



**Institute of Actuaries of India**

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# ADVISING A NEW CLIENT

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*Indian Actuarial Profession  
Serving the Cause of Public Interest*

# Agenda

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- Introduction to the Case Study
- Stakeholders
- Professional Issues to Consider
- Summary
- Questions?

# Introduction to Case Study

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- Actuary A is an experienced consultant within the investment consultant practice of pension consultants named Firm A
- Trustee of Pension Trust is the new client approaching for advice
- Trustee not happy with the advice of previous consultant Actuary B of Firm B and felt they weren't proactive enough
- Trustee expects Actuary A to be his investment "Eyes and Ears" and advice when things should be changed

# Introduction to Case Study

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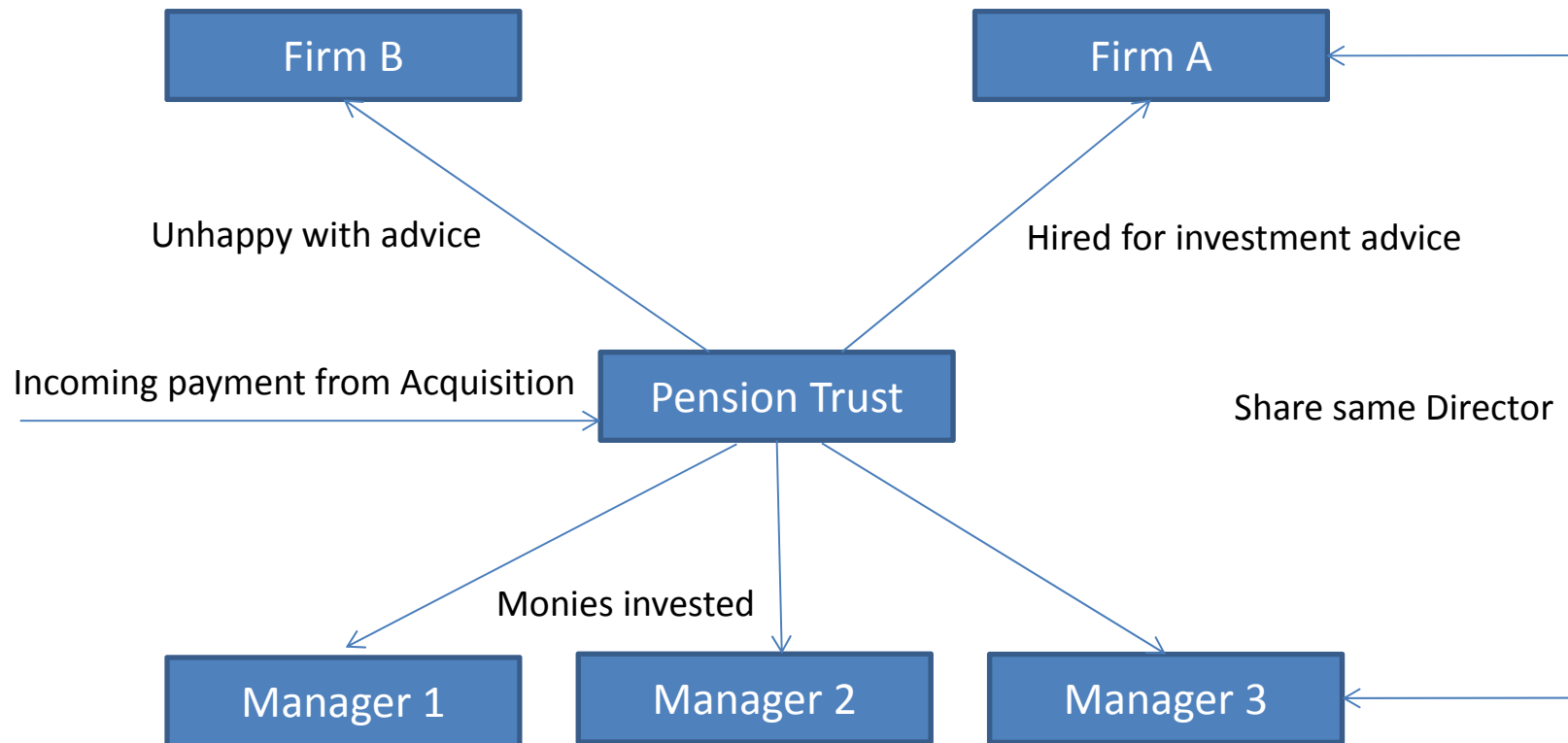
- Trustee wants a full review of Scheme's Investment arrangements
- Review to include strategy, structure and managers
- Three fund managers - Director of one fund manager firm also a director of Actuary A's Firm
- Large bulk transfer incoming payment expected within a month in relation to a acquisition

# Introduction to Case Study

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- Trustees do not want to allocate the monies with fund managers until completion of review
- However, they do not want to be out of the market
- Scheme is poorly funded and Trustees want to keep costs down
- Trustees want quick action and do not want a complex report
- Discussion (mostly verbal) in Trustee's meeting in few weeks time on approach to be followed

# Stakeholders



# Professional Issues to Consider



Issues	Relevant Sections from PCS
Issue 1: Appointment of New Advisor	Section 7.1
Issue 2: Professional Standard	Section 2.2 and 2.3
Issue 3: Confidentiality and Standard of Advice	Section 2.5.1 and 3
Issue 4: Conflict of Interest	Section 5.1 and 5.2
Issue 5: Previous Consultant	Section 7.2 and 7.3
Issue 6: Criticism of Work	Section 8.1 and 8.3
Issue 7: “Eyes and Ears”	Section 8.1
Issue 8: Advice and Communication	Section 3.5,3.6 and 3.7
Issue 9: Financial Interest	Section 6.1
Issue 10: Fund Inflows	Relevant GNs, APS and SEBI Regulations

# Professional Issues to Consider

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- Issue 1: Appointment of New Advisor

Section 7.1 of PCS:

*“A client has the indisputable right to choose and to change professional advisors, to take a second opinion and to retain separate advisors on different matters even though the purpose of a new appointment may be in conflict with the interests of third parties....”*

- As such, no professional issues violation arise in the appointment of the new advisor Actuary A



# Professional Issues to Consider

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- Issue 2: Professional Considerations

## Section 2.2 of PCS:

*“ A member has a duty to the profession and must not act in a manner, which denigrates its reputation or impugns its integrity. Responsibility to any client must be consistent with that duty.... ”*

## Section 2.3 of PCS:

*“ Users of actuarial services, including actuary’s firm and colleagues in that firm, are entitled to have absolute confidence in the skill, objectivity and integrity of any member... ”*

# Professional Issues to Consider

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- Issue 3: Confidentiality and Standards of Advice

## Section 2.5.1 of PCS:

*“As a matter of law, information acquired by an actuary in the course of professional work is frequently confidential to the actuary’s client or the actuary’s firm. As such, it should not normally be disclosed unless consent has been obtained from the actuary’s client or the actuary’s firm, as the case may be.”*

## Section 3 of PCS:

*“An actuary is expected to use best judgment in formulating advice, whilst paying proper regard to any relevant professional guidance or other guidance. He must keep himself abreast with updated professional guidance and adhere to that...”*

# Professional Issues to Consider

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- As such Actuary A should carry out the advisory function in a way that does not damage the Profession's reputation
- He should have full confidence in the skill, objectivity and integrity of any actuarial member involved
- He should not disclose any confidential information unless he obtains approval from the client
- He should keep himself updated regarding the professional guidance from time to time during the course of the advice and should ensure adherence to it

# Professional Issues to Consider

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- Issue 4: Conflict of Interest

Section 5.1 says:

*“Clients are entitled to assume that advice given by an actuary is unaffected by interests other than those of the client, taking account of any identifiable professional or legal duty of care of the client in respect of a third party...”*

Section 5.2 says:

*“If there is or might appear to be a conflict of interest between two or more clients of an actuary or of the actuary’s firm, or a conflict between a client and the member or the actuary’s firm, the actuary must consider the nature and extent of the conflict and whether it is such as to make it improper for the actuary to give advice to one or more of the clients involved in the conflict...”*

# Professional Issues to Consider

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- A Director of Fund manager firm is a Director of Actuary A's firm
- This should be disclosed before accepting the advisory role to the Pension Trust in case of prior knowledge
- In case Actuary A was not aware, the Pension Trust must be informed at the earliest opportunity
- The advice shouldn't be hampered by the conflict of interest
- The arrangement should be declined if the objectivity of the advice cannot be maintained

# Professional Issues to Consider

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- Issue 5: Previous Consultant

## Section 7.2 says:

*“If an actuary invited to give actuarial advice to a client, knows or has reason to suspect that another actuary is acting or has recently provided advice on the same or a related matter, the actuary should contact the other actuary at as early a stage as possible to ask whether, he is aware of any professional reasons to be considered in accepting the appointment or any particular considerations which ought to be borne in mind before giving advice. Upon receiving such an enquiry, the other actuary must provide the required information as soon as possible ....”*

# Professional Issues to Consider

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- Issue 5: Previous Consultant

## Section 7.3 says:

*“If the actuary concludes that there is a requirement to make contact with the other actuary, the appointment may be confirmed in principle before the other actuary has replied, but the actuary must ensure the client is aware that acceptance is provisional and the actuary may provide advice to the client only after receiving an undertaking from the client that the advice will not be acted upon or communicated to others until the other actuary has had sufficient opportunity to reply, say, within a period of 10 days...”*

# Professional Issues to Consider

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- Actuary A of Firm A should contact Actuary B of Firm B
- He should try to get the reasons for the dispute and ensure that no professional standards violation arise while accepting the arrangement.
- Pension Trust should be made aware of the fact that the Firm B will be contacted
- The arrangement can be declined if Actuary A is not allowed by Pension Trust to contact Firm B or if any professional issues are identified after discussion with Firm B



# Professional Issues to Consider

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- Issue 6: Criticism of Work

## Section 8.1 says:

*“Members must avoid any action that would unfairly injure the professional reputation of any other member. Criticism of one member’s work by another member is acceptable, provided that the criticism is properly reasoned and believed to be justified...”*

## Section 8.3 says:

*“Where criticism of another member’s work is made in the context of any form of publicity and whether in relation to specific instances or in general, care must be taken to acknowledge that other members may quite properly hold different professional opinions and that special circumstances may exist in any particular case...”*

# Professional Issues to Consider

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- Actuary A of Firm A should avoid any undue criticism of the work of Actuary B
- Actuary A should ensure reasonable basis for any criticism levelled
- Actuary A must ensure utmost care and take into account that Actuary B may hold different professional opinion and that circumstances faced by Actuary B may be materially different when rendering the advice

# Professional Issues to Consider

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- Issue 7: “Eyes and Ears”

## Section 8.1 says:

*“Many assignments offered to actuaries require considerable knowledge and experience for proper completion. Requisite knowledge includes methodology, relevant legislation and, in respect of work outside India local conditions and any professional code of practice in the country concerned. Actuaries must not give advice, unless:*

- a) satisfied of personal competence in the relevant matters, or*
- b) acting in co-operation with, or with the guidance of, someone (not*

*necessarily an actuary) with the requisite knowledge and experience....”*

# Professional Issues to Consider

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- The scope of the advice should be clearly defined and documented
- “Eyes and Ears” implies regular monitoring of the activities. The scope of the advice should clearly mention if it is possible or not and whether the Actuary A has sufficient resources both in terms of manpower and knowledge to deal with it
- In case of lack of manpower or domain knowledge or if the complexity of the assignment requires additional time, it should be made clear and the assignment can be avoided

# Professional Issues to Consider

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- Issue 8: Advice and Communication

## Section 3.5 says:

*“Advice should normally include sufficient information and discussion about each relevant factor and about the results of the actuary’s investigations to enable the intended recipient of the advice to judge both the appropriateness of the recommendations and the implications of accepting them. Further, the actuary should, in communicating his professional findings, show clearly that he takes responsibility for them. He shall also indicate the extent to which he or other sources are available to provide the client or employer with supplementary information and explanations about scope, data, methods and the findings..”*

# Professional Issues to Consider

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- Issue 8: Advice and Communication

## Section 3.6 says:

*“An actuary giving advice which is formulated in the interests of a particular client must ensure that the client is aware that the advice is not of broader applicability than intended by the actuary, nor is it necessarily the advice that would be given to another client or to third parties whose objectives and requirements may be different.”*

## Section 3.7 says:

*“An actuary shall, in communicating professional findings, identify the client for whom the findings are made and in what capacity the actuary serves.”*

# Professional Issues to Consider

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- The advice given should have appropriate basis and ideally should have sufficient documentation
- Only after sufficient due diligence is carried out with respect to the data available should the advice be given
- The advice should ideally be limited to the scope of the arrangement with the Pension Trust and the scope of deliverables should be communicated in writing to Trustees
- Also the communication with the client should be properly documented. The client here is asking for a discussion. The advice should ideally be written communication to ensure that the facts are not mis-interpreted and there is sufficient backing in case personal liability arises from the advice
- The Actuary may have to comment on the funding status. AS15 should be taken into account when calculating funding status and valuation of liabilities

# Professional Issues to Consider

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- Issue 9: Financial Interests

## Section 6.1 says:

*“An actuary must make full and timely disclosure to the client of any financial interest, which the actuary or the actuary’s firm may have in any assignment that the member undertakes for that client or in its outcome. Financial interest includes direct remuneration, direct and indirect benefits, commission and introductory fees paid by or to the actuary or the actuary’s firm.”*



# Professional Issues to Consider

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- The fees and the remuneration should be specified at the outset
- Financial Rewards if any should not influence the quality of advice provided and ideally should be excluded from the purview of the advice
- The Director of Actuary A's Firm is the director for one of the fund manager firms of the client. Care should be ensured that this does not lead to a financial interest in the Pension Trust for Firm A

# Professional Issues to Consider

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- Issue 10: Fund Inflows
  - Huge sum of monies are expected and the firm does not want to be out of market
  - The advice as such regarding the allocation of funds should be carefully documented
  - The funding status of the Trust is poor, as such the impact of the advice on the funding status should be taken into consideration
  - With respect to the fund, the allocation between assets should be inline with the Gratuity Fund Investment and PF Investments Act based on the nature of the Trust

# Professional Issues to Consider

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- Other Issues:
  - The funding status is poor. As such Actuary A would be expected to comment on the overall funding status and would require a detailed valuation of the Trust
  - Actuary A should ensure compliance with APS 18 pertaining to valuation of assets and liabilities
  - Actuary A should also comment on the notable risks in investment strategy relative to incidence of liabilities
  - The report on the same should be clear and as written communication drawing reference from APS 12 for the choice of assumptions made and APS 15 for terminologies used
  - The report should be in compliance with the specimens and recommendation of GN11 pertaining to valuation of liabilities

# Summary

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- The Actuary A may decide to take up the arrangement after consulting with Actuary B
- The report submitted should have a reasonable basis and should be preferably in writing than a discussion
- Conflicts of Interest should be highlighted immediately
- GNs and APS and Professional Code of Conduct should be adhered to along with AS 15
- In case of clarifications, senior professionals in the field can be reached out to address the concerns

# QUESTIONS?

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