

2020 JOINT CONFERENCE

Governance and pension funds: new approaches to new issues

Thursday 19th and Friday 20th March 2020

CAPE TOWN INTERNATIONAL CONFERENCE CENTRE

PENSION LAWYERS
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A S S O C I A T I O N



**The International Pension and
Employee Benefits Lawyers
Association**



CONFERENCE PROGRAMME

SPEAKERS TO BE ADVISED CLOSER TO THE CONFERENCE DATE

DAY 1 – Thursday, 19 March 2020	
08.30 - 08.50	Welcome by Joint Conference Chair and IPEBLA Chair
08.50 - 09.35	Governance developments in pension provision: a global view
09.35 - 10.45	Around the pensions world in 70 minutes: foundational principles of 4 jurisdictions
10.45 - 11.15	Tea break
11.15 - 12.15	WORKSHOPS
	1. (Joint IPEBLA/PLA) In various jurisdictions: are trustees bound by fiduciary law or administrative law principles, or both, when making decisions? An international consideration of administrative law and fiduciary requirements when trustees make decisions. When do such requirements apply, do they both apply and is it relevant what type of decision is being made?
	2. (Joint IPEBLA/PLA) Managing the dysfunctional trustee: What are the legal options? When is a trustee more difficult than independent, and when does such a trustee begin to compromise the board's effectiveness? What tools does the board have to deal with this? When should the regulator be asked to intervene?
	3. (PLA) The latest on the Conduct of Financial Institutions Bill

	<p>What has changed since the last draft of the Bill? How do the changes affect retirement funds? What do we need to plan for?</p>
	<p>4. (Joint IPEBLA/PLA) Unclaimed benefits: a comparative discussion about the problems and solutions</p> <p>Unclaimed benefits is a global problem. A discussion about how different jurisdictions manage the problem, and what the latest thinking is about what the solutions should be.</p>
12.15 - 13.00	<p>WORKSHOPS</p>
	<p>5. (Joint IPEBLA/PLA) Managing the legal risk when transferring pension liabilities to an insurer</p> <p>Questions to be included, for example: what are the risks when transferring a fund owned policy to the pensioner? Is it better just to buy the policy in the name of the pensioner? What are the reasonable benefit expectations of pensioners?</p>
	<p>6. (PLA) Board conflicts and FSCA Directive 8 – the law and are we still going wrong?</p> <p>What conflicts of interest must a board member and principal officer avoid? Does Directive 8 deal adequately with the such conflicts or does it create other problems? Are there better ways of resolving these issues?</p>
	<p>7. (IPEBLA) New developments in executive compensation.</p> <p>What is the latest thinking about how to structure optimal executive remuneration arrangements so as to attract top executives? Different international views and experiences.</p>
	<p>8. (Joint IPEBLA/PLA) A comparative discussion of death benefit distribution issues</p> <p>What are the different approaches internationally to distributing death benefits, and what are the problems with those approaches? Does it make a difference if the fund is in a developed or a developing economy? How can disputes be minimised? How are minor beneficiaries best protected?</p>
13.00 - 14.00	<p>Lunch</p>
14.00 - 15.00	<p>WORKSHOPS</p>
	<p>9. (Joint IPEBLA/PLA) Avoiding and managing surplus apportionment disputes – approaches to minimise legal risk.</p> <p>Apportioning surplus is highly contentious because one stakeholder group usually thinks another is getting too much. What is the most defensible approach by trustees to use as a basis for surplus distributions? How important is communication? When there is a dispute how can it best be managed?</p>
	<p>10. (Joint IPEBLA/PLA) Conflicts of interest and service providers –international perspectives</p> <p>What types of conflicts of interests exist with service providers? Can such conflicts ever be avoided? To what extent can the trustees defend managing a conflict rather than requiring it to be removed?</p>
	<p>11. (PLA) Death benefits: Help! It's just getting more complicated</p> <p>The legal issues rated to distributing death benefits under section 37C are becoming more complex, not less, especially given certain recent cases. We look at some of the trickier interpretations of section 37C.</p>

	<p>12. (Joint IPEBLA/PLA) Fund/Plan costs are critically important to member's retirement goals.</p> <p>When are fund costs unreasonable and what remedies do members have? How can we control costs and what role do pension lawyers play in this? We look at this problem across various jurisdictions.</p>
15.00 - 15.30	Tea break / PLA Annual General Meeting (members to meet in plenary room)
15.30 - 16.45	Noteworthy South African and international case law developments

DAY 2 – Friday, 20 March 2020	
08.30 - 08.45	Opening
08.45 - 09.30	How are the investment responsibilities of trustees informed by King IV?
09.30 - 10.30	Panel discussion: What should trustees be doing differently to comply with their obligation to invest responsibly? International perspectives.
10.30 - 11.00	Tea break
11.00 - 12.00	WORKSHOPS
	<p>13. (Joint IPEBLA/PLA) How, internationally, do sustainable investments feature within the board's risk management?</p> <p>This subject is relatively new and dynamically evolving. ESG factors represent both potential risks and opportunities to pension funds. How should this be included in the board's risk management process?</p>
	<p>14. (Joint IPEBLA/PLA) What legal risks should be included when doing a due diligence of an umbrella fund/ multi-employer fund? South African and international commentary.</p> <p>What is the legal obligation of the employer when moving to an umbrella fund? What are the key aspects to look at when doing a due diligence? Should the employer obtain advice from different experts? How often should the employer do this exercise and is a review different from the due diligence of a new fund?</p>
	<p>15. (Joint IPEBLA/PLA) What practical and legal tips do you have for trustees when their fund is changing administrator?</p> <p>Changing to a new administrator is one of the highest risk exercises for a fund. How does the board prepare for it, especially if the administration agreement is deficient? What remedies does a board have if things go wrong?</p>
	<p>16. (PLA) A complaints masterclass held by the Pension Funds Adjudicator and a pension lawyer: how can we do things better?</p> <p>When dealing with complaints to the Adjudicator's office what are the ways the fund, industry and the Adjudicator's office can improve the process and outcomes?</p>
12.00 - 13.00	WORKSHOPS
	<p>17. (Joint IPEBLA/PLA) Different global approaches to managing the legal issues in a defined benefit to defined contribution conversion.</p>

	<p>Is there less legal risk to convert in fund or on transfer to a DC fund? Can there be a default? How can converting members be compensated for future DB benefit without encouraging early withdrawal? Is it possible to be fair to both the members and the employer?</p>
	<p>18. (Joint IPEBLA/PLA) The 10 top legal tips on service provider agreements from different jurisdictions</p> <p>This will cover topics such as: how can boards ensure that the contracted services are properly given? What reporting is necessary? Can there ever be full right of recourse? How do the trustees best provide for terminating their services?</p>
	<p>19. (Joint IPEBLA/PLA) Internationally, is there a legal basis for profits and losses in administration to be borne by the fund (with case studies).</p> <p>Administration errors are inevitable and there is a significant moral hazard if profits can offset losses. But what is the alternative? How can boards manage this in a way that minimises the moral hazard?</p>
	<p>20. (PLA) Default Regulations: it's been a year - what have we learnt?</p> <p>The default regulations affect and require some form of action from every type of retirement fund. While most funds have implemented the required actions and procedures, there are still outstanding issues: hybrid annuities, the draft Smooth Bonus Products Conduct Standard and the draft Living Annuities Conduct Standards. What is the latest thinking on these?</p>
13.00 - 14.00	Lunch
14.00 - 15.00	Regulatory Authorities talk to us about future developments in pensions law in their country
15.00 - 15.15	Closing PLA Chair