



I P E B L A

## International Pension and Employee Benefits Lawyers Association Teleconference

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<b>Teleconference:</b>	<b>Prudent Person Principle</b>
<b>Live Date:</b>	<b>Wednesday, Dec 12<sup>th</sup> 2012</b>
<b>Time:</b>	<b>11:00 a.m. Eastern Daylight Saving Time (Toronto, Canada)</b> <b>4:00 p.m. UK Time</b> <b>5:00 p.m. Central European Time</b>
<b>Replay Date:</b>	<b>Replay available up until Jan 12<sup>th</sup>, 2013</b>

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The IPEBLA Teleconference Committee has assembled an expert panel of speakers who will address the topic "Prudent Person Principle".

### **This Teleconference will be conducted in English.**

**Speakers:** Tejash Modi, Morneau Shepell, Canada.  
Flavio Rodrigues, Bocater, Camargo, Costa e Silva, Brazil.  
Kees-Pieter Dekker, Van Benthem & Keulen, the Netherlands.  
Jan Van Gysegem, Claeys Engels, Belgium.

**Moderator:** Louis Kuypers, De Nederlandsche Bank, the Netherlands

This teleconference will address the current application of the prudent person principle in occupational pension schemes in various jurisdictions where that principle applies.

The prudent man rule is an old trust law requirement in UK law, introduced in the last part of the 19th century and pre-dating pensions trusts. The classic statement is in the 1883 case of *Speight v Gaunt* by Lord Blackburn... "as a general rule a trustee sufficiently discharges his duty if he takes in managing trust affairs all those precautions which an ordinary prudent man of business would take in managing similar affairs of his own". A few years later (1886) it was modified a bit in *Re Whiteley* "...The duty of a trustee is not to take such care only as a prudent man would take if he had only himself to consider; the duty rather is to take such care as an ordinary prudent man would take if he were minded to make an investment for the benefit of other people for whom he felt morally bound to provide. That is the kind of business the ordinary prudent man is supposed to be engaged in; and unless this is borne in mind the standard of a trustee's duty will be fixed too low; lower than it has ever yet been fixed, and lower certainly than the House of Lords or this Court endeavoured to fix it in *Speight v Gaunt*."

Currently, member states of the EU are required under article 18 of the European Pensions Directive (IORP Directive 2003/41/EU) to implement the prudent person principle in national regulations relating to investment of pension scheme assets. Some member states have chosen to limit the scope of the prudent man principle by setting hard quantitative restrictions (rule based). Other member states have chosen to just implement the prudent man principle as such (principle based). Prior to the introduction of the principle common law jurisdictions such as the UK and Ireland had case law regarding the prudent person principle. Similarly there

is case law on the point in Canada and the US. In Canada there was (or still is) also statutory regulation on the matter.

Recently there is a case in the Netherlands between the regulator and a pension fund about the scope of the prudent man principle. In this case, the regulator has forced the pension fund to reduce its substantial investment in gold to a prudent level. The court decided in favour of the defending pension fund and the case will be heard in appeal shortly.

The teleconference will address the subject from the perspective of a number of jurisdictions - currently the Netherlands, Belgium, Canada, Brazil.

**Length of teleconference:**

The panel discussion will run for approximately 70 minutes, followed by a 20-minute question and answer session.

This presentation will be repeated as a replay. Please see replay schedule below. The replay will include the presentation and questions and answers but will not include a live opportunity to ask questions.

**Timing:**

Date	Time	Country
Wednesday 12 <sup>th</sup> Dec. 2012	11:00 a.m.	USA/Canada: Eastern Daylight Saving Time
	4:00 p.m.	UK
	5:00 p.m.	Central European Time
Replay available until 12 <sup>th</sup> Jan. 2013	Up to 11:00 p.m.	USA/ Canada: Eastern Daylight Saving Time

**Teleconference Format:**

For those not familiar with the format of a teleconference, it is a bit like listening to a radio programme on the topic in question. The expert panel will discuss the chosen topic. Those who have signed up for the teleconference will receive an electronic confirmation with telephone dial-in instructions, speaker slides and any other materials to which the speakers will be talking for the call.

For those joining the live discussion, you will have the opportunity to ask questions of the speakers. For those joining the replay, you will hear the replay and the question and answer session.

For registration form, please scroll down to page 3.



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## IPEBLA TELECONFERENCE REGISTRATION FORM

**Teleconference:** Prudent Person Principle  
**Date:** Wednesday, Dec 12<sup>th</sup>, 2012

The price for this teleconference is **US\$40.00 for IPEBLA members** and **US\$75.00 for non-members**. To register, please complete the form below and fax (+1 416 929 5256) to IPEBLA or e-mail [ipebla@managingmatters.com](mailto:ipebla@managingmatters.com) with credit card payment for the registration fee. You can also register on line at [www.ipebla.org](http://www.ipebla.org).

(Non members who decide to join IPEBLA within 30 days of the conference will receive a reduction in their membership fee of US\$50.00)

The registration deadline for this teleconference is **Friday, Dec 7<sup>th</sup>, 2012**

I am an IPEBLA member  I am not an IPEBLA member  I would like to become a member

Mr. Ms. Mrs. Dr.

Name: \_\_\_\_\_

Position: \_\_\_\_\_

Company/Organization: \_\_\_\_\_

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Country: \_\_\_\_\_ E-mail: \_\_\_\_\_

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Name on card: \_\_\_\_\_

Credit Card Number: \_\_\_\_\_ Exp. Date: \_\_\_\_\_

Name On Card/Signature: \_\_\_\_\_

Amount of Payment: US\$ \_\_\_\_\_

Please indicate for which session you are registering:

I am registering for the live session  I am registering for the replay session