



## 25TH ANNUAL CONFERENCE

### PROGRAMME

#### DAY 1 – Thursday, 13 May 2021

TIME AND TOPIC		SPEAKER
08:30 – 08:40	<b>Opening</b>	<ul style="list-style-type: none"> <li>Jonathan Mort - Conference Chairperson</li> </ul>
08:40 – 09:35	Plenary address: <b>An update on retirement reform from National Treasury</b>	<ul style="list-style-type: none"> <li>Ismail Momoniat - Head Tax &amp; Financial Sector Policy, National Treasury</li> </ul>
09:35 – 10:45	Plenary panel discussion: <b>What should trustees be doing differently to comply with their obligation to invest by taking into account ESG factors? What is impact investing? The panel will also discuss some of the proposed amendments to Regulation 28.</b>	<ul style="list-style-type: none"> <li>David Geral</li> <li>Janina Slawski</li> </ul>
<b>10:45 – 11:15</b>	<b>COMFORT BREAK</b>	
11:15 – 12:15	<b>WORKSHOPS</b>	
	<p><b>1. Retirement funds and administrative law</b></p> <p>(a) How do the decisions board members make intersect with administrative law? Are board members bound by fiduciary law or administrative law principles, or both, when making certain decisions? If yes, what does that mean for how board members make decisions and the process around these decisions.</p> <p>(b) A discussion on Interpretation Rulings as contemplated in the Financial Sector Regulation Act. Is there precedent for this sort of power and how should an Interpretation Ruling be applied? Who are bound by Interpretation Rulings? May a financial institution take a different interpretation to that stated in an Interpretation Ruling?</p>	<ul style="list-style-type: none"> <li>Daniel Pretorius</li> <li>Jonathan Mort</li> </ul>

	<p><b>2. How can retirement fund regulators improve?</b> Regulating South Africa’s retirement funds: the case for clearer objectives.</p>	<ul style="list-style-type: none"> <li>• Rob Rusconi</li> </ul>
	<p><b>3. What legal risks should be included when doing a due diligence on an umbrella fund?</b> What is the legal obligation of the employer when ceasing participation in one fund and commencing participation in 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?</p>	<ul style="list-style-type: none"> <li>▪ Carlyle Field</li> <li>▪ Fagmeedah Petersen</li> </ul>
	<p><b>4. Key Office of the Pension Fund Adjudicator (OPFA) determinations</b> The OPFA will discuss some key determinations that their office has issued and will provide an update on how the set-up of the Ombud Framework under the Financial Sector Regulations Act is progressing.</p>	<ul style="list-style-type: none"> <li>• Naheem Essop (Office of the Pension Fund Adjudicator)</li> </ul>
<p>12:15 – 13:15</p>	<p><b>WORKSHOPS</b></p>	
	<p><b>5. Transformation and financial inclusion</b> What is required from retirement funds in terms of the Financial Sector Code, Conduct of Financial Institutions Bill and Financial Sector Regulations Act and how do all these legislative requirements align? We will also have a look the draft Financial Inclusion Policy published by National Treasury.</p>	<ul style="list-style-type: none"> <li>▪ Safiyya Patel</li> <li>▪ Zelda Swanepoel</li> <li>▪ Seshree Govender</li> </ul>
	<p><b>6. Board conflicts and FSCA Directive 8 – the law and are we still going wrong?</b> What conflicts of interest must a board member and principal officer avoid? Does Directive 8 deal adequately with such conflicts or does it create other problems? Are there better ways of resolving these issues? We will also look at the provisions of the Financial Sector Regulations Act and Conduct of Financial Institutions Bill in light of the Principal Executive Officer being a key person.</p>	<ul style="list-style-type: none"> <li>▪ Michelle David</li> <li>▪ Zareena Camroodien (Financial Sector Conduct Authority)</li> </ul>

	<p><b>7. Compulsory annuitisation requirements</b> A robust discussion on some of the burning issues which have not yet been dealt with following the amendments to the Income Tax Act.</p>	<ul style="list-style-type: none"> <li>James Coutinho</li> </ul>
	<p><b>8. Evolving jurisprudence on section 37D</b> The jurisprudence around section 37D of the Pension Funds Act, a provision that allows for exceptional circumstances under which benefits may be withheld or deducted has recently evolved. In this session, we look at recent case law and proposed consequential amendments to section 37D as contained in the Conduct of Financial Institutions Bill.</p>	<ul style="list-style-type: none"> <li>Nondumiso Ntshangase</li> </ul>
13:15 – 14:00	<b>LUNCH BREAK</b>	
14:00 – 15:00	<b>WORKSHOPS</b>	
	<p><b>9. Conduct Standard on section 14 transfers.</b> Directive 6 was replaced with Conduct Standard 1 of 2019. Consequential amendments to section 14 are proposed under the Conduct of Financial Institutions Bill. We will discuss these changes and the potential impact on retirement funds.</p>	<ul style="list-style-type: none"> <li>Samantha Davidson</li> <li>Mpho Kgomongoe</li> </ul>
	<p><b>10. Section 26(2) appointed trustees</b> A discussion of the practical issues around section 26(2) appointed trustees and whether the consequential amendments to section 26 as proposed under the Conduct of Financial Institutions Bill will address these issues.</p>	<ul style="list-style-type: none"> <li>Joelene Moodley</li> <li>Wahida Parker</li> </ul>
	<p><b>11. Death benefits: Help! It's just getting more complicated.</b> The legal issues related to the distribution of death benefits under section 37C are becoming more complex, not less, especially given certain recent cases. Some of the "trickier" interpretations of section 37C will be discussed as well as the consequential amendments proposed to section 37C of the Pension Funds Act through the Conduct of Financial Institutions Bill.</p>	<ul style="list-style-type: none"> <li>Naleen Jeram</li> </ul>
	<p><b>12. Managing the legal risk when transferring pension liabilities to an insurer</b> Questions which will be discussed include: What are the risks when transferring a fund owned policy to a pensioner? Should the policy be purchased in the name of the pensioner? What are the reasonable benefit expectations of pensioners?</p>	<ul style="list-style-type: none"> <li>Arabella Bennett</li> <li>Leigh Sedice</li> <li>Johan Loubser</li> </ul>

15:00 – 15:30	<b>COMFORT BREAK</b> <b>PLA Annual General Meeting (virtual meeting)</b>	
15:30 – 16:45	Plenary address: <b>Noteworthy South African case law developments - going through the legal arguments.</b>	<ul style="list-style-type: none"> <li>• Karin Mackenzie</li> <li>• Advocate Alec Freund SC</li> </ul>

## DAY 2 – Friday, 14 May 2021

TIME AND TOPIC		SPEAKER
08:30 – 08:40	<b>Opening</b>	<ul style="list-style-type: none"> <li>• Chantal Manson - PLA President</li> </ul>
08:40 – 09:30	Plenary address: <b>Enforcement under the Financial Sector Regulation Act (FSRA)</b> The FSCA will take us through some of the recent matters where they utilised the enforcement toolkit available under the FSRA.	<ul style="list-style-type: none"> <li>• Brandon Topham - Divisional Executive for Investigations and Enforcement, Financial Sector Conduct Authority</li> </ul>
09:30 – 10:30	Plenary address: <b>What are pension fund trustees' investment responsibilities today?</b>	<ul style="list-style-type: none"> <li>• Professor Mervyn King SC</li> </ul>
10:30 – 11:00	<b>COMFORT BREAK</b>	
11:00 - 12:00	<b>WORKSHOPS</b>	
	<b>13. Retirement funds and the protection of personal information</b> A discussion of the Protection of Personal Information Act (POPIA) as it applies to retirement funds. (This will <i>not</i> be a general summary of POPIA.) The 1 <sup>st</sup> of July 2021 is nearly upon us – what have retirement funds been doing to ready themselves and what are the practical issues that have arisen?	<ul style="list-style-type: none"> <li>• Leanne van Wyk</li> </ul>
	<b>14. An update on the Conduct of Financial Institutions Bill (COFI Bill)</b> We discuss the latest developments on the Conduct of Financial Institutions Bill as well as the regulatory developments we can expect, in the short term, from the Financial Sector Conduct Authority in the COFI era.	<ul style="list-style-type: none"> <li>▪ Chantal Manson</li> <li>▪ Amina Yuda</li> <li>▪ Eugene Du Toit (Financial Sector Conduct Authority)</li> </ul>
	<b>15. A complaints masterclass held by the Pension Funds Adjudicator and a pension lawyer: how can we do things better?</b> 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?	<ul style="list-style-type: none"> <li>▪ Advocate Muvhango Lukhaimane (Pension Funds Adjudicator)</li> <li>▪ Kobus Hanekom</li> </ul>

12:00 -13:00	<b>WORKSHOPS</b>	
	<p><b>16. Employee benefit tax update</b> A discussion of recent and upcoming tax changes relevant to retirement funds and employee benefits (excluding annuitisation, which will be dealt with in another session).</p>	<ul style="list-style-type: none"> <li>• Jenny Gordon</li> </ul>
	<p><b>17. Unclaimed benefits: a discussion about the problems and solutions</b> Unclaimed benefits are a global problem. A discussion about how certain other jurisdictions manage the problem, and what the latest thinking is about solutions. The proposed amendments to the Pension Funds Act impacting on unclaimed benefits will also be discussed.</p>	<ul style="list-style-type: none"> <li>▪ Deirdre Phillips</li> <li>▪ Takalani Lukhaimane (Financial Sector Conduct Authority)</li> </ul>
	<p><b>18. Does the employer have the right to decide in which fund its employees must become members?</b> What are the issues that may arise if members resist a transfer? What happens if the board becomes dysfunctional in dealing with the employer's decision?</p>	<ul style="list-style-type: none"> <li>▪ Advocate Hanine Drake</li> <li>▪ Advocate Kameel Megan</li> </ul>
	<p><b>19. Supreme Court of Appeal (SCA) cases and Surplus Unclaimed Benefit Contingency Reserve Accounts (SUBCRAs)</b> The SCA has found the relevant Regulation pertaining to SUBCRAs invalid and thus funds may be considering releasing assets related to the SUBCRAs. We discuss the legal complexities that may be encountered by funds.</p>	<ul style="list-style-type: none"> <li>▪ Joanna Combrink</li> <li>▪ Jonathan Mort</li> </ul>
13:00 – 14:00	Plenary address: <b>Noteworthy Financial Services Tribunal rulings</b>	<ul style="list-style-type: none"> <li>• Advocate Sandile Khumalo SC</li> </ul>
14:00 – 15:00	Plenary address: <b>An update from the World Bank on the good design of Defined Contribution Plans</b>	<ul style="list-style-type: none"> <li>• Fiona Stewart (World Bank)</li> <li>• Moderator: Jonathan Mort</li> </ul>
15:00- 15:15	<b>CLOSING</b>	