

# Pensions & Retirement Plans

*Contributing editors*

Steven J Friedman and Melissa B Kurtzman



2016

GETTING THE  
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# Pensions & Retirement Plans 2016

*Contributing editors*

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**Littler Mendelson, PC**

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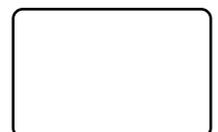


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## CONTENTS

<b>Global overview</b>	<b>5</b>	<b>Mexico</b>	<b>41</b>
Steven J Friedman Litter Mendelson, PC		Mónica Schiaffino Littler Mexico	
<b>Belgium</b>	<b>6</b>	<b>Spain</b>	<b>45</b>
Jan Van Gysegem Claeys & Engels		Javier Alonso de Armiño and Rebeca Rodríguez Cuatrecasas, Gonçalves Pereira	
<b>Canada</b>	<b>10</b>	<b>Switzerland</b>	<b>50</b>
Michael G Sherrard and Sundeep Gokhale Sherrard Kuzz LLP, Employment & Labour Lawyers		Martin L Müller Pestalozzi Attorneys at Law	
<b>China</b>	<b>16</b>	<b>United Arab Emirates</b>	<b>54</b>
Jiang Junlu and Pei Xiu King & Wood Mallesons		Rebecca Ford Clyde & Co LLP	
<b>France</b>	<b>22</b>	<b>United Kingdom</b>	<b>58</b>
Juliana Kovac and Philippe Montanier Flichy Grangé Avocats - member of L&E Global		Penny Cogher Irwin Mitchell LLP	
<b>Germany</b>	<b>26</b>	<b>United States</b>	<b>64</b>
Johannes Schipp, Karl Geißler and Dirk Paschke T/S/C Fachanwälte für Arbeitsrecht Schipp & Partner Rechtsanwälte mbB		Steven J Friedman and Melissa B Kurtzman Littler Mendelson, PC	
<b>Ireland</b>	<b>31</b>	<b>Venezuela</b>	<b>70</b>
Maureen Dolan McCann FitzGerald		Juan Carlos Varela Littler Mendelson, PC	
<b>Japan</b>	<b>36</b>		
Taichi Arai, Rina Shimada, Hiroki Habuka and Kenta Nishioka Mori Hamada & Matsumoto			

# Global overview

Steven J Friedman

Litter Mendelson, PC

2016 has seen pressure on state retirement systems, as well as occupational plans, as historic low interest rates continue to push plan-funding levels higher. Aging populations and state fiscal crises have also put pressure on the solvency of state systems. Political and business uncertainties, amid ongoing threats to both nations and businesses, have created uncertainties for both national economies and businesses. We continue to see lower levels of generosity of retirement benefits in many jurisdictions. Once strong stock markets have become less stable and workers do not have confidence as to the stability of those who have promised them pension benefits.

## State pensions

State pensions in many of the surveyed countries are under significant pressure on account of the fiscal frailty of many of the governments that sponsor them.

In Spain, it is expected that there will be a reduction in benefits under the state system. This may create a greater need for employers to introduce occupational pensions so that workers can make up some of the losses of state benefits. This may be needed to the largest extent in those industries which need to retain talented employees. In the United States, there is widespread concern over the continued solvency of the state system, but there are very few proposals to deal with what is acknowledged as a possible future crisis. There continues to concern among the public about whether promised benefits will be paid. However, in Canada, there is a well-funded state pension. In the United Kingdom, the state has devised ways for employees to save more money through various vehicles; and the pension provided by the state became streamlined earlier this year, in part to reduce costs. Meanwhile, in the United Arab Emirates, those who are not citizens of the UAE or of a Gulf Cooperation Council state are denied a state pension. We understand that there has been some discussion of allowing expatriates to accrue state plan benefits but, until now, this has not happened and expatriates work without a state pension. In other territories, we look to an uncertain future to determine how much change will be made – will state pensions remain solvent or will there be fiscal crises that cause losses and further tumult? It remains to be seen how state pensions will evolve in the future. We have seen this year that it is difficult for democratic governments to take on their publics to shore up state plans. Nor have voters expressed a willingness to fund systems better or wait longer for benefits to commence.

## Changes in occupational pensions

The move from defined benefit pension plans to defined contribution plans continues unabated. In the US, there are few private employers without workers represented by labour unions that continue to provide benefit

accruals under their defined benefit plans. Many US employers have either terminated their plans outright or have frozen their plan. Freezing the plan allows the employer to cease funding future accruals but does not require the immediate distribution of plan assets. In a continuing low interest rate environment, low rates would push up the values of benefits that would be distributed subsequent to a termination. In all of the countries surveyed, there is a move from defined benefit to defined contribution plans. In the US, there is often litigation related to the conversion of defined benefit plans that involves the propriety of the formulas used to determine future benefits. In Canada, lawsuits on conversions of plans often involve claims of negligent misrepresentation and breach of fiduciary duties. In the US, new rules involving fiduciary duties have been passed as a means of addressing perceived abuses of plan recordkeepers and financial institutions that handle participant plan defined contribution funds. When there is a fight for talent, organisations are likely to refrain from reducing benefits. However, although the economy has faced recent years of expansion, in the US employers rarely establish traditional defined benefit pension plans. There are some employers who will ‘grandfather’ plan benefits for employees who have worked a minimum number of years and attained a threshold age rather than forcing the employees to switch to a defined contribution vehicle. Other employers have transitioned all retirement plan benefits to a defined contribution model. This structural shift in benefits has also been seen, to a lesser extent, in the UK, Canada and in certain European territories. Employers continue to recalibrate what is needed for talent to be attracted to them.

## A tense global outlook

World affairs are less predictable today than they have been in the recent past. The many threats to financial and security systems around the world have made pension costs less certain. The high stakes for employers remain defined benefit plans, which can provide funding emergencies for companies that are otherwise stable. The seeming inability of the economy to embrace interest rates at historic norms creates high pension costs for both employers and state systems. Defined contribution plans continue to proliferate in lieu of traditional arrangements and deferred compensation plans, which are ‘non-qualified’ benefits, are becoming more popular as a means of creating extra benefits for employees. These plans are largely driven by tax-deferral strategies as opposed to income replacement. We have seen the UK produce more avenues for employees to save their own money as a means to create additional pools of retirement savings.

It will be interesting to study the global outlook in the future with respect to retirement benefits provided by both state systems and employers.

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