

OUR INDUSTRY IS CHANGING. ARE WE?

*“Rights and obligations in an evolving Retirement Funds environment”*

**PENSION LAWYERS**



**A S S O C I A T I O N**

THE 2006 PENSION LAWYERS ASSOCIATION CONFERENCE

5 - 7 MARCH 2006

SPIER, STELLENBOSCH, CAPE TOWN



## **GOVERNANCE IN SOUTH AFRICA**

**Jonathan Mort**  
**Director – Employee Benefits**  
**Edward Nathan (Proprietary) Limited**

*JONATHAN MORT, DIRECTOR, EDWARD NATHAN (PROPRIETARY) LIMITED*

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



## TRUSTEE

- Solely responsible for fund operations
- Must be a natural person
- No qualifications, expertise or experience is necessary
- Must have equal representation on board unless exempted (retail funds, umbrella funds)

## ROLE OF THE REGULATOR

- Pension Funds Act (PFA)
  - Cannot remove trustee
  - Can withdraw licence of administrator
  
- Financial Institutions (Protection of Funds) Act (FIA)
  - Can appoint curator on good cause shown
  - Can declare a method of conducting business “irregular or undesirable practice”
  - Can obtain High Court order to compel compliance with law or lawful request
  
- Inspection of FIA
  - Can investigate a fund

*EXTRA DETAILS/INFO CAN GO HERE IF REQUIRED, OR DELETE IT.*

## TRUSTEES DUTIES

- Primarily in terms of FI Act and common law
- Fiduciary obligation
- Pension increase policy
- Investment policy statement
- Code of conduct

## SERVICE PROVIDERS

- Actuaries
  - Registered as valuator under PFA
  - Professional conduct
  
- Administrator
  - Licensed under PFA
  - Subject to audit
  - Agreement restriction
  - Trust account
  - PI & PO cover
  
- Investment Adviser
  - Licensed under FAIS