Today's Trustee

YOUR MONEY YOUR POWER

This educational supplement funded by ASISA FOUNDATION

Trustee Duties
& Responsibilities

RETIREMENT FUND GOVERNANCE IN SOUTH AFRICA

Retirement fund industry stakeholders & their roles

WHY DO RETIREMENT FUNDS EXIST?

How trustees should identify, avoid and manage conflicts of interest

WHAT ARE THE DIFFERENT TYPES OF RETIREMENT FUNDS?

VOL. 1

EDUCATIONAL SUPPLEMENT

Batseta CPD Points

Governance & Ethics for Retirement Fund Trustees

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To learn more about these topics, please visit Today's Trustee Education: www.totrust.co.za/accessyourcourses/ or contact us on education@totrust.co.za

TODAY'S TRUSTEE INNOVATES TO CHAMPION CONSUMER EDUCATION

Today's Trustee, the largest independent publication for trustees and principal officers in South Africa, is uniquely positioned to support trustees, principal officers and fund members with educational content as envisaged by the Financial Sector Code on Broad-Based Black Economic Empowerment (the FSC).

What defines Consumer Education?

Consumer Education is the process of transferring knowledge and skills to consumers, future consumers and potential consumers for individual well-being and the public good. The intended outcome of the process is the development of the individual and small business consumers' knowledge and understanding of the financial sector and its products and services. Consumer Education includes programmes that are aimed at empowering the broader consumer with knowledge to enable them to make more informed decisions about their finances and lifestyles, including their financial health.

Today's Trustee Consumer Education offering

With industry funding secured from the ASISA Foundation, Today's Trustee has extended the scope and reach of its digital and print platforms to help facilitate FSC-compliant Consumer Education. Today's Trustee has recently developed a state-of-the-art website and online education offering available online at www.totrust.co.za. Through this electronic platform, users are able to access financial literacy modules for the awarding of Continuous Professional Development (CPD) credits upon successful completion of each module. The online modules are assessed by means of a short quiz to ensure that measurable learning outcomes have been achieved. Furthermore, a quarterly Consumer Education publication focusing on trustee-relevant education themes will complement the *Today's Trustee* magazine and online education modules.

FSC-compliant Consumer Education for trustees, principal officers and fund members

This new Consumer Education offering – via Today's Trustee print publications, the Today's Trustee website and Today's Trustee online learning modules – provides both an impactful and FSC-compliant channel for the CPD aspirations of trustees and principal officers. It also serves as an excellent Consumer Education partnership opportunity for those financial services companies wishing to support independent trustee education – while at the same time being able to claim FSC scorecard points.

Today's Trustee Education fully subscribes to the following Monitoring & Evaluation (M&E) requirements for FSC-compliant Consumer Education:

- Strict adherence to the Consumer Education guidelines set out in the Financial Sector Code and its Guidance Notes, specifically the Annexure to Guidance Note 500 'Guidance Note on Retirement Fund Trustee Education'.
- The appointment of a specialist service provider to ensure that all FSC Consumer Education compliance requirements are met.
- Although free to trustees, the online modules require a once-off user registration and log-in to track trustee progress for the recognition of learning outcomes and CPD credits.

Today's Trustee online education modules currently available:

- Introduction to the Financial Sector Code
- Introduction to Governance and Ethics for Retirement Fund Trustees
- Introduction to Responsible Investment
- Introduction to Active Ownership

Registration process for trustees

Trustees interested in accessing the online education modules are able to register via the Today's Trustee website (www.totrust.co.za) at no cost. Trustees can also sign up via the website to receive a complimentary copy of *Today's Trustee* quarterly magazine.

Partnership opportunities for financial services firms

Today's Trustee is delighted to be in a position to partner with financial services firms wishing to fund Consumer Education. Today's Trustee is well-positioned to support FSC-compliant Consumer Education spend, which enables financial services firms to benefit from FSC scorecard points for such funding via Today's Trustee. Should funding for Today's Trustee consumer education projects be received via the ASISA Foundation, scorecard points are immediately awarded by the ASISA Foundation upon receipt of the Consumer Education funding. Today's Trustee is also able to accept FSC-compliant Consumer Education material from financial services firms for distribution via Today's Trustee.

REFERENCES:

Reference: FSC Annexure to Guidance Note 500 'Guidance Note on Retirement Fund Trustee Education'. Available: https://fstc.org.za/pdf/guidance-notes/new-guidance-2019/GN500-Consumer-Education-07-March-2019.pdf

For partnership and Consumer Education funding opportunities via Today's Trustee, please contact education@totrust.co.za or 021 851 0091 / 011 887 1250

THERE ARE FOUR IMPORTANT REASONS FOR THE EXISTENCE OF RETIREMENT FUNDS

WHY DO RETIREMENT FUNDS EXIST?

IN BRIEF:

In the 21st century retirement funds exist to:

1. Assist individuals to save for a longer retirement as people increasingly live longer.
2. Provide better returns on savings as a result of professional and regulated investment approach to such savings.
3. Reduce the burden of care for the retired on the government and taxpayers.
4. Ensure that our collective savings, and the influence it brings, contributes to a prosperous and more equal society in balance with our natural environment.

THIS TOPIC IS COVERED IN TODAY'S TRUSTEE **MAGAZINE:**

1. https://www.totrust.co.za/article/cover-story-editorials-edition-april-june-2019/
2. https://www.totrust.co.za/article/transformation-editorials-edition-april-june-2019/
3. https://www.totrust.co.za/article/cover-story-editorials-edition-august-october-2018/

Why retirement funds exist today is a more complex question than was the case a hundred years ago.

That said, there are four important reasons for the existence of retirement funds:

1. ***To help us save for retirement as we increasingly live longer***
   In its modern form, a retirement fund exists so that an individual can save in a structured and regulated way for the duration of their working life. The aim of such savings is to leave them with the financial means to continue their life after retirement.

   To this end, retirement funds enable the collection, investment and disbursement of savings of people over the course of their economic lives.

   - **Collection:** The orderly collection of an individual's earnings typically occurs by way of deduction from salaries or wages when earned. In many cases retirement funds also collect contributions from employers that wish to partially match their employees' contributions.
   - **Investment:** Retirement funds place the pool of collected earnings with professional investors (financial intermediaries) under a specific mandate. The mandate guides the professional investor to pursue expected returns, mitigate investment risks and invest into a portfolio of preferred asset classes and geographic exposure.
   - **Disbursement:** When retirement fund members retire, the fund returns their savings, usually as a combination of a lump sum on retirement and an annuity thereafter. The amount each member will receive is dependent on the member's contributions and investment performance, and is either structured as a defined benefit or defined contribution fund.

WHAT EXPERTS SAY: "LOCAL PENSION FUNDS COLLECTIVELY MANAGE OVER R6.2 TRILLION IN ASSETS AND THE DISCUSSION ON THEIR EFFECT ON SOCIETY AND THE ROLE RETIREMENT ASSETS SHOULD PLAY IN SOCIO-ECONOMIC DEVELOPMENT SHOULD BE ACCELERATED."

Elias Masilela - Chairman, Impact Investing South Africa, April 2019

2. ***To provide better returns on savings as a result of professional and regulated investment of such savings***
   According to the Association for Savings and Investments (ASISA), R6.2 trillion in collective savings is managed by the financial sector in South Africa. These savings belong to workers and savers and are deployed productively in the South African economy to create jobs and wealth for savers.

   Although the investment of savings by professional asset managers is a mechanism for securing investment returns and managing investment risk, recent history has shown that even when regulated, asset managers and the companies in which they invest can destroy value for savers. This can be either through underperformance of managers or unethical/unscrupulous investment/corporate practices as seen in the global financial crisis of 2007 and, more recently, Steinhoff.

   The placement of collective investments with a small pool of asset managers also carries the risk of disempowering savers, with very little access or control over their savings. It therefore becomes very important that both members and trustees carefully select and hold financial intermediaries, such as asset managers and consultants, to account.

3. ***To reduce the burden of care on government and society***
   Before the emergence of European market societies where workers earned cash incomes, care for the retired was undertaken by families and landowners. As cash economies arose, the pooling of savings become a mechanism to create safety nets for workers and their families. The oldest retirement funds in the world were set up by public organisations, such as churches, to care for their elderly ministers.

   In modern days retirement funds are set up by both public and private organisations. Whereas they are often set up so that these organisations don't have to bear the full burden of care for their workers after retirement, they also ensure that these organisations attract and retain workers.

   In the absence of citizens saving enough for retirement, the responsibility falls on governments to care for retired citizens. In turn, current income earners' taxes would be required to finance the retired. Retirement funds therefore provide a mechanism for governments to proactively manage the future cost of care for their retired citizens. To this effect countries with established retirement funds tend to both regulate and incentivise retirement fund savings.

4. ***To ensure that our collective savings, and the influence it brings, contribute to a prosperous and more equal society in balance with our natural environment***
   Responsible investment is a movement aimed at ensuring environmental, social and governance (ESG) issues are considered when directing global financial capital. It is championed by the United Nations Principles for Responsible Investment (UN-PRI).

   Retirement funds across the globe, as the ultimate asset owners, are seen to be pivotal in providing asset managers with a mandate to invest responsibly. In an era where economic and social activity is placing immense pressure on natural resources, retirement funds can also serve as custodians and agents for a more sustainable and just future.

CONSIDERATIONS FOR TRUSTEES, PRINCIPAL OFFICERS AND FUND MEMBERS:

1. In South Africa, people are not saving enough to maintain their retirement income to a level even close to their equivalent monthly salary post-retirement. Members should realise that the longer they live, the more money they will need for retirement.
2. It is best to start saving early. Retirement funds offer a tax-effective and regulated way of saving. Retirement savings also allow people that start saving early enough to get the benefits of compounded returns on their investments.
3. Collectively retirement funds are large asset owners, and potentially influential investors in companies, and the broader South African economy. Trustees and members should learn how to use this power responsibly.
4. Trustees of retirement funds should be held accountable to select high-performing, ethically run asset managers and consultants.
5. A strong case is made that the fiduciary duty of trustees in the 21st century includes considering environmental, social and governance (ESG) issues when making investment decisions.

REFERENCES:

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2. Daily Maverick: 'Impact Investing could bridge the socialist/capitalist divide'
3. *Understanding South African Financial Markets* (5th Edition), 'Retirement Funds', Chapter 7
4. ASISA Overview, April 2019, Pg.3, www.asisa.org.za

To learn more about this topic, please visit Today's Trustee Education: www.totrust.co.za/accessyourcourses/ or contact us on education@totrust.co.za

PENSION, PROVIDENT, RETIREMENT ANNUITY, BENEFICIARY & PRESERVATION FUNDS: WHAT IS THE DIFFERENCE?

THE FACTS:

Around 41% of South Africa's economically active population is estimated to have no retirement plan in place and only 6% of South Africans are on track to retire comfortably (meaning their pension will be at least 70% of their last salary).

This article provides high-level information for retirement fund trustees and retirement fund members to understand the different types of retirement funds.

Types of retirement funds:

Pension fund: A member employee and their employer pay monthly contributions during the employee's working life. At retirement the money invested (including the income earned on it) allows the member to receive an annuity (also called a 'pension') for the remainder of their life in monthly or quarterly instalments. It may also pay an annuity to the member's surviving spouse or child, if applicable. The fund usually allows a member who is about to retire to take up to one third of the capital value of their pension savings at retirement, in the form of a lump sum. The remaining balance will be paid to the pensioner in the form of an annuity for the remainder of their life.

Provident fund: Allows a lump-sum benefit of all of the retirement savings capital (instead of a pension and a possible lump sum) to be paid to a member when they reach retirement age.

Retirement Annuity fund: This is a retirement fund usually used by members who are not employed by an employer and to which a member may make a single or several contributions during their working life. It is a pension fund which means that the member may elect to take up to one third of the capital value of their pension savings at retirement in the form of a lump sum. The balance will be paid to the pensioner in the form of an annuity for the remainder of their life.

Preservation fund: This is a fund to which a 'contribution' is made by a member from their retirement savings, which is transferred from their previous retirement fund after leaving their place of employment due to resignation or dismissal from their job. Those retirement savings are then invested by the preservation fund for the member until they reach retirement age (any date after the member reaches 55 years of age) although the rules may allow a member to make one withdrawal from their retirement savings before they reach that age.

Beneficiary fund: Should a member of a retirement fund die and there is no parent or guardian to look after the financial interests of the member's minor children, the fund can make a distribution of that

deceased member's pension savings into a beneficiary fund which will invest those savings and pay for the child's education, healthcare, clothing and household expenses until they reach the age of 18. Any remaining funds will then be paid out to the child.

Defined Benefit versus Defined Contribution:

Important to note is that the calculation of the final pension benefit a member will receive upon retirement will be determined, to a large extent, by whether the type of retirement fund they contributed to was a defined benefit fund or a defined contribution fund.

Defined Benefit fund: Provides a guaranteed pension benefit on retirement which is calculated based on the member's final average salary multiplied by the years of their fund membership as an employee. The rate at which the employed member contributes to the fund is usually fixed as a percentage of their remuneration. The employer's rate of contributions is usually calculated by the fund's valuator who works out the rate at which the employer will need to contribute to the fund to enable the fund to pay the member their guaranteed pension benefit after retirement. The employer carries the risk of the fund having to guarantee the member's pension after retirement.

Defined Contribution fund: Provides a pension benefit on retirement which is calculated based on the accumulated contributions made to the fund by the member (and/or, if applicable, the member's employer). The returns earned on the investment of those contributions, less deductions of the costs of running the fund and providing for death and disability benefits, are added to the pension benefit. The rates at which the member and employer contribute to the fund are fixed or defined as a percentage of the member's remuneration. Importantly, the amount of the member's pension is not guaranteed, but is rather based on the contributions made combined with the fund's investment performance. This means that the member carries the risks and rewards of their final pension amount.

SUMMARY OF THE KEY FEATURES OF DEFINED BENEFIT AND DEFINED CONTRIBUTION FUNDS

	Defined Benefit	Defined Contribution
The member contributes	A fixed percentage of salary (normally between 5% and 7.5%)	A fixed percentage of salary (normally between 5% and 7.5%) but they may often make additional voluntary contributions
The company contributes	The amount necessary to provide for the guaranteed pension benefit, as calculated by the fund's actuary from time to time	A fixed percentage of the employee's salary
Retirement benefit	A fixed benefit, as specified in the fund rules (according to a set formula)	A pension benefit based on all the contributions made, plus the net investment return, less the cost of risk benefits and administration
Determination of benefit	Formula based upon: • Final salary or final average salary • Number of years as member of fund	Member plus employer's total contributions, plus net investment returns less costs; the regular pension amount is determined by the annuity pension purchased by the member on retirement
Other risk benefits	Usually also based on formulas and risk, either carried by the retirement fund or reinsured with an insurer	Usually a percentage or multiple of salary and almost always reinsured with an insurer
Administration requirement	Administration intensive, especially if none of the benefits is insured or out-sourced	Less complex administration, unless members are given the opportunity to switch investment portfolios on a frequent basis
Risk of investment performance	Carried mainly by the employer	Carried by the member / employee

Source: *Understanding South African Financial Markets* (5th edition), 'Retirement Funds'

THIS TOPIC IS COVERED IN TODAY'S TRUSTEE MAGAZINE:

1. https://www.totrust.co.za/article/old-mutual-corporate-expert-opinions-edition-april-june-2019/
2. https://www.totrust.co.za/article/sanlam-employee-benefits-expert-opinions-edition-november-2018-january-2019/
3. https://www.totrust.co.za/article/riscura-expert-opinions-edition-february-april-2018/

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1. *Understanding South African Financial Markets* (5th Edition), 'Retirement Funds', p. 165-167
2. Pension Funds & Climate Risk, Annexure 1. Available: https://justshare.org.za
3. Pension Funds Act, www.fsca.co.za

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WHAT ARE THE DUTIES AND RESPONSIBILITIES OF RETIREMENT FUND TRUSTEES?

IN BRIEF:

The significant size and influence of the retirement fund industry on South African society has resulted in the duties and responsibilities of retirement fund trustees receiving significant attention from all sectors of society.

Trustees can find guidance in South African law, corporate governance frameworks – such as PF 130, King IV – and a number of voluntary frameworks, such as CRISA and UN-PRI.

The duties and responsibilities of a trustee are to place the interests of the retirement fund first, always acting in the retirement fund's best interests.

This article provides high-level guidance for retirement fund trustees and retirement fund members to help them understand the duties and responsibilities of trustees.

Where can a trustee find out more about their duties and responsibilities?

The sources of retirement fund trustee duties and responsibilities in South Africa are:

- The Pension Funds Act 24 of 1956. Also of importance to Trustees are the Financial Services Laws General Amendment Act 45 of 2013 and Regulation 28.
- Good governance frameworks, such as:
  - Financial Sector Conduct Authority (FSCA) PF Circular no.130
  - King IV Report on Corporate Governance for South Africa (King IV)
- Voluntary frameworks such as:
  - Code for Responsible Investing in South Africa (CRISA)
  - Financial Sector Code on Black Economic Empowerment's Schedule 1: Voluntary Dispensation for Top 100 Retirement Funds, including Umbrella Funds
- Common law developed in court cases concerning trustees' duties and responsibilities

What the Pension Funds Act says:

Section 7C of the Act spells out that the primary role of a trustee is to act in the interest of the fund and its members, putting the fund's interests first. This includes placing the interests of the fund and its members ahead of the trustee's own interests – and also that of any other fund stakeholder – who may have nominated the trustee to assume their trustee role, such as the employer or a labour union, for example.

WHAT EXPERTS SAY: "AS INSTITUTIONAL INVESTORS, WE HAVE A DUTY TO ACT IN THE BEST LONG-TERM INTERESTS OF OUR BENEFICIARIES."

United Nations Principles for Responsible Investment (UN-PRI) signatories

"In pursuing this object, the board (of trustees) shall:

a. take all reasonable steps to ensure that the interests of members in terms of the rules of the fund and the provisions of the Pension Funds Act are protected at all times;
b. act with due care, diligence and good faith;
c. avoid conflicts of interest;
d. act with impartiality in respect of all members and beneficiaries."

Section 7D sets out the numerous duties of trustees. Worth highlighting is that b) proper control systems would include identifying and reducing (or eliminating) risks to the fund. Also salient is e) to obtain expert advice, as it forms the basis for the use of experts to manage the fund's investments. The introduction of Regulation 28 provides direction to trustees to compile a written fund strategy. It sets a higher standard against which trustees can be held accountable:

The duties of the board (of trustees) shall:
a. ensure that proper registers, books and records of the operations of the fund are kept, inclusive of proper minutes of all resolutions passed by the board (of trustees);
b. ensure that proper control systems are employed by or on behalf of the board (of trustees);
c. ensure that adequate and appropriate information is communicated to the members of the fund informing them of their rights, benefits and duties in terms of the rules of the fund;
d. take all reasonable steps to ensure that contributions are paid timeously to the fund;
e. obtain expert advice on matters where the board (of trustees) may lack sufficient expertise;
f. ensure that the rules and the operation and administration of the fund comply with the Pension Funds Act, the Financial Institutions (Investment of Funds) Act and all other applicable laws.

The Financial Services Laws General Amendment Act 45 of 2013 has imposed additional duties on trustees. These include:

- *The duty to acquire and maintain skills levels gazetted by the registrar;*
- *Deal with "whistleblowing" by immediately informing the registrar;*
- *Reporting reasons within 21 days of removal of a trustee;*
- *Legal requirements to act independently and in the best interest of the fund;*
- *Legal duty to ensure that the fund is in a sound financial position, and that fund rules are complied with;*
- *Through disclosure informing all fund members of their rights and responsibilities;*
- *Following procedures laid out in the rules of the fund to delegate, in writing, functions to a person or committee. The delegation must note whether in an executive or advisory role, and occur without the board abdicating responsibility.*

Good corporate governance for retirement funds
King IV, which came into effect on 1 April 2017, includes a supplement focusing on retirement funds. It assumes the application of its 17 principles of good governance on an "apply and explain" basis. According to King IV, trustees should consider these principles in conjunction with CRISA, as well as the FSCA PF 130 (PF 130) as these are seen as complimentary to King IV. PF 130 sets out 13 principles of good governance for retirement funds, and addresses the governance structure, governance of fund operations, and the management of stakeholder relationships.

Voluntary frameworks
There are two voluntary frameworks that should also be considered by trustees when assessing their responsibilities:

Schedule 1: Voluntary Dispensation for Top 100 Retirement Funds including Umbrella Funds under the Financial Sector Code (FSC) includes a voluntary scorecard against which retirement funds should report. It is likely that this reporting will become mandatory after the next revision of the FSC.

CRISA, consisting of five principles, came into effect on 1 February 2012. Accordingly, "Institutional investors and their service providers need to disclose in their annual reports, on their websites and through other means of communication with their stakeholders to what extent they are applying CRISA and if they do not apply, why not." CRISA is aligned to the voluntary adoption of the United Nations Principles for Responsible Investment (UN-PRI), where signatories subscribe to six UN-endorsed principles for responsible investment.

THIS TOPIC IS COVERED IN TODAY'S TRUSTEE MAGAZINE:

1. https://www.totrust.co.za/article/personal-liability-editorials-edition-september-november-2017/
2. https://www.totrust.co.za/article/currents-editorials-edition-may-july-2018/
3. https://www.totrust.co.za/article/adjudicator-editorials-edition-november-2018-january-2019

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1. Pension Funds Act, Section 7C and 7D: https://www.fsca.co.za
2. FSCA Circular PF 130: https://www.fsca.co.za
3. Mahony, Practical Governance: Retirement Funds. p179-186
4. *Understanding South African Financial Markets* (5th Edition), 'Retirement Funds', p. 165-167
5. FSTC: https://fstc.org.za/fs-code-voluntary-dispensation.php
6. CRISA: https://www.iodsa.co.za/page/CRISACode
7. UN PRI: https://www.unpri.org/

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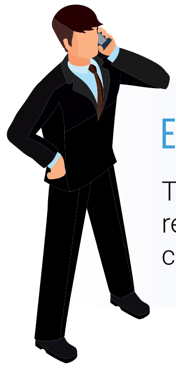
RETIREMENT FUND GOVERNANCE:
RETIREMENT FUND INDUSTRY STAKEHOLDERS & THEIR ROLES



EMPLOYER

The employer sets up the retirement fund and contributes to the fund.

MEMBERS

Employees are members of the fund and also contribute to the fund.

TRUSTEES

A board of trustees is set up to manage the fund for the benefit of its members, in line with legislation, the trust deed and rules of the fund. The board is responsible for the appointment of appropriate professionals to help them fulfil their responsibilities/ obligations to the fund and beneficiaries.

CONTRIBUTIONS

ADMINISTRATOR

An administrator is appointed by the board of trustees to manage the fund's activities and day-to-day affairs:
• Collecting employer and employee contributions;
• Paying contributions to the fund and the insurer
• Communicating with members
• Managing the payment of benefits

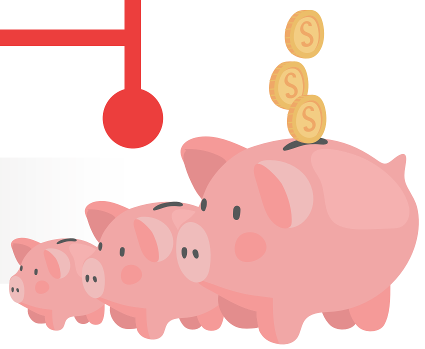
PRINCIPAL OFFICER

The principal officer is appointed by the board of trustees, as required by legislation (to ensure the fund complies with relevant pension fund legislation and is the fund's liaison with the Regulator.

FSCA REGULATOR

INSURER

The board of trustees is responsible for any contracts with insurers who insure part of or all of the members' benefits (the insurer is responsible for payment of any insured benefits).



RETIREMENT FUND

ACTUARY

An actuary is appointed by the board of trustees to evaluate financial soundness of the fund and to carry out statutory valuations of the fund's assets and liabilities at least once every three years.

ASSET CONSULTANT

An asset consultant is appointed by the board of trustees to advise them on strategic asset allocation decisions with respect to the fund's investments.

AUDITOR

The auditor is appointed by the board of trustees to ensure the necessary books of account, annual financial statements and auditor's report comply with the Pension Funds Act and other regulation.

INVESTMENT MANAGER

An investment manager is appointed by the board of trustees to ensure the fund has money available to pay benefits as and when they are due and that the fund's assets are invested in such a way that optimum returns are achieved subject to an acceptable level of risk in accordance with an investment mandate agreement, in accordance with the fund's Investment Policy Statement.

EMPOWERING RETIREMENT FUND TRUSTEES TO IMPROVE WORKERS' RETIREMENT PROSPECTS

THE ASISA FOUNDATION AND ACADEMY

For more than ten years, the Academy of the Association for Savings and Investment South Africa (ASISA) has provided retirement fund trustee education to trustees around the country, identifying the programme as one of the cornerstones of its financial consumer education offering. Its overarching mandate is to provide continuing financial education to participating trustees and fund members by improving their financial literacy and thereby enhancing good governance of retirement funds.

Alicia Davids, CEO and director of the ASISA Academy, says the need for independent, quality trustee education has never been more important or relevant. The Financial Sector Code specifically includes retirement fund trustee education as a component of consumer financial education, and Davids emphasises this by referring to metrics from the Financial Sector Conduct Authority (FSCA) which show that more than 16m working South Africans entrust almost R6.2 trillion to retirement fund trustees as their fiduciary custodians.

In terms of the Pension Funds Act, a retirement fund is required to have at least half of its trustees elected by fund members. The same legislation, says Davids, stipulates that elected trustees must not only attain the requisite levels of skill and competence within six months of appointment, but also retain those levels of skill throughout the terms of their appointment. Pension Fund Circular 130 "Good Governance of Retirement Funds" adds further emphasis by requiring that retirement fund trustees "…should receive rigorous and comprehensive training on both the legislative and regulatory framework and governance principles in order to equip them to effectively carry out their functions…board members should be educated on an on-going basis about new matters relating to funds…"

SINCE MAY 2014 TO DATE, THE ACADEMY HAS DELIVERED OVER 170 WORKSHOPS TO MORE THAN 2 000 DELEGATES FROM OVER 50 RETIREMENT FUNDS

"For most employed South Africans, their retirement fund savings are also their only savings. Historically, however, these savings have all too often been inadequate to maintain a comfortable standard of living post-retirement. This has been caused in part by fund members accessing their retirement savings between jobs and not preserving their savings, as well as suboptimal investment strategies and compliance. The recent introduction of default regulations seeks to address our poor retirement savings culture but financially literate and ethical fund trustees are at the core of optimising retiring fund members' financial prospects," says Davids.

With funding provided by the ASISA Foundation, the ASISA Academy offers retirement fund trustee education workshops that are presented by independent professionals across the country, often in partnership with the Batseta Council of Retirement Funds for South Africa (as accrediting CPD agent) to retirement fund trustees and principal officers.

"Since May 2014, the Academy has delivered in excess of 170 workshops to more than 2 000 delegates from over 50 retirement funds," according to Davids.

She passionately believes that the ASISA Academy, in collaboration with its strategic partners, has started to achieve impact and effect positive change in this socio-economically critical objective of optimising working South Africans' retirement prospects – the dreams for which they have worked all their lives.

THE ASISA FOUNDATION AND ACADEMY

The ASISA Academy is the preferred service provider for the ASISA Foundation, which receives grant funding from industry sponsors for retirement fund trustee education (RFTE), thus allowing the workshops to be offered on a fully-funded basis to trustees of South African retirement funds. This pooled initiative arrangement ensures the independence of the RFTE programme from the sponsors of the ASISA Foundation.

THE ASISA ACADEMY'S RETIREMENT TRUSTEE EDUCATION PROGRAMME

The ASISA Academy's RFTE programme is aimed primarily at trustees of South African retirement funds with an overarching mandate to provide continuing financial education to participants by improving their financial literacy and enhancing good governance of retirement funds. This learning enables and empowers trustees to effectively fulfil their role as trustees, thereby enhancing the retirement prospects of funds' members and beneficiaries. All of the Academy's RFTE workshops are formally monitored and evaluated by an external independent agency.

TRUSTEE WORKSHOPS ON OFFER

The Academy's current suite of RFTE workshops comprises:

- Investment Fundamentals
- Retirement Fund Trustee Governance and Ethics
- Responsible Investing
- Annual Financial Statement Analysis
- Investment Policy Statement Formulation and Assessment
- Employee Benefits
- Death Benefits
- Investment Management Fees and Costs
- Default Regulations

ALICIA DAVIDS, CEO: ASISA ACADEMY

FOR MOST EMPLOYED SOUTH AFRICANS, THEIR RETIREMENT FUND SAVINGS ARE ALSO THEIR ONLY SAVINGS. HISTORICALLY, HOWEVER, THESE SAVINGS HAVE ALL TOO OFTEN BEEN INADEQUATE TO MAINTAIN A COMFORTABLE STANDARD OF LIVING POST-RETIREMENT. THIS HAS BEEN CAUSED IN PART BY FUND MEMBERS ACCESSING THEIR RETIREMENT SAVINGS BETWEEN JOBS AND NOT PRESERVING THEIR SAVINGS, AS WELL AS SUBOPTIMAL INVESTMENT STRATEGIES AND COMPLIANCE. THE RECENT INTRODUCTION OF DEFAULT REGULATIONS SEEKS TO ADDRESS OUR POOR RETIREMENT SAVINGS CULTURE BUT FINANCIALLY LITERATE AND ETHICAL FUND TRUSTEES ARE AT THE CORE OF OPTIMISING RETIRING FUND MEMBERS' FINANCIAL PROSPECTS.

THE WORKSHOP PROGRAMMES

FULL-DAY WORKSHOPS
(6 – 7 HOURS OF PRESENTATION TIME)

- **Investment Fundamentals**
  Economic basics from workings of the SA economy, interest rates, inflation, GDP and exchange rates, through to investment asset classes with associated risks, investment policy formulation, awareness of environmental, social and governance aspects of fund investments.

- **Trustee Governance and Ethics**
  Purpose, types and workings of retirement funds, trustee fiduciary duties and responsibilities, principles of good governance, PF 130, applicable legislation and regulatory framework, functions and role players of a retirement fund, fair treatment of fund members, as well as evaluation of ethical trustee behaviour with an emphasis on conflict of interests.

- **Responsible Investing**
  The meaning, rationale and drivers behind responsible investment (RI), the relationship between RI and trustees' fiduciary duty, Environmental, Social and Governance (ESG) issues and objectives, RI policy and strategy formulation and actioning, service provider engagement.

- **Employee Benefits**
  Role players in a DB and DC retirement fund, fund administration, service level agreements, governance and compliance principles, roles and responsibilities of employers, fund cashflows, withdrawal, retirement and death tax implications and SARS directives, transfers into and out of funds, benefits offered by the fund, income replacement ratios, and member communications.

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  Purpose, use and preparation of fund AFS, principles of fund accounting, independent auditor and valuator roles/reports, trustees' fiduciary duty and responsibilities in the AFS, assessment of fund accounting policies, analysis of each component of the AFS.

- **Investment Policy Statement Formulation and Assessment**
  Purpose and principles of the IPS, investment strategies, asset diversification, life-stage models, investment regulatory compliance, service provider appointment and measurement, targeted returns and associated risk.

- **Investment Management Fees and Costs**
  Complexities and calculation bases of investment fees, TCF implications, base and performance fees calculation and monitoring, communication of fees to members.

- **S37C Death Benefits**
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THE PRESENTERS

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INCREASINGLY, GOOD GOVERNANCE IS BEING RECOGNISED AS BEING GOOD FOR BUSINESS

ETHICAL LEADERSHIP AND TRUSTEES

HOW SHOULD TRUSTEES INCORPORATE ETHICS INTO BOARD GOVERNANCE?

IN BRIEF:

Corporate governance of retirement funds refers to the funds rules, policies and processes (i.e. how the fund is governed). Increasingly, good governance is being recognised as essential for good business. Effective corporate governance is underpinned by ethical leadership.

In the context of retirement funds, what does it mean to be ethical? This relates to the 'moral code' of the board (i.e. the integrity of the board of trustees), which should be guided by codes and policies representing best practice. This moral code should be integrated in the decision-making process to ensure that trustees always act in the best interest of the fund and its beneficiaries, stakeholders and broader society.

This article provides high-level guidance for retirement fund trustees and retirement fund members to understand how ethics can be incorporated into retirement fund board governance.

What guiding principles are in place for retirement funds to consider?

Both the Financial Sector Conduct Authority (FSCA) PF Circular no.130 (PF 130) and the King IV Report on Corporate Governance for South Africa (King IV) provide guidance for corporate governance in retirement funds.

Financial Sector Conduct Authority PF Circular no.130

Point 1 of the preamble to PF 130 relating to good governance of retirement funds highlights that boards of trustees have a fiduciary relationship to funds and therefore must act with integrity. It further states that governance includes "values and ethical principles which require a certain standard of behaviour of the board".

The Circular, among other things, proposes putting certain policies in place such as a code of conduct outlining the duties and obligations of the board. The Circular also suggests that should a member breach the code of conduct, appropriate actions are taken against them (after consideration of any argument in the board member's defence).

King IV Report on Corporate Governance for South Africa

King IV lists several outcomes that should come as a result of implementing its underlying principles. One of these governance outcomes is achieving an ethical culture. This culture can be achieved through the application of the code's underlying principles relating to leadership and ethics, namely:

- **Principle 1: The governing body should lead ethically and effectively.**

  Ethical and effective leadership is exemplified by integrity, competence, responsibility, accountability, fairness and transparency. Members of the board of the fund should individually and collectively cultivate these characteristics and exhibit them in their conduct as set out in the practices under Principle 1.

- **Principle 2: The governing body should govern the ethics of the organisation in a way that supports the establishment of an ethical culture.**

  The board should ensure that the ethics of the fund is governed effectively. When outsourced, the board should satisfy itself that the fund's service providers manage their ethics effectively through codes of conduct, ethics policies and supporting processes.

What does this mean practically for trustees?

Over and above the members of the board acting and leading ethically, the fund should also draft policies determining its approach to ethics (a code of conduct or ethics policy for example). This can incorporate the board members' duties and obligations, the fund's values and how these should be integrated in the decision-making process. The policy can also provide detail on monitoring processes, any applicable codes or policies that need to be complied with and how this is monitored and reported to the fund's members, beneficiaries and other stakeholders.

For further detail, the underlying principles of King IV provide recommended practices to assist boards in achieving a best-practice approach to corporate governance and ethics.

WHAT EXPERTS SAY:

"ETHICS IS CONSIDERING WHAT IS GOOD AND RIGHT FOR THE SELF AND THE OTHER, AND CAN BE EXPRESSED IN TERMS OF THE GOLDEN RULE, NAMELY, 'TO TREAT OTHERS AS YOU WOULD LIKE TO BE TREATED YOURSELF'. IN THE CONTEXT OF ORGANISATIONS, ETHICS REFERS TO ETHICAL VALUES APPLIED TO DECISION-MAKING, CONDUCT AND THE RELATIONSHIP BETWEEN THE ORGANISATION, ITS STAKEHOLDERS AND BROADER SOCIETY."

- King IV

THIS TOPIC IS COVERED IN TODAY'S TRUSTEE MAGAZINE:

1. https://www.totrust.co.za/article/currents-editorials-edition-april-june-2019/
2. https://www.totrust.co.za/article/sasol-pension-fund-editorials-edition-august-october-2018/
3. https://www.totrust.co.za/article/company-reports-editorials-edition-may-july-2018/

REFERENCES:

1. Pension Funds Act: https://www.fsca.co.za
2. FSCA Circular PF 130: https://www.fsca.co.za
3. King IV: https://www.iodsa.co.za/

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MANAGING CONFLICTS OF INTEREST AS A BOARD OF TRUSTEES

IN BRIEF:

Trustees need to understand that conflicts of interest exist in circumstances where the interest of the trustee will place them in conflict with the interest of the fund. Such conflicts must be identified, declared and avoided by the trustee in order to fulfil their duties as set out in Section 7C of the Pension Funds Act.

Retirement fund trustees must be able to identify, declare and avoid conflicts of interest that arise from their role as fund trustees. The requirements and guidance to manage such conflicts are provided for by Financial Sector Conduct Authority (FSCA) PF Circular no.130 (PF 130) and the King IV Report on Corporate Governance for South Africa (King IV). Central to all of these is the duty placed on trustees under Section 7C of PF 130 to "avoid conflicts of interest".

Identifying Conflicts

A trustee should gain a clear understanding of what constitutes a conflict of interest. As this is not an exact science, conflicts of interest in the retirement fund context can be understood as follows:

- Conflicts typically arise in circumstances where the interests of the trustee will likely prevent them from acting in the best interests of the fund.
- These circumstances, if not declared and avoided, are likely to create ethical and moral dilemmas that will be to the detriment of the fund.
- Conflicts of interest can exist in circumstances effecting the trustee as well as persons related to the trustee.

Examples of where conflicts of interest could exist include:

- A trustee earns undeclared income or benefits at the expense of the fund.
- The wife/husband or close relative of a trustee has a contract for providing commercial services to the fund.
- A trustee accepts gifts or benefits personally from the hospitality provided by service providers to the fund i.e. tickets to sporting events, business class flights etc.

Once understood, a trustee should interrogate the personal and related persons' circumstances to identify potential conflicts of interest on a regular basis, and to declare such conflicts.

WHAT EXPERTS SAY: "ANYONE WHO HAS ANYTHING TO DO WITH THE MANAGEMENT OR ADMINISTRATION OF A PENSION FUND WILL BE AWARE OF THE DUTIES IMPOSED ON THE BOARD OF THE FUND BY SECTION 7C OF THE PENSION FUNDS ACT...THEY WILL BE AWARE OF THE DUTY WHICH THIS SECTION IMPOSES TO 'AVOID CONFLICTS OF INTEREST."

- TT June - August 2014

Declaring conflicts

Conflicts should be declared as soon as the trustee becomes aware of a conflict of interest. If a trustee is uncertain whether a circumstance constitutes a conflict of interest, the "Be safe, rather than sorry" approach should be used and the trustee should declare the potential conflict of interest.

Legally, and as part of good governance, conflicts should be declared by the trustee to the fund in writing and addressed to the chairperson of the fund. The trustee should explain in writing the nature, reasons and likely impact of the conflict.

A schedule of conflicts, per trustee, should be maintained by the fund and regularly updated and distributed to the board of trustees. Where necessary, it could also help to discuss identified circumstances of potential conflict with the fund's legal counsel.

In instances where conflicts are not declared by a trustee, it opens up the trustee to legal risks, and the trustee could face being removed from their position, or face litigation in court.

It is also important that, in addition to the disclosure of actual conflicts of interests by trustees, perceived conflicts of interest might also exist. A perceived conflict of interest occurs where legally no conflict may in fact exist, however, the fund's stakeholders, such as members or beneficiaries of the fund, may perceive that a conflict exists. As such, perceived conflicts could be to the detriment of the trustee and/or the fund's reputation and should therefore be dealt with by the trustee and/or fund.

Avoiding conflicts

To avoid and/or manage a conflict of interest, a trustee can follow different approaches. The best approach will depend on the nature of the conflict. The following are examples of such approaches:

- A trustee should excuse themselves from the fund discussions and decision-making processes pertaining to the conflict of interest that the trustee had declared to the fund.
- A trustee can remove the conflict through exiting the circumstances which introduce the conflict (e.g. relationship and/or contract) that gives rise to the conflict.
- Where necessary, a trustee should resign from their role – either as a trustee or the other role creating the conflict – where the conflict of interest cannot be appropriately managed or avoided.

THIS TOPIC IS COVERED IN TODAY'S TRUSTEE MAGAZINE:

1. https://www.totrust.co.za/article/litigation-editorials-edition-april-june-2019/
2. https://www.totrust.co.za/article/legal-matters-ediotrials-edition-september-november-2017/

REFERENCES:

1. Pension Funds Act: https://www.fsca.co.za
2. FSCA Circular PF 130: https://www.fsca.co.za
3. King IV: https://www.iodsa.co.za/
4. Mahoney, Practical Governance: Retirement Funds, p.181

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"The workshop was an eye-opener for understanding the markets. I will be able to make informed contributions as well as informed decisions in the trustee meetings."

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MANCO member of umbrella fund ☐

Name of retirement fund/s:
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Please select the correct answer by marking the correct box below each question.

Example: Which Regulator regulates retirement funds in South Africa?

- [ ] Council for Medical Schemes
- [ ] National Treasury
- [x] Financial Sector Conduct Authority (FSCA)
- [ ] Pension Funds Adjudicator (PFA)

Why do retirement funds exist?
Q1: What is the primary purpose of retirement funds?

- [ ] To create jobs in the South African economy
- [ ] To provide risk benefits such as death and disability cover to employees
- [ ] To reduce employees' taxable salary to be paid to SARS
- [ ] To help economically active individuals save in a structured and regulated way for the duration of their working lives so as to be able to maintain the same standard of living post retirement

The different types of retirement funds
Q2: True or False? A defined benefit fund sees the employee/ fund member assume most of the risk for the investment performance of their retirement savings.

- [ ] True
- [ ] False

Trustee duties and responsibilities
Q3: A trustee first and foremost owes a fiduciary duty to the following entity:

- [ ] The sponsoring employer
- [ ] The labour union that nominated the trustee
- [ ] The retirement fund
- [ ] The board of trustees

Different stakeholders and role players in the South African retirement fund ecosystem
Q4: Which retirement fund stakeholder is primarily responsible for ensuring the fund complies with relevant pension fund legislation and is the fund's liaison with the FSCA?

- [ ] The fund's asset consultant
- [ ] The principal officer
- [ ] The fund's actuary
- [ ] The fund's chairperson of the board

Ethical leadership and trustees
Q5: Which policy document will best address ethical leadership for trustees?

- [ ] Investment Policy Statement
- [ ] Board Code of Conduct Policy
- [ ] Responsible Investment Policy
- [ ] Death Benefits Policy

Conflicts of Interest
Q6: A trustee should disclose in writing a potential conflict of interest to the following individual as required by PF 130:

- [ ] A financial adviser
- [ ] The fund's principal officer
- [ ] The Pension Funds Adjudicator
- [ ] The fund's chairperson

Q7: True or False? The King IV Code of Corporate Governance applies to retirement funds.

- [ ] True
- [ ] False

Q8: True or False? Trustees can be held personally liable for their decision-making as a member of a board of trustees.

- [ ] True
- [ ] False

Q9: True or False? Where appropriate, a board of trustees should appoint external expert advisers to advise them on complex matters where the board of trustees may have insufficient technical expertise.

- [ ] True
- [ ] False

Q10: True or False? Trustees do not need to consider material environmental, social or governance (ESG) issues as it relates to their investments according to Regulation 28 of the Pension Funds Act.

- [ ] True
- [ ] False