



CARIBBEAN ACTUARIAL ASSOCIATION



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of the International Actuarial Association

# Conflicts of Interest For Pension Actuaries

**The 23rd Annual Conference of the  
Caribbean Actuarial Association  
Montego Bay, Jamaica  
December 5, 2013**

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**Montego Bay, December 5, 2013**

# Agenda

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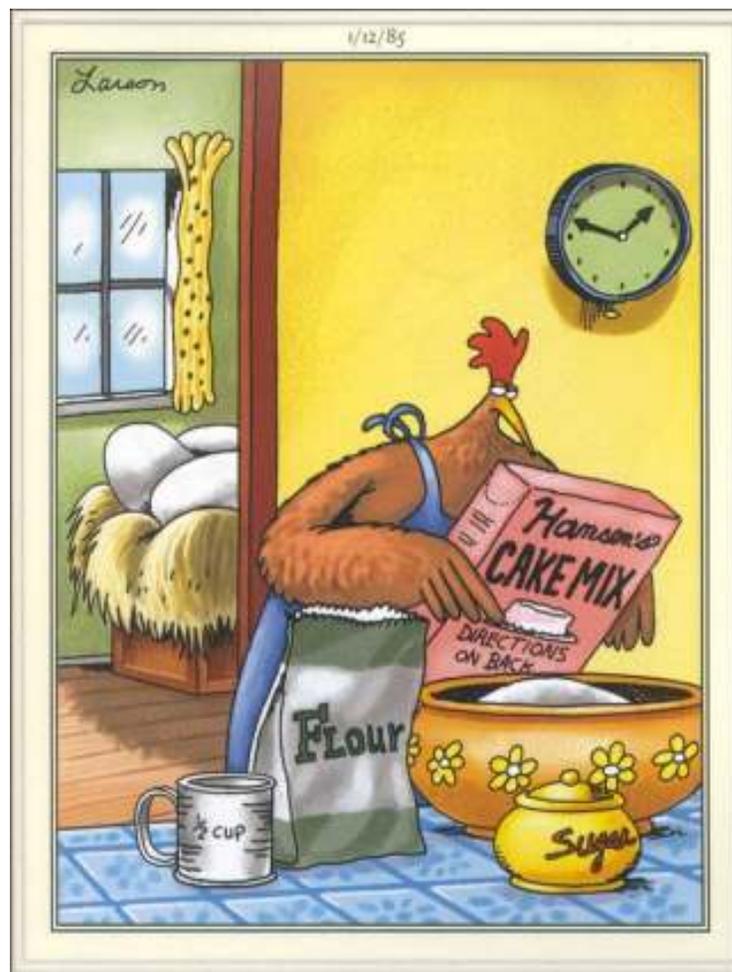
1. What Is a Conflict of Interest?
2. CAA Code of Conduct
3. Managing Conflicts
4. Case Studies



# What Is a Conflict Of Interest?

An interest that prevents  
or could prevent a person from  
performing a task objectively.

-- American Academy of Actuaries.



# What Is A Conflict Of Interest ?

A situation – not an accusation – in which a person takes or could take some advantage from their position.



# Legal Definitions

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**Actual conflicts:** a situation in which financial or other personal considerations compromise or bias professional judgment and objectivity.

**Apparent conflicts:** a situation in which reasonably well-informed persons could properly have a reasonable apprehension that professional judgment is likely to be compromised

**Potential conflicts:** incorporates a concept of foreseeability – that the private interest could at some time be sufficient to influence professional judgment

**Systemic conflicts:** when there is a tension or conflict between the exercise of independent judgment and a legally required scheme of management that appears to be inconsistent with independent judgment. A “baked-in” conflict.



# What is a Conflict of Interest

## OLD:

- Matthew 6:24 – “No one can serve two masters ... either you will be devoted/loyal to one and despise the other”

## MODERN:

- Conflicts must be managed, not avoided.
  - A situation – not an accusation
- UK vs. North American style pension standards laws
  - Pension standards laws create baked-in conflicts of interest.
    - For example, where plan administrators (fiduciaries) may be employers, or a joint board of trustees with employer and employee representatives
    - May create uncertainty for actuaries – who is the client ? Employer in its personal capacity or employer in its capacity as scheme administrator?



# Pension Benefits Act (Barbados)

8. (1) The Supervisor shall not register a pension plan unless he is satisfied that it is to be administered by an administrator that is,

- (a) the employer of persons benefitting or intended to benefit from the pension plan;
- (b) a body composed of one or more representatives of the employer participating in the pension plan and one or more representatives of the members, deferred or retired members of the pension plan;
- (c) a body wholly composed of members and deferred and retired members of the pension plan;
- (d) a person, body of persons, or entity which by virtue of this Act or any other law is vested with responsibility for the administration of a pension plan or pension fund;
- (e) a board of trustees appointed pursuant to the pension plan or trust agreement establishing the pension plan and, in the case of a multi-unit or multi-employer pension plan, if
  - (i) at least one-half of the members of the board are representatives of members of the pension plan; and
  - (ii) two-thirds of the representatives referred to in subparagraph (i) are citizens or residents of Barbados or of any member state of the Caribbean Community; or
- (f) an insurance company that provides the benefits under the pension plan where all the benefits under the pension plan are guaranteed by the insurance company.

(2) A pension committee or a board of trustees that is the administrator of a pension plan may include a representative or representatives of persons who are receiving pensions under the pension plan.



# The Pensions (Superannuation Funds and Retirement Schemes) Act, 2004 (Jamaica)

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(7) Advisors, Agents of Trustees and their agents shall not continue to act in a matter where an actual or potential conflict of interest arises unless they made full disclosure and the Board consents in writing for them to do so.

(8) Where advisors, Agents of Trustees and their agents have clients with conflicting interests in relation to a transaction, they shall continue to act unless they take reasonable steps to ensure that each fund or scheme is treated fairly.



# CAA Code of Conduct

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## Rule 2:

A member shall act in a manner to uphold the reputation of the actuarial profession and shall act in a manner to fulfill the profession's responsibility to the public.

Would your advice stand up to scrutiny if it were front page news!



# CAA Code of Conduct

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## Rule 3:

A member shall, whether employed or not, express an independent opinion or provide unbiased independent advice, where the circumstances require this. A member must analyse and make relevant decisions without being unduly or inappropriately controlled, constrained or influenced.

## Rule 8:

A member shall in communicating his professional findings, identify the client for whom those findings are made and in what capacity the member serves.



# CAA Code of Conduct

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## Rule 4:

A member shall perform professional services with courtesy and shall co-operate with others servicing his client or employer. He must treat client information with confidentiality and must make no disclosure of the client's affairs unless so authorized by the client, or so required by law, or as required by the Disciplinary Procedures of the Caribbean Actuarial Association.



# CAA Code of Conduct

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## Rule 9:

A member shall not perform professional services involving an actual or potential conflict of interest, unless the member's ability to act fairly is unimpaired and there has been full disclosure of the actual or potential conflict.



# CAA Code of Conduct

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## Rule 10:

When a member is asked to take on a professional appointment previously held by another member, before he accepts the appointment, he shall consider whether it is appropriate to consult with the previous member as to whether there are any professional reasons not to accept the appointment or any particular considerations, which should be borne in mind before giving actuarial advice. The other member must provide any required information as soon as possible and may not attempt to obstruct a client who wishes to change advisers.



# CAA Code of Conduct

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## Rule 11:

A member shall disclose in writing and timely, to his client all sources of income related to any service by the member, his employer or firm, on behalf of a client.



# Conflict Management

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Keys to Successful Conflict Management:

1. A Conflicts Recognition and Ready Culture
2. Ethical Conduct
3. A Good Conflicts Policy



# Conflict Management

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- A situation, not an accusation
- Openness
  - Engagement
    - trust
    - habits
    - vocabulary
  - Foresee/Expect
  - Handle
  - Learn



# Conflict Management

## Adopt Principles of Ethical Conduct:

1. Act with loyalty and faithfulness
  - plan beneficiaries
  - plan sponsor(s)
2. Act with prudence, competence, independence and objectivity
  - be informed
3. Do what is right
  - adhere to governance policies
    - Professional
    - Industry
    - Firm policies
  - comply with applicable law
    - Statutes
    - Contracts
4. Be Transparent
  - be externally focussed
  - candid and direct communication and disclosure
5. Maintain confidentiality of confidential information



# Conflict Management

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## Practical Steps:

- Define scope in ***contracts of engagement***
- Employ ethical screens (with consent of both parties)
- Obtain independent opinion (refer to another actuary)
  - One firm - two actuaries
  - Separate actuarial firms
- Take legal advice



# Trouble Spots and Case Studies

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1. Actuarial Valuations
  - Funding advice
  - Discretionary benefits
  - Fiduciary advice vs. employer advice
2. Pension commutation and member options
3. Surplus distribution
4. Mergers, Acquisitions and Transactions
5. Accounting



# Trouble Spots and Case Studies

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6. Benefit Changes
7. Settling liabilities
8. Certification that benefits meet a minimum standard
9. Amendments of Trust Deed and Rules
10. Plan/Scheme wind-ups
11. Gifts and favours for clients



# Case Study: Actuarial valuation

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- Who is your client: Company or Trustee?
- What if the membership is unionised?
- Funding deficit of 500m. Company suggests 10 years to repair, Trustees believe 5 years is affordable.
- Trustees view the commutation factors as too penal. The Company disagrees. You are required to certify that the factors are reasonable.
- Company also suggests reducing future benefits and freezing pensionable pay to help remove the deficit. The union disagrees. The Trustee body is split down the middle.



# Case Study: Surplus

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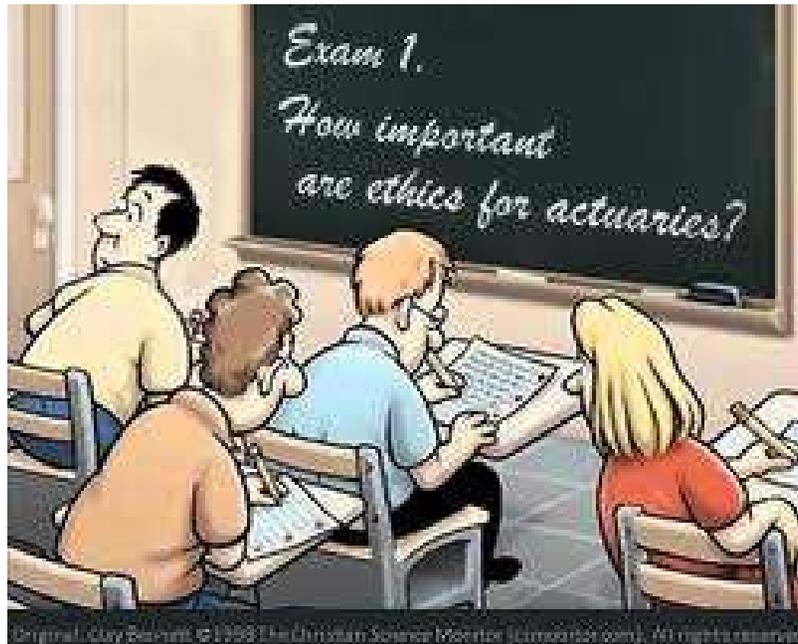
- 3 years later ongoing funding surplus of 300m.  
Trustees want you to recommend increases in payment which cost 200m.  
Company wants to buy annuities from InsureCo (your employer) to cover most of the liabilities costing 200m.
- 6 years later, wind-up, 700m surplus  
Scheme Actuary required to advise on a fair distribution  
Employer wants most of surplus  
Each Trustee has significant liabilities and favour distributions that favour active members to other categories  
Distributions via cash or annuities (which your employer sells)



# Case Study: Gifts



# Questions ?



# Contact Information

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