



Pensions



LEGAL
INSIGHT.
BUSINESS
INSTINCT.



“Lydian’s pensions team is steered by Alexander Vandenberg, and is reputed for the quality of its work and clients, seeking practical and useful solutions with full disclosure of risk exposure to the client.”

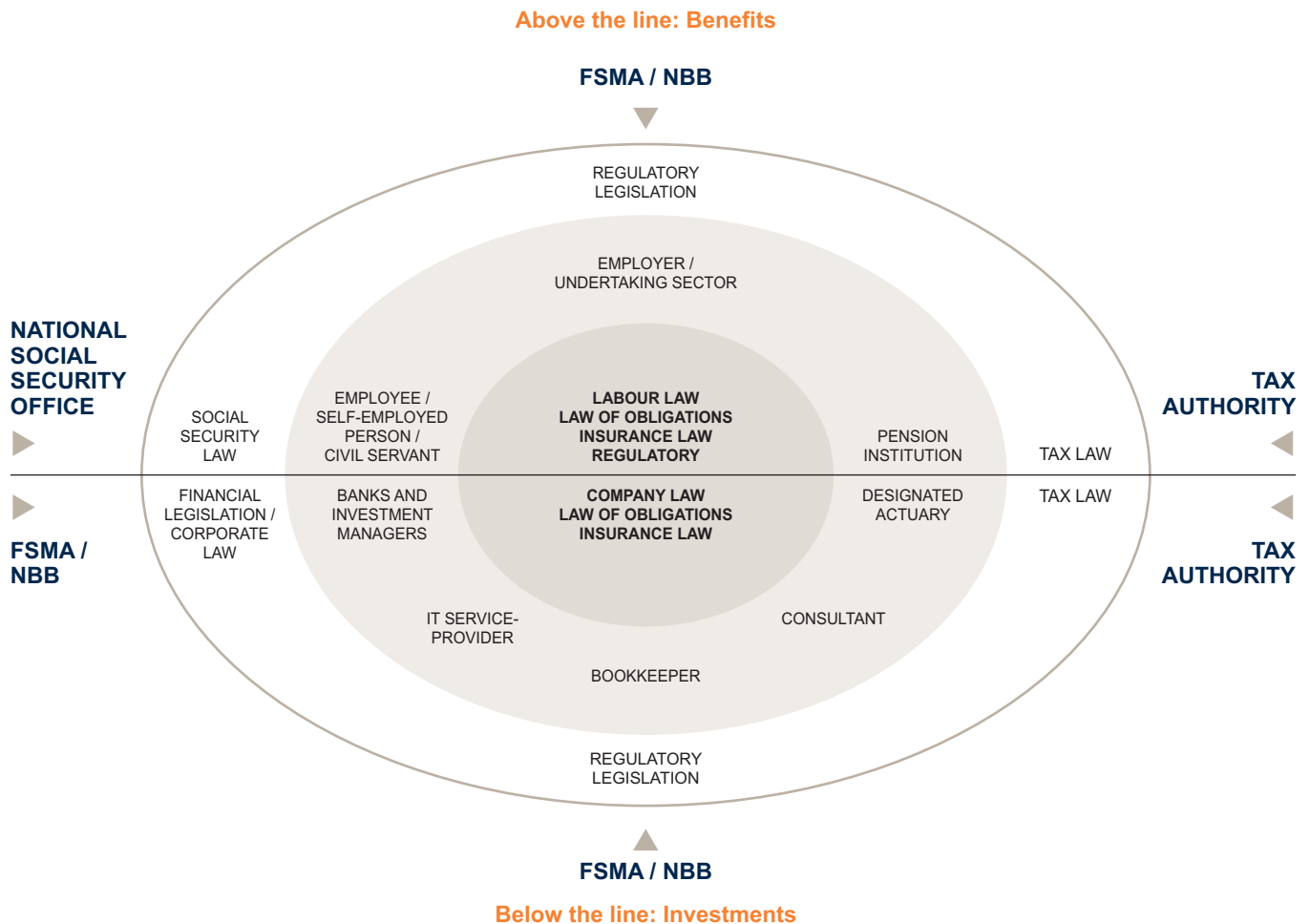
(Legal 500)



LEGAL INSIGHT.
BUSINESS INSTINCT.

A COMPREHENSIVE, EFFICIENT APPROACH

Handling pension matters requires specific expertise in many areas of practice. With a team of lawyers drawn from various specialist practice areas, you're assured that your file is dealt with on a multi-disciplinary basis. For you, however, there's always a single point of contact, so that you stay firmly in control.





THE FULL SCOPE OF LYDIAN'S SERVICES

Lydian can help you with the legal aspects of all your pension projects. We have in-depth expertise in the following matters:

- plan rules and pensions benefit issues;
- pension funds and governance;
- pensions in corporate transactions;
- pensions regulatory;
- pensions in the public sector;
- pensions and dispute resolution;
- pension scheme funding and investment;
- pensions taxation;
- international pensions.

PLAN RULES & PENSIONS BENEFIT ISSUES

Pension plan rules are key when setting up a pension plan.

The pension plan rules must be clear and correct and in line with the applicable legislation at all times.

The Lydian Pensions Team has ample experience in drafting pension plan rules and in amending them to take account of the ever changing legal and corporate environment.

We also advise and assist employers on employee consultations and negotiations with employees and trade unions with regard to pension plan changes.

PENSION FUNDS & GOVERNANCE

The Act of 27 October 2006 on the supervision of IORPS (Institutions for Occupational Retirement Provision) transposed EU Directive 2003/41 (the so-called IORP Directive) into Belgian law by putting in place a new and transparent flexible legal framework for pension funds.

A pension fund established in Belgium takes the legal form of an OFP (Organization for Financing Pensions). The OFP is a separate legal entity solely liable for its funds and obligations and distinct from the sponsoring undertakings.

It is specifically designed to allow for a flexible governance structure and organization. Moreover, it benefits from a very favourable tax regime (the so-called "zero-taxation on benefits").

The activities of an OFP can be limited to Belgium and to one single pension plan, but it can also have cross-border activities and operate several pension plans applicable to employees working in different countries.

We can assist you in setting up a pension fund, in drafting the necessary corporate governance documents and policies and in negotiating the different contracts the pension fund will enter into. We can also help you with the legal aspects of the daily management of the pension fund.

PENSIONS IN CORPORATE TRANSACTIONS

Pension schemes are increasingly becoming an obstacle in corporate transactions such as M&A.

To avoid this happening, it is important to properly deal with the pensions issues sufficiently early in the process.

During the due diligence process special attention must be given to pensions risks.

Moreover, the impact of the transaction on the pension plans and pension benefits needs to be considered. It is, indeed, recommended to analyze all consequences (financial consequences, information and consultation obligations, discrimination, and so on) before deciding on taking over a pension plan.

The Lydian Pensions Team has extensive experience in advising on the pensions aspects of all types of corporate transactions.

PENSIONS REGULATORY

Since 1 April 2011 the Financial Services and Markets Authority (FSMA) is one of the two authorities, along with the National Bank of Belgium (NBB), entrusted with the supervision of the Belgian financial sector. As a result of the reform of financial supervision in Belgium that took effect on that date, the FSMA received a new challenge and the powers necessary to supervise, among other things, the conduct of financial institutions and the products they sell.

An essential task of the FSMA is to protect the pension benefits financed through pension funds and insurance companies. To that effect, it has a wide range of powers including:

- a general power of control over all pension funds and insurance companies;
- the right to investigate;
- the right to inform other stakeholders; and,
- the right to impose fines and other types of sanctions.

Our Pensions Team has expertise in dealing with the Belgian pensions regulator (FSMA) in a wide variety of matters including plan changes, financing issues, setting up of pension funds, restructuring and M&A.

LEGAL INSIGHT. BUSINESS INSTINCT.



PENSIONS IN THE PUBLIC SECTOR

The division between the public and the private sector is becoming thinner all the time. The same is true for pensions in the public and the private sector:

- pension funds and insured plans are being introduced in the public sector;
- an increasing number of people have mixed public sector/private sector careers;
- private sector corporate governance rules are also imposed on public sector pension funds;
- many pay-as-you-go schemes in the public sector are being converted into pre-financed schemes.

The mix of private sector pensions legislation and public sector administrative law concepts and rules can be highly complex.

Lydian has a dedicated Public Sector Pensions Team combining pensions law and administrative law expertise.

PENSIONS AND DISPUTE RESOLUTION

Now that the different stakeholders take a greater interest in pensions, there is inevitably more litigation in the area of pensions.

Litigating in this area is a rather delicate operation; the legislation is not always clear, there is still relatively little case-law and the impact of a negative court ruling can be enormous.

We can assist you in all types of litigation, ranging from a complaint filed with the FSMA to proceedings in the Belgian Constitutional Court or the European Court of Justice. Our pensions lawyers work closely with our litigators to make sure our pensions and litigation expertise is combined in an optimal way.

PENSION SCHEME FUNDING AND INVESTMENT

Pension scheme funding is a complex issue.

We can assist you with:

- all aspects of pension scheme funding and investment, including both legal and regulatory obligations and custodianship;
- advice on investment management, including ongoing support in respect of obligations and services of the custodian, drafting of booklets and announcements to members.

PENSIONS TAXATION

When it comes to pensions, tax is everywhere!
We advise on all pension tax issues including:

- the conditions for tax relief in relation to registered pension schemes, including the tax deductibility of pension contributions;
- the taxation of the actual pension benefit;
- the tax implications of pension plan restructurings;
- the tax status of pension funds and other related legal entities;
- VAT issues related to pensions;
- other indirect taxes, such as insurance taxes.

INTERNATIONAL PENSIONS

Companies have become increasingly international and their employees increasingly mobile.

Companies are therefore looking for solutions to manage their pension plans in this increasingly international and mobile environment.

The Lydian Pensions Team advises companies on how to deal with the international aspects of their pension plans.

Moreover, since the entry into force of the Act of 27 October 2006 on the supervision of IORPS (Institutions for Occupational Retirement Provision), Belgium has become a prime location for Pan-European pension funds.

That Act introduced a new legal form of pension fund which is specifically designed to allow for a flexible governance structure and organization. Moreover, it benefits from a very favourable tax regime (the so-called “zero-taxation on benefits”).

We can help you setting up such a Pan-European pension fund.

LEGAL INSIGHT. BUSINESS INSTINCT.



“It is the group’s impressive reputation for pensions that stands out most to commentators. (...) Alexander Vandenberg is a highly respected pensions and benefits specialist who mainly acts on behalf of companies.”

(Chambers)

A TEAM WITH EXPERIENCE

We have a team with the experience to foresee problems and respond in an appropriate way to change.

All the lawyers in our team have particular specialisations, whether in social law, insurance and contract law, regulatory matters, tax law, the field of anti-discrimination, company law or corporate governance. Together they have experience of handling every legal aspect of pensions. They are true experts in their field and have excellent contacts in the industry and with the regulator and other relevant government offices.

With their detailed knowledge, they regularly write for specialist journals and give conferences on pension matters. In addition, the lawyers of our pensions team are members of a wide range of professional associations and are active in a number of multi-disciplinary fora together with actuaries, insurers and pension fund managers.

OUR EXPERTS

- Alexander Vandenberg
T +32 (0)2 787 90 75
E alexander.vandenberg@lydian.be
- Sandra Lodewijckx
T +32 (0)2 787 90 33
E sandra.lodewijckx@lydian.be
- Jurgen De Vreese
T +32 (0)2 787 90 39
E jurgen.devreese@lydian.be
- Luc Germonpré
T +32 (0)2 787 90 61
E luc.germonpre@lydian.be

ALEXANDER VANDENBERGEN

Partner

T +32 (0)2 787 90 75

E alexander.vandenberg@lydian.be



Alexander graduated in 1991 with a degree in law from the Catholic University of Leuven (KUL). He also studied European Law at the University of Edinburgh.

From 1991 to 1999 he was an attorney at Loeff Claeys Verbeke (now Allen & Overy Belgium), where from 1995 he was in charge of pensions law. In 1999, he was made a Director at KPMG Tax & Legal Advisers where he worked closely together with the KPMG actuaries and employee benefit consultants. He left on 1 January 2001 to found what is now Lydian.

Within the firm, he deals with all aspects of employment law and pensions law. His practice concentrates on two specific niches: (i) collective labour law issues with particular emphasis on the labour law aspects of large corporate reorganizations; and (ii) specific projects in the area of pensions (i.e. restructuring or winding down of pension schemes, complex litigation, etc.).

Alexander is a member of the International Pension and Employee Benefits Lawyers' Association (IPEBLA), the European Employment Lawyers' Association (EELA), and the American Chamber of Commerce (AmCham). He's also one of the founding members of the Belgian Pension Lawyers Association (BePLA). Chambers, the Legal 500, Who's Who Legal, PLC Which Lawyer? as well as the European Legal Experts mention Alexander as a reference in his focus area.

SANDRA LODEWIJCKX

Partner

T +32 (0)2 787 90 33

E sandra.lodewijckx@lydian.be



Sandra Lodewijckx graduated with a law degree from the Catholic University of Leuven (KUL) in 1994. After her studies she took a number of supplementary courses in insurance and risk management, including at Assuralia and with the German reinsurer, Münchener Rück.

From 1994 to September 2000, she worked as a department manager at ING Insurance (now Vivium). In September 2000, she became an attorney at Loeff Claeys Verbeke (now Allen & Overy Belgium), where she was a member of the Banking & Finance department.

Sandra joined Lydian on 1 January 2002 and is specialised in insurance law and pensions law. She assists Belgian and international (insurance) companies, professional organizations and insurance intermediaries with all insurance-related issues. She also advises companies on the different aspects of supplementary pensions, corporate governance, pension plans and management agreements. She has extensive experience in litigation on insurance and pension matters.

Sandra maintains very good contact with insurers, actuaries and control authorities. She is in demand as a speaker on insurance and supplementary pensions and has written several articles on the subject.

Sandra is a member of the *Antwerpse Kring van het Verzekeringswezen*, the *Association des Juristes d'Assurances (AJA)* and the *Cercle Royal des Assureurs de Belgique (CRAB/ KKVb)*. She is also a member of the Belgian Pension Lawyers Association (BePLA) and a Member of the Board of Directors of the pension fund *Voorzorgskas voor advocaten, gerechtsdeurwaarders en andere zelfstandigen OFP*.

LEGAL INSIGHT. BUSINESS INSTINCT.

JURGEN DE VREESE

Counsel

T +32 (0)2 787 90 39

E jurgen.devreese@lydian.be



Jurgen graduated with a degree in law from the Vrije Universiteit Brussel (VUB) in 2001. A year later, he received an LL.M in French and European Law from the University of Paris 1 Panthéon-Sorbonne, which also involved undertaking a three-month internship in the French law firm Berlioz & Co. In 2008, he obtained an advanced master's degree in pension law at the University of Leuven.

From 2002 to 2006, he worked as an attorney at Tilleman van Hoogenbemt, a law firm specialising in social and labour law. On 1 March 2006, Jurgen joined Lydian, where he worked in labour law and pension law. At the end of 2011, Jurgen joined the employment department of Eubelius as a senior associate for a three-year period. On 1 January 2015, Jurgen returned to Lydian to join the Employment, Pensions & Benefits department as counsel.

He deals with collective labour law issues such as restructurings and collective dismissals. In addition to these employment law topics, he deals with several pension projects such as setting up pension funds and pension restructurings. Jurgen also specialises in employment and tax matters relating to compensation and benefits.

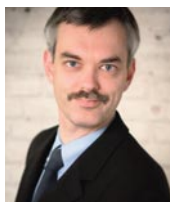
Jurgen has published several articles and regularly speaks at internal and external seminars. Jurgen is also a guest lecturer at the Erasmushogeschool Brussels and a voluntary fellow of the social law practice at the VUB. Jurgen is a member of the steering committee of the Belgian Pension Lawyers Association (BePLA) and a member of the Association for Social Law ("Vereniging voor sociaal recht").

LUC GERMONPRE

Senior Attorney

T +32 (0)2 787 90 61

E luc.germonpre@lydian.be



Luc is a senior attorney in the Corporate & Finance practice.

He focuses on corporate transactions and restructurings, and assists with the drafting of all corporate documents. He also provides advice and assistance to associations and on issues of accountancy law.

Luc Germonpre obtained a law degree from the University of Leuven (KUL) in 1988. He then obtained degrees in economic law at the Free University of Brussels (ULB) in 1990 and in company law at the Catholic University of Brussels (KUB) in 1995. Luc was admitted to the Brussels Bar in 2001.

Luc has in-depth expertise in dealing with corporate vehicles that are specific to the pensions industry, such as: NPA's, mutual insurance funds, pension funding organisations etc.

HIGHLIGHTS OF OUR RECENT EXPERIENCE

A FLEMISH PUBLIC SECTOR COMPANY

We assisted a Flemish public sector company in transferring the assets and obligations of the pension fund in which the statutory pensions of the company's civil servants were financed, to the Flemish Region.

Our assistance covered various areas of law such as: public law, tax law, corporate law, finance law and general contract law.

THE CHEMICAL, PHARMACEUTICAL AND LIFE SCIENCES INDUSTRY

We assisted the Joint Labour Committee of the Chemical, Pharmaceutical and Life Sciences Industry in Belgium with setting up an industry wide pension scheme. This was the largest pension plan set up in recent years in Belgium.

We advised the client on all legal matters (tax, corporate, employment, social security, insurance, finance, etc.).

We drafted the different contracts (collective bargaining agreements, pension plans, contract with insurance company, contracts with other service providers, articles of association of the different pension vehicles, and so on).

We also participated in the discussions with the different authorities involved.

A LARGE US MULTINATIONAL

We assisted the multinational concerned with regard to a substantial change of its pension plan affecting over 1.000 workers and pension beneficiaries.

Our assistance included among other things:

- technical advice on pensions law issues;
- negotiations with the insurance company that insures the plan;
- communication with the Works Council;
- negotiations with trade unions;
- litigation in various labour tribunals against individual employees.

This was a highly technical assignment necessitating a good understanding of the actuarial and financial aspects of pension plans. On this matter we worked closely together with the plan actuary.

A WALLOON PUBLIC SECTOR COMPANY

We advised a Walloon public sector company with respect to various pension issues relating to the take over of a number of smaller public companies in the same line of business.

Here also, our assistance comprised various areas of law such as: public law, corporate law and social security law.

A LARGE INTERNATIONAL INSURANCE COMPANY

We assisted a large international insurance company with creating and putting in place the necessary legal tools and documents to insure industry wide pension plans.

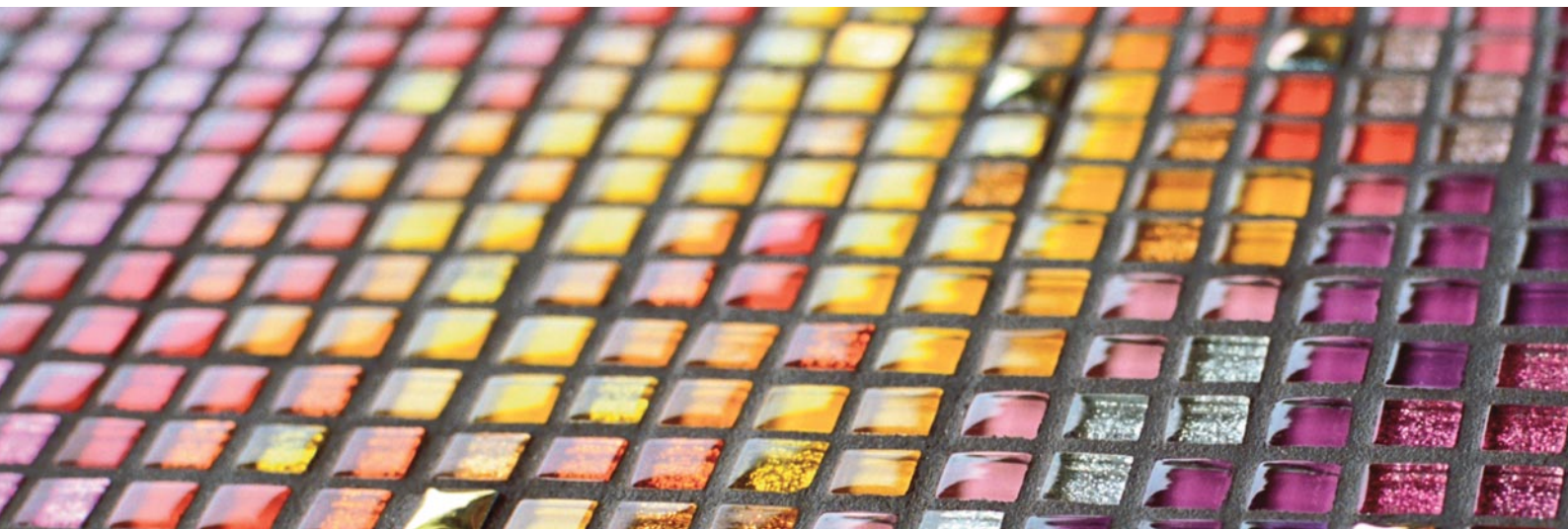
Our assistance comprised, among other things:

- drafting the different documents needed for such plans; and,
- advising on the regulatory obligations and risks relating to this type of product.

A FLEMISH PUBLIC SECTOR COMPANY

We assisted this public sector company in a complex pension issue relating to the 1970 and 1980 reform of the Belgian state and involving all the company's personnel.

The assistance involved both advice/project management and strategic litigation in different courts.



© Lydian, 2016



Lydian Brussels Office

Tour & Taxis
Havenlaan 86c b113 Avenue du Port
1000 Brussel - Bruxelles
België - Belgique

T +32 (0)2 787 90 00
F +32 (0)2 787 90 99

info@lydian.be
www.lydian.be

Lydian Antwerp Office

Arenbergstraat 23
2000 Antwerpen - Anvers
België - Belgique

T +32 (0)3 304 90 00
F +32 (0)3 304 90 19

info@lydian.be
www.lydian.be

Lydian Hasselt Office

Thonissenlaan 75
3500 Hasselt
België - Belgique

T +32 (0)11 260 050
F +32 (0)11 260 059

info@lydian.be
www.lydian.be