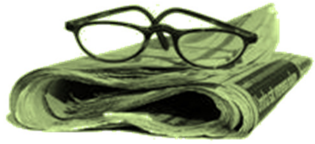
ENSIMINI
FINANCIAL SERVICES

Industry Update
Issue 2017.01



IF NO DEPENDANTS, DEATH BENEFIT GOES TO NOMINEES

If, on the death of member of a retirement fund, there are no dependants and only nominees, the death benefit, less any money owing to the estate, accrues to the nominees.

The Pension Funds Adjudicator, Muvhango Lukhaimane, ruled that this provision of the Pension Funds Act be complied with in a recent case in which a retirement fund paid a deceased member's full benefit to his estate because the people he had nominated on the beneficiary form were not financially dependent on him.

Ms J complained to the adjudicator that the Metal Industries Provident Fund and Metal Industries Benefit Funds Administrators had failed to pay a death benefit to her within 12 months of the death of her partner, Mr W.

Mr W died on February 17, 2015. He was an employee of Circuit Breaker Industries Limited and a member of the Metal Industries Provident Fund. About eight months before his death, Mr W had completed a beneficiary form nominating Ms J to receive 90 percent of his death benefit and a friend of his, Mr S, to receive 10 percent.

On Mr W's death, a benefit of R7 125 118 became available for distribution among his beneficiaries.

The provident fund said in response that Mr W's wife had died in September 2013, and the couple had not had any children. Nor did Mr W have any siblings or other relatives. Mr W had been in a relationship with Ms J for about a year.

The fund argued that because dependency on Mr W had not been established for either Ms J or Mr S, the board awarded both of them a nil benefit and paid the R7 million into Mr W's estate.

In her determination, Lukhaimane says: "Without any evidence to the contrary, it is the finding of this tribunal that the complainant was not a factual dependant of the deceased."

However, she adds that section 37C of the Pension Funds Act states that where a deceased is not survived by any dependants and has completed a valid nomination form, the benefit shall be paid to the nominees listed on the form.

Lukhaimane says the fund's board paid too much attention to establishing whether or not Ms J was a dependant or not. She says that where the deceased is survived by no dependants and there are only nominees, the value of the death benefit less the deficit of the estate accrues by right to the nominees.

She ordered that the decision of the board to pay the entire benefit into Mr W's estate be set aside.

The fund was ordered to investigate whether the estate's liabilities exceeded its assets and if so, to what extent. It was then to pay the nominees the remainder, as specified in the nomination form.

19 Dec 2016
Martin Hesse

ADJUDICATOR SLAMS PENSION FUNDS FOR DELAYING PAYMENTS

Two retirement funds, the Municipal Employees Pension Fund and the Mineworkers Provident Fund, have been censured by the Pension Funds Adjudicator, Muvhango Lukhaimane, for unreasonably delaying or withholding payments to members or beneficiaries, with the principal officer of the former being referred to the Registrar of Pension Funds for investigation.

In the first case, in May 2016 Ms N lodged a complaint against the Municipal Employees Pension Fund, Akani Retirement Fund Administrators and the City of Tshwane Metropolitan Municipality. She had become eligible for a withdrawal benefit on July 31, 2015, when she left the employ of the municipality. No benefit had been paid to that date despite her submitting the required forms. Ms N said in her complaint that it appeared the municipality had mislaid the forms, because the forms had to be resubmitted.

In its response to the complaint, the fund simply said that Ms N's file was before the board of management for approval. The municipality failed to respond.

The adjudicator, in her determination, said the delay in the payment of Ms N's benefit was unreasonably long and there was no justification for it.

"The pension fund states that the claim is awaiting the approval of the board of management. However, this is not a reasonable justification for the delay ... That the fund's principal executive officer can sign off responses like this to this tribunal leads this tribunal to question her fitness to discharge her duties," Lukhaimane said.

She said the Tshwane municipality had also failed Ms N. "It is essential for the employer to complete a withdrawal notification form indicating the cause of the termination of employment. This, in turn, allows the fund to determine which benefit is payable.

"In the absence a response from the [municipality], this tribunal concludes that the third respondent failed to comply with its duty of good faith in terms of assisting Ms N to claim her withdrawal benefit within a reasonable period following her exit from service."

Lukhaimane ordered the fund to pay the benefit immediately, and said she was referring the determination to the Registrar of Pension Funds with a request that it consider an enquiry into whether the principal executive officer is fit and proper to serve as such in terms of the Act.

Death Benefit

The Pension Funds Act states that a pension fund has 12 months within which to identify the dependants of the deceased, allocate and pay a death benefit. To punish the Mineworkers Provident Fund for its unjustified delay in finalising such a matter, the adjudicator imposed "compensatory damages" of 10 percent over and above the death benefit.

In May 2016, almost two years after the death of his brother, Mr MM complained to the adjudicator that the fund had not paid out his brother's death benefit. The brother, Mr JM, an employee of Harmony Gold Mining Company, died on August 11, 2014.

In responding to the complaint, the fund appeared confused about whether the benefit had been paid and how much had been paid. It was eventually established that R244 073 was owing to Mr JM's beneficiaries.

In her determination, Lukhaimane said boards of pension funds had 12 months to identify the dependants of deceased members and allocate and pay death benefits. In this case, the board had failed to investigate the matter within the prescribed period in terms of the Pension Funds Act.

Lukhaimane said Mr JM's beneficiaries had been prejudiced in that they had been denied access to benefits that may have become available to them if the investigation had been completed in time.

She ordered the fund's board to complete its investigation and equitably distribute the benefit among Mr JM's beneficiaries, without further delay.

She also imposed a punitive additional payment of 10 percent of the benefit as compensation to the beneficiaries for the fund's delay in completing its investigations.

23 Dec 2016
Martin Hesse

TREASURY RELAXES ITS PROPOSALS ON DEFAULT PENSIONS

Your retirement fund is likely to be compelled to offer you a default pension or annuity at retirement. But you will have to actively select either the annuity offered or a retail annuity, or your retirement from the fund will be deferred.

This is the latest proposal from National Treasury in its second set of draft regulations forcing retirement funds to set default options for your investments in the fund, preserved savings, and your pension on retirement.

The second draft of the far-reaching regulations under the Pension Funds Act, which aim to nudge you towards saving in suitable investments until retirement, preserving your savings when you change jobs, and converting your savings to a suitable pension at retirement, was published for comment yesterday.

In addition, Treasury published a number of proposed changes to the regulations and Policyholder Protection Rules under the Long and Short Term Insurance Acts to ensure that insurers abide by the principles of Treating Customers Fairly and to implement some of the proposals in the Retail Distribution Review, which is intended to stamp out conflicts of interest in the distribution of financial products.

The draft pension fund regulations don't remove your right to withdraw your retirement savings from an employer-sponsored fund if you leave your job, but will force you to think twice about doing so.

The revised draft relaxes and simplifies provisions published for comment almost a year-and-a-half ago after the retirement industry pointed out numerous practical difficulties with the first draft.

Default Annuities

The draft regulations propose that all defined-contribution funds, including retirement annuity (RA) funds, be required to have a default annuity for you to convert your savings into a pension at retirement.

The first draft proposed that, at retirement, you would automatically receive an annuity provided by your fund unless you chose a different annuity option.

Treasury says in the explanatory memorandum to the second draft of the regulations that concerns were raised about the implications for you of your fund automatically giving you a default annuity, because if the default was a life, or guaranteed, annuity, the decision would be irreversible.

Guaranteed annuities guarantee you a pension for life, but your capital remains with the life assurer when you die unless you have elected that the pension be paid for a guaranteed period, such as the first 10 years.

The revised draft proposes that you will not automatically be defaulted into a particular annuity, but will have to select or "opt in" for the trustee's choice of annuity or annuity strategy.

The first draft of the regulations proposed that your fund should be able to offer you a default guaranteed annuity provided by a life assurance company, but if it offered you a living or with-profit annuity as a default pension, the annuity would have to be provided by the fund itself (an "in-fund annuity").

In a living annuity, you invest your retirement savings and draw an income from the capital and the growth on that capital. You take the risk that your savings will be sufficient to provide you with an income for the rest of your life.

A with-profit annuity guarantees you a particular pension for life but the increase in that pension is not guaranteed and depends on the performance of investments made by the life assurance company on your behalf and the life spans of the annuitants.

The revised draft regulations state that your fund can offer you any annuity either from within the fund or from an outside provider, provided that certain principles are complied with, Treasury says.

It was proposed in the first draft of the regulations that if a fund offers you a default living annuity, the amount you can draw as an income must be restricted, depending on your age. Treasury says there is a case for the amount you draw to be guided by your age as well as the capital amount you have at retirement.

The regulations will, for the time being, oblige you to draw an income in line with an industry standard on living annuities such as the one drawn up the Association for Savings & Investment South Africa. Treasury says this could be enhanced or replaced by a standard set by the Financial Services Board.

Default Preservation

The draft regulations compel your retirement fund to preserve your savings in the fund unless you decide to withdraw the money or transfer to another fund.

If you leave an employer and want to withdraw your money, your fund must arrange a consultation with a retirement benefits consultant. The consultant will have to explain to you the tax you will pay on a lump-sum withdrawal and the long-term implications of prematurely withdrawing your savings in terms of the income you will receive in retirement.

If you still decide to take your benefit in cash, you will have to make a written request to do so.

The first draft of the regulations proposed that, when you left an employer, you would be given a certificate saying you are a paid-up member of the fund. If you moved to a new employer, your new employer's fund would have to check on a database of all paid-up members whether you had any retirement savings. It would then automatically transfer your money into the new fund unless you specifically told the fund you did not want it to be transferred, or it could not be transferred because it was in an RA.

This would allow your pot of retirement savings to follow you from job to job.

The revised second draft clarifies that your pot(s) of retirement savings can be consolidated only with your consent and not automatically.

Treasury says it received a number of comments that the regulations should specify a minimum amount for preservation, but it had decided against setting any minimums to be preserved as this would then no longer be a default.

The first draft of the regulations required fees to be the same for active and paid-up members. This has been amended. Only investment fees need to be the same while administration fees on paid-up savings must not exceed the average for active members.

Default Investment Policy

The regulations will compel every retirement fund to have a default investment strategy. You may be given alternative investment options, but if you fail to choose one, the default will apply.

Initially, Treasury proposed that the default investment strategy should not include performance fees, loyalty bonuses or any similar cost structures. In the second draft there is no such prohibition on investments with guarantees or smoothing or on performance fees.

The regulations will compel your fund's trustees to equally consider both passive and active investment strategies when choosing default investment portfolios.

Treasury notes that some of those who commented on the first draft of the regulations misunderstood this requirement to mean that funds should adopt only passive strategies when designing default investment options. This requirement has been amended to clarify Treasury's intentions.

The regulations are available on the National Treasury and Financial Services Board websites: www.treasury.gov.za and www.fsb.co.za. Treasury is calling for technical comments on the retirement fund regulations by February 15 next year and on the insurance regulations by February 22 next year.

10 Dec 2016
Laura du Preez

SIGNS THAT UMBRELLA FUND COSTS ARE FALLING

The amount of money managed by commercial umbrella retirement funds has increased almost four-fold over the past five years, but the average annual costs of one of the larger umbrella funds have decreased by less than 0.3 percentage points over the same period, the Actuarial Society of South Africa's annual conference heard this week.

An actuary who is a consultant to this fund says although it may be too early to conclude that costs are declining for all umbrella funds, his research indicates that some costs are falling. It also shows that, within the next five years, umbrella funds could make a significant contribution to providing their members with a better pension.

David Gluckman, the head of special projects at Sanlam Employee Benefits, told the conference that costs are only one of the factors that affect your pension. According to research by Alexander Forbes, it is only the fifth most important factor (see "Seven factors that affect your pension", below).

National Treasury, which is driving the reform of the country's retirement-funding system, has said it expects costs to fall as the membership of, and the amounts invested in, umbrella funds increase.

Cost Comparison

Gluckman compared the average costs that a significant sample of members of the Sanlam Umbrella Fund paid five years ago with what they paid this year and concluded that costs have declined slightly.

The costs, measured as a reduction in yield (see "Definitions", below), declined from an average of 1.9 percent of members' annual savings to an average of 1.66 percent a year, he says.

These costs are still well above what members of stand-alone pension funds are paying, independent actuary Rob Rusconi told Personal Finance. Rusconi's research in 2005 estimated these costs to be between 1.04 percent and 1.65 percent of the savings in stand-alone pension funds.

Gluckman says it is not surprising that umbrella fund costs are higher: employers who participate in these funds have on average only 68 members and there is a fixed cost to administer the members who work for each employer.

Over the past five years, the savings invested in some 26 commercial umbrella funds have grown from R69 billion to more than R251 billion, while the number of members has grown from just over a million in 2011 to 1.5 million in 2016. Gluckman says this represents an annual growth in assets of close to 30 percent and an annual membership growth of more than seven percent.

Five years ago, Gluckman and another actuary, Megan Esterhuysen, looked at a sample of more than 36 000 Sanlam Umbrella Fund members. This year, the sample size was more than 94 000 members.

Five years ago, the average annual reduction in yields ranged from 2.5 percent a year for low-income earners (less than R3 000 a month) to 1.47 percent a year for higher earners (above R20 000 a year). Now the range is from 2.09 to 1.42 percent a year, Gluckman says.

He says the research was based only on data from the Sanlam Umbrella Fund, so he cannot say for certain that costs have similarly decreased for all funds, or if his findings reflect a decision by the fund's board of trustees to pass on higher cost reductions to members on low incomes.

However, the average costs per income band mask the broad range of the actual reduction in yields across the sample, from 0.5 percent a year to five percent a year.

As some of the costs of saving in an umbrella retirement fund are fixed, the highest costs are typically paid by members who work for small employers.

But Gluckman's research shows that, for members from employer groups of less than 10 members, the reduction in yield had decreased from above 3.5 percent to 2.4 percent, and the costs had fallen across most employer group sizes.

Contributions

Another interesting finding was that the average contribution to retirement savings (after group life and disability costs) increased from 12.6 to 12.9 percent of salaries. Gluckman says this small increase in savings, combined with the lower average costs, could result in members receiving an eight-percent increase in their pensions when they retire after saving for 40 years.

Although Gluckman's research does not reveal what members across the industry are paying to save in an umbrella fund, he says his sample compares favourably with statistics from four other large umbrella funds in terms of the size of the employer groups and the assets under management.

Average costs can be compared only if the same methodology and assumptions are used.

Gluckman says National Treasury, in its 2013 paper on retirement fund costs, compared the Sanlam Umbrella Fund's reduction in yield of 1.9 percent a year with the cost of investing in an employer-sponsored defined-contribution pension fund (a fund that does not guarantee a pension) or a retirement annuity (RA) fund.

Although it is questionable whether the cost comparisons were valid, because of factors such as advice fees and employer subsidies, the paper stated that at the time, the cheapest RA was about 0.9 percent, and large pension fund costs were slightly higher, at about 1.1 percent.

Treasury said new-generation RAs (with underlying unit trust investments) have an average annual reduction in yield of 2.5 percent, while old-generation life assurance RAs cost about three percent.

The Future Looks Brighter

It is likely that the cost of investing in an umbrella fund will decrease further in future because of increased transparency and increased competition, Gluckman says.

He says three large financial services companies, Allan Gray, Sygnia and Discovery, have launched, or plan to launch, umbrella funds.

And transparency around costs will also help. The Association for Savings & Investment South Africa recently introduced a single standardised measure of costs on retail savings products, known as the effective annual cost.

It is working on a similar cost measure for umbrella funds, which will be positive for competition, Gluckman says.

Gluckman was asked whether he thought the investment or asset management costs that umbrella fund members are paying should come down, because these make up the largest portion of the total costs. He confirmed that it was common industry practice to use the profits from investment management fees to subsidise other costs.

He says the average investment management fee on the Sanlam Umbrella Fund is 0.73 percentage points, and this could theoretically be reduced to 0.35 percentage points if every member used index-tracking investments.

One possible threat to umbrella funds is the call for social reform and the possibility that the government will introduce a regulated umbrella fund, he says.

However, it is also possible that the Financial Services Board will introduce legislation that supports better products and increased competition, and that a government umbrella fund could be just another competitor in the market, he says.

Seven Factors That Affect Your Retirement

Alexander Forbes, in its 2014 Benefits Barometer, identified the following seven factors that most affect your pension and ranked them in order of importance:

1. Whether you preserve your savings when you leave a job;
2. Whether your contributions are a meaningful proportion of your salary, not simply a proportion of your pensionable pay, which is much lower than your total package;
3. How many years before retirement you start contributing to your retirement fund;
4. How your contributions are allocated between group risk benefits for death and disability and retirement savings;
5. The costs you pay on your retirement savings;
6. The fund's long-term asset allocation strategy, or how much you invest in equities, bonds or cash; and
7. The additional value, or alpha, that your fund manager earns above the long-term asset allocation strategy.

Definitions

An umbrella fund is a retirement fund for a number of employers that are either too small to afford a stand-alone fund, or do not want the administrative burden of sponsoring a stand-alone pension or provident fund. The umbrella fund is sponsored by a financial services company that provides services to the fund. The fund is run by a board of professional trustees.

The reduction in yield (RIY) is the reduction, in percentage points, in the annual return you earn over the period of saving and represents the erosion of value due to all the fees and charges you pay.

26 Nov 2016
Laura Du Preez

All articles were sourced from the Personal Finance website.

Prepared by:
Ensimini Financial Services (Pty) Ltd
January 2017