

While, from my conversations with them as part of this review, WG officials on the board and the current sponsor observer would appear to have an innate understanding of the role of WG’s Sponsor Department in relation to RiFW. However, the key activities of RiFW are managed by commercial organisations, as FM and IM respectively, and there are appointed to its board of management non-executive members from the private sector. While the latter have been appointed to the board under Nolan Principles, it would be unrealistic in my view to expect such organisations and non executives to fully appreciate public sector operating frameworks and conduct expected of organisations established from within, and funded by, the public sector, in the absence of clear and well defined guidelines over those activities. Such guidelines might include an explanation of accountabilities, key aspects of *Managing Welsh Public Money* and clarification of what decisions require WG agreement/sanction.

While there is a Chairman of RiFW’s board (CB), there is no Chief Executive, as the executive functions are the responsibility of Amber. In the absence of WG guidelines in RiFW’s case, I have not seen a clear setting out of accountabilities, including those that would relate to an Accounting Officer. I have not seen any board role defined in terms associated with public sector accountability, and I am unaware as to how RiFW fits in to the accountability chain for reporting to the Permanent Secretary and hence for helping him gain assurance over RiFW’s

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<sup>4</sup> WG Corporate Governance Unit (CGU); “Welsh Government Sponsored Bodies”.

risk and control environment. In the absence of a framework and guidance for WGALBs, I suggest this is an omission, and an area of potential concern on a scale wider than just for RiFW.

I have been provided with a copy of papers issued for a meeting of WGSBs' Chief Executives with the Permanent Secretary in June 2012. These included guidance, and supporting background, from the Institute for Government published in March 2012 entitled "A Framework for Effective Relationships Between Government and its Arm's length Bodies". This framework covers many of the key issues that might be expected in establishing, and for the ongoing operation of, an ALB.

I have also been made aware of a current exercise to complete the next Principal Accounting Officer (PAO) Note 4, covering Joint Arrangements. I believe this is due to be issued in the near future in order to coincide with the 2012-13 annual reporting timetable, and to address specific recommendations made by the WAO in their audit management letter for 2011-12.

### **Recommendation 3:**

**WG should establish, and implement, an appropriate framework for dealing with its ALBs, including RiFW. This could follow Guidance already in place for WGSBs as well as that published by the Institute for Government, and PAO Note 4 as described above.**

- iv) I have asked whether WG has in place processes to ensure compliance with advice issued in September 2012 under PRINCIPAL ACCOUNTING OFFICER NOTE 003 – "ATTENDANCE AT AND MEMBERSHIP OF EXTERNAL BOARDS AND COMMITTEES".

I have been provided with copies of email correspondence sent by CB to both David Richards (DR) and John Howells (JH) dated 31 August 2011, commenting on the draft of the precursor to PAO note 3, namely PAO Note 1. This draft was circulated for comment and resulted in publication of PAO note 1 (revised) in July 2012.

CB states that he "...assume(s) a formal commission will be issued after the paper has been finalised...".

While I have been informed there was suitable communication of PAO Note 3 across government, upon its completion, I am unaware of any processes which were put in place by WG departments to ensure compliance with the recommendations it contained.

### **Recommendation 4:**

**WG should revisit those processes in place to ensure compliance with PAO Note 3.**

v) Other than W Govt officials appointed to the RiFW board, there have been additional appointments as follows:

(1) In November 2010 Councillor Chris Holley (CH) was appointed to the board by the then Minister covering RiFW activities. Below, I have set out my observations in respect of this appointment.

(a) On 25<sup>th</sup> August 2010 approval was sought from the Deputy Minister for Housing and Regeneration (Jocelyn Davies – JD) to expand, by 3 additional appointments, the members of RiFW’s board of management. It was proposed that “one of the new Board Members should be a representative of the WLGA with the other two being appropriately experienced individuals.....the most appropriate WLGA representative would be their Spokesperson on Regeneration and Europe, a position currently filled by Councillor Chris Holley...”.

A letter addressed to CH, dated 17 November 2010, was signed by JD extending an invitation to CH “**as WLGA lead on regeneration to join the board**”. I understand that CH no longer holds this role at WLGA.

(b) Accompanying the above letter from JD was a “....formal invitation of appointment together with the terms on which the appointment is being offered...” This second letter also refers to the fact that the invitation to join the RiFW board was made to CH in his “role as Welsh Local Government Association lead on regeneration”. The letter, and it’s attachment, set out

- Board Duties
- Attributes to be demonstrated by a Board member
- The role of RiFW board
- Duties [of a board member]
- Period of appointment
- Remuneration
- Expenses
- Time commitment/Location
- Attendance
- Gifts and Hospitality
- Conduct
- Conflicts of Interest
- Political Activity



- Bankruptcy
  - Official Secrets Act
  - Business Appointments
- (c) In an email of 27<sup>th</sup> August 2010 sent on behalf of the PS to JD and in response to the approval referred to above of 25<sup>th</sup> August 2010, it was stated that while the Deputy Minister agreed in principle with the proposals, she “would like to meet CH to establish if he accepts this position....In the meantime the Deputy Minister can agree that there will be a WLGA appointment even if she cannot confirm now it will be Cllr Holley”.
- (d) The period of office was stated in the letters to CH as commencing on 30<sup>th</sup> September 2010 expiring on 30<sup>th</sup> September 2020.
- (e) The time commitment in the offer of appointment was stated as 4 days per year.

While I have not raised this particular point directly with CH, I am in no doubt that the time involved for dealing with board and ARC matters exceeds this.

- (f) Under “political activity” of the offer extended to CH, it is explained that he is “not expected to occupy paid party political posts or hold particularly sensitive or high roles in a political party. There is another paragraph under the same heading which is incomplete in that it does not set out those positions where CH would need to resign his office if he accepted a nomination for election.

Cllr Holley is currently Liberal Democrat Group Leader of the City and County of Swansea Local Authority.

### **Recommendation 5:**

**Revisit, and reissue as necessary, the terms of CH appointment having clarified whether**

- **Appointment still required despite relinquishment of role at WLGA.**
- **Tenure is appropriate (see also Recommendation 6 below).**
- **CH’ appointment appropriate, given political position at Swansea.**
- **CH able, and prepared, to devote time commitment required for the role.**

(2) I have been provided with background documentation for the two other non executive appointments the board. I am assured the process accords with public sector appointments processes. These documents cover:

- (a) Statement of Information
- (b) Proposed Appointments timetable
- (c) Draft advertisement
- (d) Information for candidates
- (e) Proposed Sift and selection panel
- (f) List of those groups Public Appointments Unit will write to.....
- (g) Advertising and Publicity Strategy
- (h) Time commitment and remuneration
- (i) Outcome of Sift – 20 October 2010
- (j) Interview Report
- (k) Validation certificate
- (l) Advice to Deputy Minister of outcome of selection process and agreement thereto
- (m) Draft letters offering appointment to serve as a member of the RiFW board for Jonathan Geen (JG) and Richard Anning (RA) respectively.

I have the following observations to make:

2.1 RA has confirmed his offer of appointment as a member of the RiFW board was dated 2 December and signed by JD. The accompanying terms and conditions of appointment contain information as in the case of the offer to CH outlined in (v) (1) (b) above. The offer letters for both RA and JG state “the starting date for the appointment is 1 January 2011 ending 31 December 2014..... renewable to a maximum of 10 years”. However the accompanying terms state the appointments “will commence on 30<sup>th</sup> September 2010 and expire on the 30<sup>th</sup> September 2020”. I consider this to be confusing. The first meeting of the board which RA and JG attended was in January 2011.

2.2 RA’s letter accepting the offer, dated 7 December 2010 and addressed to Chris Munday (CM), was conditional on RA receiving confirmation of adequate indemnity. It also refers to matters of Governance which RA had raised at his interview which appear to have been adequately addressed subsequently – in my meeting with RA, held on 20 March 2013, he confirmed these to have been matters around explanation of the Nolan Principles.

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From my examination of minutes of board meetings, it is apparent that WG did not deal in a timely manner with the issue of RA indemnity (or indemnity of board members generally), resulting in Amber taking out Director and Officer indemnity Insurance cover for RiFW directly, and at a cost to RiFW. I have been informed that employees of WG benefit from indemnity cover.

RA has also referred me to the fact that he raised at his interview (in November 2010) that his search of records relating to RiFW as lodged with Companies House at that time did not accord with information he had been provided leading up to his interview. I assume this relates to the fact of Amber's appointment which was recorded at Companies House on 14 December 2010.

**Recommendation 6:**

**There is a need for clarification of the intended period of appointment for RA and JG, and bringing of these into line with those for CH and WG officials.**

**Recommendation 7:**

**WG should create and implement, a policy for the provision of professional indemnity cover for external non executive director appointments to WGSBs, WGALBs and other similar bodies.**

2.3 I am unaware as to how lists of Organisations to be informed of a pending appointment are compiled, but I note that, in the instance of the process leading to the appointment RA/JG, the Institute of Chartered Accountants in England and Wales was excluded, whereas other accountancy bodies were on the list - as was appropriate given the background and skills identified as required for the role.

**Recommendation 8:**

**A process of challenge should be introduced to identify the most appropriate organisations that are most likely to be able to help in the recruitment of individuals with particular skill sets for public appointments.**

2.4 The “Sift Report” listed the scores attributed to each of the six candidates chosen as potential candidates for interview for the two board vacancies. While RA was a clear leader, JG and one other both recorded identical scores in the process (38). Reasons are recorded in the sift report as to why JG should be invited for interview as opposed to the other equal scoring candidate. However I believe the scores should have been moderated and amended on the basis of the reasoning and not left as equal.

**Recommendation 9:**

**Reasons for selection of candidates for interview, or advancement in any stage of an appointments process, should be clear and supported by marks which leave no doubt as to priority.**

2.5 While unaware of the exact nature of the determination of the time inputs for the post proposed to those appointed to the board, I believe these were based on having to deal with the papers for, and attendance at, board meetings which were to be held quarterly. Since 15 March 2010 there have been 23 board meetings. I accept that some of these were extremely short in length and were associated either with the establishment of the LLP or were of a single agenda item in nature. That said the involvement of board members is more likely than not to have involved far more of a time commitment than that envisaged at the time of confirmation of their appointment. Particularly given additional time which they have devoted to dealing with the various aspects of the WA O vfm review and that relating to this review of governance and the ongoing peer review of property matters.

During the course of my review it has been explained to me that the reasoning behind the external board appointments not being remunerated was so as to attract the calibre of candidate to whom monetary reward was unlikely to be a driving force. From my own experience I am not convinced that this is an adequate argument for securing the best candidates for a post. When coupled with unrealistic estimates of time commitment for an appointment, I consider the WG may be detracting, rather than attracting, potential high quality candidates from applying for positions.

**Recommendation 10:**

**A realistic approach should be adopted to arrive at the estimate of time commitment and appropriate reward for external non executive posts in WGSBs/WGALBs etc.**

vi) Composition of Board Membership

Below is an extract from a meeting held by WAO with Chris Munday (CM) on 29 October 2012, describing the initial establishment of the Board and its membership:

*“Following a formal submission in March 2010, the Deputy First Minister, approved the transfer of the land and property assets to the LLP..... The Deputy Minister for Housing and Regeneration, Jocelyn Davies, approved the establishment of the Fund and the appointment of the first 2 members of the Management Board – Ceri Breeze (Head of Housing) and Pat Lewis (Head Of Regeneration), with secretariat provided by the project team [established by WG for the set up of the Fund]. The role of the Management Board was clearly set out in the LLP agreement, as are the 2 nominees. Interim financial management was outsourced on a short term basis to KTS Owens Thomas. CM’s team were providing reports to the Board on the progress of contracts with Amber and LSH.....*

*.....The last act of the project team was to appoint the external independent directors. The Deputy Minister for Housing and Regeneration, Jocelyn Davies, was keen that WLGA were represented. The WLGA nominee was Councillor Chris Holley, who was appointed because he was the WLGA political lead on regeneration, i.e. it was a role appointment<sup>5</sup>.*

*The 2 independents were appointed using the Public Appointments process. There were not many applicants because the post attracted no salary, only expenses. The decision to offer costs only and no salary was made by the Board, and not by CM and the project team. The view taken was that the sort of people they wanted wouldn’t be swayed by a salary. The interview panel was PL (the original Board Chair), and also CM as PL had asked him to provide expertise on the panel. The third member was from the Public Appointments Unit.*

**[TEXT REDACTED]**

In discussions I have held with both RA and JG it has been mentioned to me that, in their opinion, the board should be strengthened by the addition of new members. These should bring with them additional skills to supplement those already in place. Both have mentioned the need for banking and finance expertise, and RA added that an accountancy background would also be helpful.

RA made another comment that additional members on the board would assist in helping to manage conflicts; as, in his opinion for RiFW, these are more in the nature of an inevitability rather than an unlikely future event.

Given the conflicts that have arisen to date for JG, I am also of the opinion that the board would benefit from strengthening.

I note that the MA provides for the appointment of a non executive chair to the Board of management of the Fund when it moves in to the second phase of its planned activity – involving additional private sector funding. However this is outside the scope of my review.

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<sup>5</sup> See (v) (1) above re CH appointment

**Recommendation 11:**

**Immediate consideration is given to the appointment of additional members to the board to extend the skill sets available and assist with the management of potential/actual conflicts of interest as they may arise. Given a public appointments process may take some time, WG may consider making some appointments on a secondment basis pro tem.**

vii) An induction programme for new board external board members was put together and a training day held on 17<sup>th</sup> January 2011.

Attendees were CH, RA and JG. The programme was run on behalf of WG by CM and Rebecca Johnson (RJ).

I have been provided with a copy of the presentation slide pack used on the day and note one entitled "Role of the Management Board".

Content included

- Approving the Fund's Business Plan annually.....
- Ensuring an appropriate governance structure is in place
- Monitoring the performance of the Fund manager and ultimately the investment manager
- Ensuring the fund complies with all statutory and policy requirements (including European Regulations relating to JESSICA), and
- Ensuring the Fund is an exemplar of best practice.

I am unaware as to any coverage on the day of matters associated with public sector governance issues including aspects of regularity or propriety.

**Recommendation 12:**

**Consideration is given to the involvement of officials from WG Corporate Governance Unit in the training and induction of boards of bodies similar to RiFW.**

### **3) Criteria for selection of Board Members, appointment process, associated documentation and the process for replacement (if required)**

- i) In the above section, I have already dealt with the appointments process and documentation associated with the appointments to the board of PL, CB, RH, CH, RA and JG respectively. To reiterate
- (a) As far as I am aware, no documentation was issued to PL, CB and RH in connection with their appointment. See Recommendation 2.
  - (b) The selection process for WG officials on the board was handled internally to WG, and confirmed by Welsh Ministers. I have not been provided with details relating to that process.
  - (c) I am unaware of the process in place for the replacement of WG officials on the board, and doubt whether these have been articulated. See Recommendation 2.
  - (d) In section 2 above I have dealt with the appointment process and criteria for selection for CH. See Recommendation 5.
  - (e) In the case of RA and JG respectively. These two board members were selected under a public appointments process.

Their selection criteria were set out in a Statement of Information as part of this process, which incorporates the following:

*“.....This statement deals with the recommendation to appoint members to the Regeneration Investment Fund for Wales LLP (RIFW) Management Board by January 2011.*

*The existing Management Board has given careful consideration to the future membership of that Board. It is suggested that two further external specialists should be recruited using an open competitive and transparent recruitment process in accordance with the Nolan principles. These should be appointed on the basis of their ability to bring expertise to the management of the Fund and therefore it is recommended that one person should be from a financial and/or investment management background with the second person having regeneration or development market expertise.....”.*

I note that the board still lacks investment management expertise, and my recommendation 11 above should help address this deficiency.

I am unaware of arrangements which may be in place covering the process for replacement of RA and JG as board members.

#### **4) Declaration and management of conflicts of interest (if any) and information sharing protocols in the light of any conflicts of interest.**

i) The letters of appointment provided to CH, RA and JG each deal with matters associated with conflicts of interest. These are set out in Appendix 2.

ii) Each meeting of the board contains an item entitled

“Committee members’ Declaration of Interests in the proposed Transactions and/or Arrangements”.

While only the most recent of board meeting minutes show declarations have been made under such an agenda item, on other occasions declarations of interest have been made as meetings progress, and recorded as such in minutes.

Additionally, where there have been declarations of interest, the board member making the declaration has then absented themselves from the meeting while the particular agenda item is discussed.

I have also had it confirmed to me as part of this review that any board papers or minutes dealing with issues where a board member has declared an interest are issued to that board member with relevant passages redacted. I have not inspected such redacted documents, however.

iii) Each RiFW board member is required to enter their interests in a register. I have been provided with a copy of that for JG. While it contains details of certain commercial activity in which JG and his spouse are involved it does not contain an up to date record of each instance of a declaration of a conflict which JG has made to the board. It has been explained to me that this register along with records of declarations (letters and board minutes) are considered as constituting a comprehensive record.

iv) I have been provided with a draft of a PAO Note which is in course of preparation on the topic of “*Managing Conflicts of Interest*”.

v) I believe the only board member who has declared interests is JG. Instances where these have arisen are included as part of Appendix 3.

**[TEXT REDACTED]**



vi) I have examined RiFW's "Policy Document Conflicts of Interest April 2012".

This policy emphasises "It is the responsibility of each individual/entity to recognise situations in which they have a conflict of interest, or might reasonably be seen by others to have a conflict, to disclose that conflict to the Fund Manager and to take such further steps as may be appropriate".

It also states:

"Disclosure should be made at the time the conflict first arises, or it is recognised that a conflict might be perceived, in writing to the Fund Manager.

The disclosure should be accompanied by the strategy for actively managing the conflict. One or more of the following actions may be adopted to manage the conflict of interest:

- i. not taking part in discussions of certain matters;
- ii. not taking part in decisions in relation to certain matters;
- iii. referring to others certain matters for decision;
- iv. resolving not to act as an adviser to a third party;
- v. standing aside from any involvement in a particular project;
- vi. adopting "Chinese Walls" protocol; physical separation of staff and information not to be accessible to the "other side" ".

vii) Chapter 2 of the Welsh Government terms and Conditions of Service Code includes the following:

“Interest in contracts

2.10 Unless the employee has fully disclosed the extent of his or her interest in the contract and senior management has given permission for the contract to be let, no contracts will be let by the WG to:-

(a) any civil servant working in the WG;

(b) any partnership of which a civil servant working in the WG is a member; or

(c) any company of which a civil servant working in the WG is a director (except as a nominee of the WG);

2.11 Employees are required to report any relevant business interests to senior management in order to verify that such interests do not conflict with their work within the WG. Failure to do so may lead to disciplinary action.”

**[TEXT REDACTED]**

**[TEXT REDACTED]**

[TEXT REDACTED]

## 5) The effectiveness of the on-going operation of the Board, its associated meetings and secretariat.

- i) RiFW's Corporate Governance framework was set at the outset of activities, and contained in section 10 of the original Business Plan. The main areas covered are:

### Corporate Governance & Delegations

- RIFW Management Board
- Authorised Signatories and Delegation Limits
- FM & IM Management Committee
- Audit & Risk Committee
- Treasury Committee
- Compliance Committee
- Investment Committee
- Sustainability Committee

- ii) From my examination of agenda, minutes and papers produced for meetings of both the Audit and Risk Committee and the Board of Management of RiFW, I believe these to be of good quality, and certainly comparable to other organisations in the private sector.

I am aware, however that the WAO vfm team are of the opinion that minutes could be more descriptive, in order to demonstrate the nature of debate and challenge provided by the board at their meetings.

- iii) From my discussions with each member of the current board, and the sponsor department board observer, I am confident that there is an appropriate level of debate and challenge provided at their meetings.
- iv) The secretariat services for RiFW are outsourced – currently to Equiniti David Venus Limited. I have no adverse comment to make on the services they provide to RiFW and have received none during the course of my review. Agenda are issued in advance of meetings and board and audit and risk committee meetings, and minutes thereafter. Annual Returns are filed at Companies House and up to date.
- v) The external auditors for RiFW are one of the world's "big four" accounting firms, Ernst and Young (EY). Their audit planning and reporting documentation is as would be expected of a firm of such high calibre. Minutes of the Audit and Risk Committee (ARC), EY's reports, and my discussions held with the Chair of the ARC demonstrate that significant attention is given to the key accounting judgements surrounding the content of RiFW's annual financial statements.

vi) I note that the RiFW Members' Agreement has among those "Member Reserved Matters"

- "the appointment or change of auditors".

The EY report on "Audit results for the year ended 31 March 2012 contains a copy of EY's Audit engagement letter, dated 1 May 2012. This engagement letter is addressed to "Regeneration Investment Fund for Wales LLP, c/o Amber Fund Management Ltd." It shows the letter is accepted by Leo Bedford "for and on behalf of Regeneration Fund for Wales". While Welsh Ministers are the sole member of the LLP possessing voting rights, I assume the appointment of auditors is effectively a matter for WG.

As referred to in the following section of this report there is provision in the MA for an annual meeting of LLP Members. It may be that the affirmation of the appointment of external auditors is a matter for such a meeting. Alternatively it may be a separate matter for Welsh Government on behalf of RiFW.

#### **Recommendation 17:**

**Welsh Government examine the appropriate protocols for the appointment of RiFW external auditors.**

vii) The Independent auditors' report to the members of RiFW contained in the Members' Report and Financial Statements for the year to 31 March 2012, does not contain a separate opinion covering aspects of regularity over RiFW's affairs, as is contained in the audit report of the WAO on the accounts of the Welsh Government. Given RiFW's activities fall within the WG accounting boundary, and that regularity audit is a fundamental aspect of audit in central government, I consider increasing the scope of the external auditor's appointment to include this aspect would strengthen the assurance the board and LLP Members will derive over this aspect of RiFW's activities going forward.

I have been informed by the WAO that they have made a similar recommendation in the past in relation to the accounts of Finance Wales (another WG organisation falling within their accounting boundary), which has been taken up since.

#### **Recommendation 18:**

**Welsh Government examine the extension of the scope of the external auditor's appointment at RiFW to include the provision of an opinion on regularity in connection with RiFW's affairs.**

- viii) The ARC, and the board have sought, and been provided with, external independent advice (from Grant Thornton (GT)) on the strength of RiFW's internal financial controls. The board also received a report dated 11 November 2011 from the European Funds Audit Team (EFAT) of the Corporate Governance and Assurance Division of Welsh Government. This confirmed their "overall audit opinion on the management and control systems in place to comply with WEFO and European requirements was Effective (Works Well)".
- ix) There is an evolving and, in my opinion, sound system in operation by the FM for assessing and managing risk, which involves ARC and board scrutiny and challenge,.
- x) As referred to elsewhere in this report, the board is not supported as it might be, by full attendance at its meetings due to the recurrence of matters of conflicts of interest. I believe potentially there is over much reliance on RA as the external non executive appointee on the board with the highest level of attendance at meetings. He is also Chair of the ARC. I believe he needs to be better supported by the addition of further suitably qualified and experienced private sector representatives to the board – see also Recommendation 11.
- xi) I am in no doubt that external members of the board have, and are, devoting far more time to RiFW activities than was originally envisaged and as set out in their letters of appointment or in the advertisement for the roles. I believe there is a substantial risk that board members may feel they no longer have the ability to devote the time that is evidently required to run RiFW's affairs going forward. This may have a knock-on effect in terms of the running of RiFW's activities due to the potential for a loss of continuity at board level.

**Recommendation 19:**

**RiFW's sponsor department at WG should address the issue of resourcing at board level.**

- xii) A number of those with whom I have come into contact as part of this review have commented on the negative effect of the current pause on RiFW activity and its ability to deliver its objectives. I appreciate this is acknowledged by the WG sponsor, but the longer activities are on ice the higher the risk of reputational damage with consequential loss of momentum of programme delivery.
- xiii) While it does not appear to have caused difficulties in operation, there appear to be anomalies in the responsibilities which have been set for the board in respect of the oversight of matters reserved for decisions taken by the FM's Investment Committee.

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The RIFW Business Plan 2011-2013 states (section 3.4) that, among its roles the Investment Committee (IC) is to approve the Investment Strategy prepared by the RiFW management team and recommend it to the management Board. Another aspect of the IC is to review, scrutinise and approve investment decisions.

I appreciate that the way in which the RiFW Fund and its operations have been structured are, at least in part, consequent upon the need to best manage aspects of State Aid, and these may be associated with the role set for the IC.

It has been stated to me during this review that the board see the IC as having the responsibility for agreeing investments and the board ratify those decisions. This is different to the responsibility as accepted for dealing with the sale of assets where board members see they have the clear responsibility for taking any associated decisions.



## **6) Actions of Board Members against the terms set out in their appointment letters and the Terms of Reference for the Board itself (if any).**

- i) As referred to previously, neither of the two existing WG officials on the board have appointment letters – see Recommendation 2.
- ii) RiFW’s governance structure and the role and constitution of the Board and its ARC are contained in RiFW’s Business Plan (also occasionally referred to as its Operations Manual). This is reviewed by the board annually and updated as necessary.
- iii) The members Agreement provides that the members have delegated decision making powers in relation to the LLP to the management Board. It also contains provisions relating to the constitution of the management board, the conduct of meetings and voting rights. While these may be considered as high level issues relating to the conduct of the management board, I do not consider them to be adequate terms of reference.
- iv) Given the absence of formal arrangements in place between the sponsor department and RiFW as described in Section 2 (iii) of this report, I am unaware of any set terms of reference for the board other than those outlined and contained in external board members’ letters of appointment. These are set out in Appendix 1.

I have been informed that to date the board have yet to conduct a formal review of their activities or effectiveness.

### **Recommendation 20:**

**RiFW’s sponsor department at WG should address the setting of formal terms of reference for the RiFW board.**

### **Recommendation 21:**

**The board should design and implement a review of its effectiveness against its terms of reference.**

- v) The ARC does have terms of reference which have been approved by the board, and which in my opinion are fit for purpose.

I have been informed by the chair of the ARC that an informal discussion has taken place at committee around the effectiveness of the ARC, and using a document provided by EY – “*Assessing the performance of the audit committee – a checklist*”. RA expects this to become a formal activity of the ARC going forward, but at the moment it is still an early stage in that committee’s development.

vi) WG accounting expertise on the ARC

It is of note that the ARC incorporates in its terms of reference the fact that it would not be quorate if there was non attendance from its co-opted member from WG who holds a relevant accounting background. This was initially John Hughes and is now Huw Davies.

vii) Appointment of chair

Under the terms of the Members Agreement, until such time as an independent chair is appointed, the Welsh Ministers shall appoint one of the Welsh Ministers representatives to be the chair of the management board. The initial chair was PL, and is now CB. The formality of his appointment as chair of the board is reflected in the fact that board minutes record his appointment as such at the start of each meeting. Given CB has no letter of appointment, I suppose this has to be the case but would expect the role of Chair of the board to be formalised in due course, and in line with Schedule 8 of the Members' Agreement.

viii) I have referred elsewhere in this report to aspects of JG's contribution to board activity.

Additionally I would refer readers of this report to Appendices 3 and 4 where it is shown that attendance of Cllr Holley at Board meetings has been 40% and that at ARC 38% respectively.

ix) Members' meeting

Schedule 9 of the members' agreement provides that "..... a meeting of the members shall be held on a regular basis and at least once in every financial year of the LLP at which the affairs and direction of the LLP are discussed and an account of the LLP's business and progress is given to the members...."

I am unaware of such meetings having taken place, although I have observed a reference in the minutes of the board meeting dated 23 January 2013 to the fact that "Rifw had altered its annual meeting timetable to accommodate the Welsh Government's request [ for the delivery of RiFW's audited accounts to WG by 31 may 2013]".

## **7) The decision making processes undertaken by the Board and adherence to associated protocols (if any).**

- i) The WAO have made me aware of one issue affecting adherence to protocols which has come to light as part of their vfm study. Namely an issue over the following of proper procedures relating to the format of voting at a board meeting held on 9<sup>th</sup> June 2011.

The following is an extract from an email dated 15 March 2013 from Mike Usher of the WAO to Amber on the subject

*“The specific concern that we currently have regarding the conduct of the RIFW Board meeting of 9 June 2011 is in respect of non-compliance with paragraph 8.3.3.2 of the Members’ Agreement of 14 Dec 2010.*

*This prescribes that: “an email or other electronic communication sent by a Representative, which sets out the text of a resolution [my underlining] and contains a statement to the effect that the Representative agrees to the resolution and such email or other electronic communication has been sent to and printed out by any member of the Management Board shall be deemed to be a resolution in writing by the Representative who sent it”.*

*It currently appears to us that the email of 4 June 2011 sent to Amber by Cllr Chris Holley did not constitute a valid resolution, as it did not comply with para 8.3.3.2 in its entirety:”*

Leo Bedford of Amber replied on 18 March stating that “.....although the intent [of the vote for the resolution] was clear ...execution will be more precise in future.”

- ii) Other than the foregoing, and where addressed elsewhere in this report, I believe the protocols set out for the board as contained in the MA and Business plan have been broadly followed.

There is significant evidence which has been provided by the FM as part of this review, and the WAO vfm study, of aspects of good practice in the way information is ordered and presented to the board. Each member of the board that I have interviewed considers the board provides robust debate and challenge in its undertaking.

## **8) The effectiveness of the Board's risk management processes.**

- i) The board's Operations Manual contains a "*Policy Document – Risk Management*".

I have examined the version dated April 2012 and consider it to be of high quality and comprehensive enough for RiFW purpose. I would make the following suggestions as to how it may be enhanced, given the public funding and profile aspects of RiFW and its associated activities:

- (a) The inclusion of addressing the provision of value for money in RiFW's activities
- (b) The inclusion of the impact and effect on activities associated with the management of public funds

- ii) The risk register is presented to the ARC on a quarterly basis and to the Board for approval every six months. A risk register for each invested project is now also included.

- iii) I have seen risk management papers as prepared for, and considered by both, the ARC and the Board. Again I consider these to be of good quality. There is also evidence that risks are considered and discussed at each board meeting and that the risk assessment and risk report is regularly updated.

**9) Other than in respect of issues relating to Governance, the disposal of the land is outside of the scope of the review.**

- i) I have been informed there is a separate peer review being conducted on issues associated with RiFW property matters, and these are outside the scope of my review.
- ii) I make the observation that decisions taken by the board concerning the sale of land assets are documented and minuted. From discussions I have held with board members they are entirely comfortable that adequate governance processes were followed in this regard and that adequate information was brought before them in order to take the decisions they made.

RA has also provided me with a copy of a file note he prepared for himself following a board meeting of RiFW on 9 June 2011 at which a decision was taken to accept an offer for the sale of assets. This enforces the basis of the board decision to which he was party.

- iii) I have been made aware of concerns the WAO have raised as part of their vfm study around the potential of conflicts of interest arising from client appointments accepted by RiFW's Investment Manager (IM), Lambert Smith Hampton (LSH). I have seen copies of correspondence where LSH have set out their position in this regard, but have no further comment to make as I believe this falls outside the scope of my review.

## **APPENDIX 1**

### **Extract from:**

### **Letters of appointment to the board for external members (CH; RA; JG)**

#### **Duties**

As a Member you will be expected to:

- Ensuring the proper and efficient conduct of the Fund;
- Agreeing, reviewing and monitoring the delivery of the Fund Investment Strategy;
- Agreeing and reviewing the annual Business Plan to which the Fund Manager will work, spending to profile and achieving results;
- Monitoring and reviewing the Fund's financial standing and asset register;
- Monitoring performance of Fund Manager and Investment Manager in accordance with the terms of their service contracts;
- Ensuring investment of the Fund is in compliance with European Regional Development Funds and Urban Development Funds;
- Reviewing and approving accounts of the Fund;
- Actively promoting the Fund and its achievements;
- Supporting the Chairman in leadership of the Board while monitoring responses to future challenges and responsibilities;
- Scrutinising the performance and efficacy of the Investment Strategy in meeting agreed goals and objectives, and monitor the reporting of performance;
- Ensuring that decisions made by the Board follow proper procedures, are supported by sufficient high quality information and are robust and defensible;
- Staying abreast of policy approaches to the JESSICA programme in other parts of the UK and beyond in order to learn from those and to evaluate Wales' relative performance;
- Ensuring that the operation of the Fund is within its powers ;
- Exercising independent judgment, reasonable care, skill and diligence in undertaking duties; and
- Acting in the best interests of the Fund.
- Ensuring that the Committee on Standards in Public Life's Seven Principles of Public Life are adhered to

APPENDIX 2

**Extract from**  
**Mr Richard Anning**  
**Mr Jonathan Geen**  
**December 2010**  
**and**  
**Cllr C Holley**  
**November 2010**

**TERMS AND CONDITIONS OF APPOINTMENT TO REGENERATION  
INVESTMENT FUND FOR WALES MANAGEMENT BOARD**

**(b) 11. Conflicts of Interest**

11.1 You must declare any personal or business interests which may, or may be perceived to, influence your judgements in performing your functions.

11.2 You will appreciate that a public body of this sort attracts considerable public interest and is accountable to the Welsh Assembly Government, through the Deputy Minister for Housing and Regeneration, for its stewardship. It is particularly important to ensure that there is no possible conflict of interest between your current responsibilities (or previous positions) and the responsibilities of this post. You must exercise caution in taking up new responsibilities which could conflict with the interests of this body and should notify the Welsh Assembly Government before you accept any new appointment which is offered to you.

11.3 These interests will be included in a register of interests maintained by the Regeneration Investment Fund for Wales Management Board and you must ensure that your entries are kept up to date.

11.4 Should a particular matter give rise to a conflict of interest you are required to inform the Chair of the Regeneration Investment Fund for Wales Management Board in advance and withdraw from discussions or consideration of that matter.

11.5 You are encouraged to register your own non-pecuniary interests and interests of [close family members and] persons living in the same household which are closely related to the activities of Regeneration Investment Fund for Wales Management Board.

11.6 The Welsh Assembly Government may have to ask you to resign your appointment with the Regeneration Investment Fund for Wales if you wish to accept another appointment.

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**APPENDIX 3 - RiFW – Schedule of Board of Management meetings’ Attendance and Matters of Note**

<i>Date</i>	<i>Notice Issued</i>	<i>Minutes Issued</i>	<i>CB</i>	<i>RA</i>	<i>JG</i>	<i>Cllr CH</i>	<i>RH</i>	<i>WGt Observer</i>	<i>PL</i>	<i>Comment/ Matters of Note</i>
15/03/2010		Y	N/A	N/A	N/A	N/A	N/A	CM	Y	Establishment of LLP. New members (Welsh Ministers and WDML). Appointment of PL and CB as members of the management board. Commencement of business and registered office. Approval of LL agreement.
17/03/2010	Y	Y	Y	N/A	N/A	N/A	N/A	N/A	Y	Authorisation of CM and Eleanor marks to execute documents on behalf of LLP. Open bank account with Barclays.
24/03/2010	Y	Y	N	N/A	N/A	N/A	N/A	CM	Y	PL representing Welsh Ministers and CM WDML.  Resolution to accept the grant agreement re WEFO Grant Offer to RiFW in connection with application for funding of the JESSICA Wales Urban Development Fund Project.
16/04/2010		Y	Y	N/A	N/A	N/A	N/A	CM/CH/LT	Y	Set up arrangements including tendering and appointment of KTS Owens Thomas.
24/05/2010	Y	Y	Y	N/A	N/A	N/A	N/A	CM/JG	Y	Interim management issues and staffing agreement with WAG. Procurement update. Asset management interim arrangements. Set up of a Risk Analysis and Register.
21/06/2010	Y	Y	Y	N/A	N/A	N/A	N/A	CM/CH/LT	Y	Interim management issues and MoU with WAG. Transfer of Assets date fixed as 24/06/2010. Preferred bidder status of Amber and LSH. Future constitution of Board and skills needed. Interim management arrangements. State aid update. Change of accounting date and management accounts/costs.  Report that a meeting had been held between Behan Jones of WAO and CM and CH on 17/06/2010 but there had been no particular areas



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										of concern.
19/07/2010		Y	Y	N/A	N/A	N/A	N/A	CM/JG	Y	Public appointments and proposition that CH would be chair. Fund and Investment Management issues.
27/09/2010		Y	Y	N/A	N/A	N/A	N/A	CM/RJ	Y	Update on board appointments and appointment of Amber and LSH.  Updates on set-up and Jessica programme. Plan for launch of RiFW.
										<b>Note:</b> Cllr. CH appointment effective from September 2010 but not confirmed until 17/11/2010
01/12/2010		Y	Y	N/A	N/A	N/A	N/A	CM/JG/LT	Y	Appointments of 2 members of the board in train. An additional offer (CH) has been made awaiting response.  Induction Session dates to be advised.  Discussion and approval of business associated with RiFW set up and new agreements.
14/12/2010		Y	Y	N/A	N/A	N	N/A	CM/RJ	Y	Approval of <ul style="list-style-type: none"> <li>• New Members Agreement (with Amber)</li> <li>• Fund Management Agreement</li> <li>• Investment Management Agreement</li> <li>• Deed of Termination (of original members agreement between Welsh Ministers and WDML)</li> </ul>
										<b>Note:</b> RA and JG appointments as members of the management Board stated as from 30 September in their terms of appointment, but effective 1 <sup>st</sup> board meeting January 2011.
31/01/2011	Y	Y	Y	Y	Y Part	N	N/A	CM/RJ	Y	Interim Business plan (to become effective 01/04/2011) discussed. Issue raised around Board involvement pre Investment Committee taking decisions.

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					Say 75%					<p>Jessica and state aid issues discussed.</p> <p>Procurement policy adopted.</p> <p>Resolved to procure appointment of external auditors.</p> <p>“Resolved CH, CB and RA plus a qualified accountant from WAG make up the Audit Committee.”</p> <p>Board meeting procedures were duly noted by the Board.</p> <p>North Beach, Tenby – JG declared to the Board that he acts for the developer and left the meeting – rejoined post discussion.</p> <p>Discussion on certain of assets in portfolio under Asset Realisation plan, including an offer received for Cogan Hall Farm.</p> <p>“RA enquired if the realisation date was driven by the client or fund manager. CM responded it was driven by the need for cash and the cash flow requirement by 2013.”</p>
28/03/2011	Y	Y	Y	Y	Y Part Say 75%	Y	N/A	CM/RJ	Y	<p>Board accepted and approved the first Business Plan</p> <p>Resolved to undertake procurement for legal services.</p> <p>Approval of E&amp;Y appointment as external auditors for y/end 31/03/2011.</p> <p>“JG declared to the Board he had a conflict of interest as he may be instructed to act for GST Investments Ltd and left the meeting”</p> <p>“...reported that an offer has been made for the entire asset portfolio.”</p> <p>Resolved due diligence be completed and a report to be produced on the offer. ”A Board meeting could then be called to discuss recommendation.”</p> <p>JG rejoined meeting.</p>

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										Resolution to let Imperial House.
06/05/2011	Y	Y	Y	Y	N	N	N/A	CM	Y	<p>“...sole purpose of this meeting was to consider the recommendation relating to the proposed sale of the properties to GST investments Ltd as latterly discussed by telephone conference on 28<sup>th</sup> April.”</p> <p>Resolved that offer from GST Investments Ltd of £23.0M be accepted [subject to stipulated conditions – incl 60-% overage on Monmouth and 30% overage on Lisvane].</p> <p>Also that contingency plans to be developed for GST sale falling through.</p>
09/06/2011	Y	Y	Y	Y	N	By email	N/A	N	N	<p>“Sole purpose of this meeting was to consider the recommendation relating to the proposed sale of the properties to Langley Davies (funded by) GST investments Ltd as set out in the Fund manager’s recommendation of 2<sup>nd</sup> June 2011.”</p> <p>Resolution was carried accepting GST offer [subject to stipulated conditions – incl 50% overage on Monmouth and 30% on Lisvane] of £22.5M “on the basis of votes in favour by CB and CH (received by email) and an abstention from RA, pending receipt of appropriate indemnity cover for Representatives not directly employed by WAG.”</p>
06/07/2011	Y	Y	Y	Y	Y	N	N/A	CM/RJ	N	<p>Accounting policies affirmed.</p> <p>“Offer for purchase of the RiFW property has been received.”</p> <p>Fund Target IRR approved.</p> <p>Morgan Cole appointment notification – details requested by CB.</p> <p>Forecasts approved for budgeted fees and costs – standing agenda item thereafter.</p> <p>Approval of costs of set up as invoiced by WG – mainly relating to</p>

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										<p>legal fees.</p> <p>1<sup>st</sup> report from Audit and Risk Committee.</p> <p>Changes in WG announced and associated new Sponsor arrangements – CM&amp;RJ handing over.</p> <p>Board member indemnity issues discussed.</p> <p>JG declared Conflict of Interest in relation to property portfolio sale. Left the meeting</p>
01/09/2011	Y	Y	Y	Y	N	N	N/A	N	N/A	<p>Accounts for p/e 31/3/2011 approved along with letter of representation to external auditors.</p> <p>Members' indemnity discussed and insurance cover authorised. CB has raised "as a Governance issue" with WG.</p> <p>PL resignation from the board pending.</p>
19/10/2011	Y	Y	Y	Y	N	N	N/A	N	N/A	<p>Board members insurance – confirmed that D&amp;O insurance cover had been purchased to cover Board members until 31/08/2012.</p> <p>Delegated authorities considered and resolution passed to adopt changes.</p> <p>Internal controls report commissioned from EY by Audit Committee.</p>

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										WEFO visit reported and their report requested.  Register of interests now in place.  Changes in Sponsor reps noted – AB taking over from CM and RJ.  Directors & Officers Insurance cover arrangements noted.  PL resignation noted.  Note that “newly formed” Audit and Risk Committee.  Asset realisation update.  Changes in Sponsor observers noted and AB taking over.
17/01/2012	Y	Y	Y	Y	N	N	N/A	N	N/A	Single agenda item to consider “delegations to the Fund manager.”
31/01/2012	Y	Y	Y	N	N	Y	N/A	AB	N/A	Update on issues associated with land sale to SWLDL.  Resolution passed “.....to approve entry into the portfolio transaction as soon as possible at the reduced price of £21.747M and with the condition precedent in respect of the Brackla property, subject to receipt of comments from RA.”  “{RA confirmed his agreement to this resolution by email on 1 <sup>st</sup> February 2012.}”  Delegated Authorities approved.  Change of Co Sectl services provider noted.
24/04/2012	Y	Y	Y	Y	Y	Y	N/A	AB	N/A	JG DoIs in respect of Pipeline Report – re Tenby and Celtic Biomass. No other DoIs yet “Asset Realisation Plan – Assets Impairment” and

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										<p>“Divestment report” incl on Agenda.</p> <p>Noted WG ok with changes in contractual arrangements between Investment and Fund managers.</p> <p>“...sale of 14 assets was completed on 02/03/2012 for £15.729M...”</p> <p>External auditors provided with confirmation that Board Members unaware of any fraud or non compliance with laws and regs issues.</p> <p>Outcome of internal audit report from Grant Thornton on the internal control environment noted. WEFO audit “noted”.</p> <p>Risk register review process discussed.</p>
18/07/2012	Y	Y	Y	Y	N	Y	Y	AB	N/A	<p>RH 1st meeting as replacement to PL.</p> <p>Business Plan approved.</p> <p>Financial Statements Approved along with representation Letter to external auditors</p> <p>Report on Audit and Risk Committee’s effectiveness tabled and duly noted.</p> <p>Neath Town centre £13M facility – reported that agreement in principle has been agreed.</p> <p>Concerns over WEFO timing of funding and lack of investments made by RiFW to date.</p> <p>Brackla and Garth Park land sales update.</p>
06/11/2012	Y	Y	Y	Y	Y Part Say 75%	N	Y	N	N/A	<p>DoIs from JG and withdrawal from meeting at agenda item 9 (pipeline report).Noted WAO review. Completion of first Investment at NPT. Noted EY audit completed. Approval of procurement of a PR company to put together a presentation for Assembly Members. Asset realisation update. Noted tat LSH acting for SWLDL and prepared a letter for the Fund summarising their activity and noting that there is</p>

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										no conflict of interest.
12/12/2012	Y	Y	Y	Y	Y	Y	Y	N		Note – Board members attended by telephone.  Single agenda item concerning communication from WG (John Howells) concerning curtailment of RIFW activity.
23/01/2013	Y	Y	Y	Y	N	N	Y	N		Noted Cllr CH family bereavement. In absence of AB board to ensure alternative comms for WG. Chaser necessary for letter confirming a conflict from JG. Concern over WG intervention. Affect on investment profile. Discussion on WAO study and separate Peer review. Pipeline report and marketing issues. Asset realisation issues. Inability to hold quorate meeting of ARC that day – referral to board of certain matters therefrom. Positive outcome form GT review of control environment. EY external audit plan. To obtain advice on Fund Legal Structure.
<b>Number attended</b>			22/23	13/14	4.75/14	6/15	4/4	16/23		
<b>Percentage attended</b>			96%	93%	34%	40%	100%	70%		

**Note:** CB=Ceri Breeze; RA=Richard Anning; JG=Jonathan Geen; CH=Councillor Chris Holley; PL=Pat Lewis; AB=Alison Bell; DoI=Declaration of Interest; EY=Ernst and Young (external auditors to RiFW); CM=Chris Munday; RJ=Rebecca Johnson; JG=Jayne Garland; LT=Lyndon Thomas; CH=Carolyn Hughes

*Note 2 – DoI (Declaration of Interests) standing agenda item refers to section 177 of the Companies Act 2006*

*Note 3 – 1/4ly management accounts sent to board members when prepared*

*Note 4 – Accounting value of the Fund a standing agenda item*

*Note 5 – Risk Register considered by A&RC and reported to Board quarterly*

*Note 6 – Fund lawyer’s appointment in line with WG procurement process*

*Note 7 – standing agenda items = Treasury management; Financial management; Compliance; corporate governance; audit*

#### APPENDIX 4 - RiFW – Schedule of Audit and Risk Committee meetings' Attendance and Matters of Note

<i>Date</i>	<i>Minutes Issued</i>	<i>CB</i>	<i>RA</i>	<i>JH</i>	<i>Cllr CH</i>	<i>HD</i>	<i>WG Observer</i>	<i>E&amp;Y attend</i>	<i>GT attend</i>	<i>Comment/ Matters of Note</i>
06/07/2011	Y	Y	Y	Y	N	N/A	N	Y		<p>RA Chair.</p> <p>Introduction of Committee members.</p> <p>Consideration of E&amp;Y report on financial statements and their audit (1st period covering sixteen months to 31/03/2011).</p> <p>Management Board to be informed financial statements not ready to be approved – to hold another meeting before recommendation to board to approve financial statements.</p> <p>Also discussion around measurement of committee effectiveness.</p>
18/07/2011	Y	Y	Y	Y	N	N/A	N	N		<p>Consideration of Committee's Terms of Reference, work programme and cycle of meetings (x4 per annum).</p> <p>Inter alia, Resolved:</p> <ul style="list-style-type: none"> <li>• No proxy members.</li> <li>• Quorate = at least 3 members one of whom must be JH.</li> <li>• To make explicit that Committee make recommendation to the "full Board" for authorisation of accounts.</li> </ul>



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										<ul style="list-style-type: none"> <li>• Risk management register and statement of internal controls to be produced</li> <li>• Proportionate external assurance be sought</li> <li>• In addition to declarations of interest before and during Board meetings a standing register of interests would be maintained.</li> <li>• Management Board minutes to be provided to JH.</li> </ul>
01/09/2011	Y	Y By 'phone	Y	N	N	N/A		Y By 'phone		<p>Considered quorate – while not in accordance with resolution passed on 18/07/2011 – see below.</p> <p>Update on financial statements (p/e 31/03/2011) and audit.</p> <p>Resolved – recommend to Management Board, subject to Mr Hughes' approval, that the financial Statements be approved and signed.</p>
06/10/2011	Y	Y	N	Y	Y	N/A	N	N		<p>Past meeting minutes approved.</p> <p>Question as to applicability of FoI.</p> <p>Internal audit of internal controls be commissioned.</p> <p>Risk register produced – highest risk re asset ownership.</p>
17/01/2011	Y	Y	Y	Y	N	N/A	N	N		<p>WEFO audit report – 2 recommendations.</p> <p>Internal controls review – extend to beyond E&amp;Y.</p> <p>Risk management processes discussion and</p>

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										extension.
03/04/2012	Y	Y	Y	Y	Y	N/A	AB	Y	Y	FOI clarification sought.  (E&Y) letter of representation and letter of assurance from Amber.  Principality to present (on risk) at Oct meeting.  Internal audit (GT) report on internal controls.  Further internals control work to be commissioned.  Committee effectiveness to be measured.  E&Y audit planning.
16/07/2012	Y	Y	Y	Y	N	In attendance	AB	Y		E&Y report on audit and draft financial statements.  Letters of rep. Subject to amendments agreed, financial statements be commended to the management board for approval  Internal controls review still to be scoped. Risk register.  JH resignation from Committee - replacement HD.  ToR update required re non-exec committee member.
16/10/2012	Y	Y	Y	N/A	Y	N	N	N		HD apologies – hence meeting inquorate. Agenda items considered only and either deferred or referred to board later that day. GT to conduct internal controls review.

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<i>No. attendance</i>		8/8	7/8	6/7	3/8	0/1				
<i>% attendance</i>		100%	88%	86%	38%					

**Note:** CB=Ceri Breeze; RA=Richard Anning; JH=John Hughes; CH=Councillor Chris Holley; HD=Huw Davies; AB=Alison Bell;

DoI=Declaration of Interest; EY=Ernst and Young (external auditors to RiFW); GT=Grant Thornton; ToR=Terms of Reference;

## **APPENDIX 5**

Scope of Review – 11 February 2013

### **Background**

The Regeneration Investment Fund for Wales is a limited Liability Partnership established in 2010. The Fund was established to stimulate investment in urban development and compliment investment in People and the Economy, delivering social, economic and financial returns.

The board is chaired by a Welsh Government employee. There is one additional Welsh Government board member and 3 external board members appointed through a public appointment procedure and approved by a Minister. The board is supported by an Investment Manager and a Fund Manager, both of whom were appointed through a procurement exercise.

The Board have responsibility to manage a £55million Fund which is comprised of European Regional Development Fund Convergence funding (ERDF) and a mixture of cash, land and property provided by the Welsh Government.

In June 2011 the Regeneration Investment Fund for Wales Board approved the sale of land and property assets vested in the Fund by the Welsh Government to South Wales Land Developments Ltd. This approval was subsequently ratified by the Management Board on 31<sup>st</sup> January 2012.

Following concerns raised by an Assembly Member, a study into the governance, oversight and activities of RIFW was instigated by the Wales Audit Office. Working in partnership with the Wales Audit Office, the Welsh Government has commissioned a peer review of the asset disposal process. To supplement that work the Welsh Government is reviewing the governance arrangements of RIFW

### **Purpose of the Review**

To provide assurance to the Director of Governance that the governance arrangements of the RIFW Board are efficient and effective to enable it to deliver the outcomes for which it was originally established and to make recommendations to where it is consider improvements are necessary.

### **Scope of the Review**

The Governance Review should consider, but not be limited to:

- The establishment of the RIFW Board, composition of Board membership, roles and responsibilities and associated operating arrangements.
- Criteria for selection of Board Members, appointment process, associated documentation and the process for replacement (if required).
- Declaration and management of conflicts of interest (if any) and information sharing protocols in the light of any conflicts of interest.
- The effectiveness of the on-going operation of the Board, its associated meetings and secretariat.
- Actions of Board Members against the terms set out in their appointment letters and the Terms of Reference for the Board itself (if any).
- The decision making processes undertaken by the Board and adherence to associated protocols (if any).

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- The effectiveness of the Board's risk management processes.

Other than in respect of issues relating to Governance, the disposal of the land is outside of the scope of the review.

**Reporting Procedure**

Oral report to the RIFW Steering Group, with a written report to follow as required.