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International Service



PENSION LAWYERS ASSOCIATION

Regulatory Update

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Topics

- Financial Sector Regulation Bill and the transition to the Financial Sector Market Conduct Authority
- Licensing issues
- Prudential supervision issues
- General supervision issues



Regulatory developments

- ❑ Financial Sector Regulation Bill
- ❑ Restructuring and transition to the Financial Sector
Market Conduct Authority
 - Regulation and supervision to be function-based rather than sector based
 - Greater consistency in licensing and supervision standards and methods. Current FSB-wide projects
 - Disclosure standards
 - Complaints management standards



Licensing issues

- ~~TLAA amendments to fund rules~~
- New licensing standards for
 - Umbrella funds – various categories
 - Umbrellas within umbrellas
 - Unclaimed benefits funds, preservation funds, beneficiary funds
 - General
 - Definition of ‘independent’ for purposes of 7B
 - Rules authorising transfers of liabilities for unclaimed benefits, pensioners while fund is ongoing



Licensing issues

- Rules governing composition of boards and ‘the right to elect’
- Conditions for s7B exemptions
 - ‘Independent’ board members
 - Definition of ‘independent’
 - Special skills, experience, standing, qualities
- Cancellations of registration
 - Section 28 and section 29 liquidations
 - Section 27 - at request of board after ‘full transfers’



Licensing issues

- Board members – training and qualifications
 - Need to prescribe requirements
 - **Trustee Toolkit**
 - Based on Circular PF130
 - Three modules with 13 training units
 - Case studies
 - Formative assessments
 - Summative assessment 79 questions
 - Certificate of completion
 - Self- learning
 - Group learning
 - Voluntary
 - To be accredited with SAQA against the national trustee qualification framework still in process



Licensing issues

Documents for public consultation include:

- Draft Trustee National Qualification Framework
 - **Profile of the retirement fund board**
 - Board directs, controls and oversees the operations of a retirement fund in terms of the applicable, rules and objectives of the fund
 - **Benchmarking exercise (local & international)**
 - **Knowledge modules (subjects)**
 - Governance and strategic direction & control
 - Legal requirements & common law
 - Rules & operations of a retirement fund
 - Performance of fund assets
 - Financial requirements of a retirement fund
 - Risk management



Licensing issues

Documents for public consultation include:

- **Practical skills modules**
 - Govern the activities of the Board
 - Select & conduct on-going assessment of service providers in the process of overseeing the day-to-day operations of the fund
 - Approve financial statements, rule amendments and applicable regulatory submissions
 - Formulate the investment strategy and monitor the performance of fund assets in terms of applicable laws and fund policies
- **Work experience modules (POE)**
- **Assessment criteria & role of assessment quality partner (AQP)**



Prudential supervision issues

- Valuations
 - MIR standards – published December 2013
 - Financial soundness criteria - WIP
 - Appointment of valuator – notice circulating internally, to be published soon
- Regulation 28
 - Conditions for investments in derivatives and hedge funds
 - Regulation 28 guidance circular



Prudential supervision issues

- Section 14
 - Transfers of liabilities without member consent other than on liquidation – pensioners, beneficiaries of unclaimed benefits
 - Treatment of claims arising between application and approval



Prudential supervision issues

- African Bank
 - We are aware that some funds are experiencing difficulties in relation to the payment of benefits
 - Will be asking industry to provide information in relation to these difficulties so that we can ask our CIS division to discuss possible solutions with CIS managers



General supervision issues

- Section 13A –
 - working with SAPS and NPA
- Unclaimed benefit funds –
 - fees, investment policies, efforts to trace beneficiaries
- Beneficiary funds
 - under review



General supervision issues

- Governance Notice
 - To be 'fit for purpose', need business model analyses to identify risks associated with funds within specified categories
 - Must incorporate TCF principles and common standards (eg disclosures, complaints management)
- Problems regularly identified
 - Board member relationships with providers of products and services
 - Excessive board costs (fees, excessive number of meetings)
- Fidelity cover
 - Have met with SAIA – there is more than one underwriter. Boards must shop around



General supervision issues

- Dormant funds
 - Many section 26(2) trustees appointed on the basis of misrepresentations
 - Important that interests of members are protected while guidance is being prepared. Pay benefits, renew insurance cover. Just don't transfer liabilities other than with member consent and in terms of the rules
- Shell funds
 - Need stronger proof that the fund has 'ceased to exist'



Questions?