A. Comprehensive Social Security in South Africa

Background

The Ministerial Committee on the Review of the Implementation of the White Paper for Social Welfare (1997) led by Professor Taylor, dealt with social security

The recommendations in that review included that Government should adopt and implement proposals on comprehensive social security and establish a single National Social Security Fund ('NSSF')

On 8 June 2016, Cabinet approved the recommendations in that 1997 Review

Based on this Cabinet decision, it was identified that there is a need to accelerate consultations with stakeholders

This led to the Inter-departmental Task Team on Social Security & Retirement Reform ("IDTT") presenting a prior discussion document to the National Economic and Development and Labour Counsel ("NEDLAC") in November 2016

The discussion document is dated 2012. There does not appear to be new developments in this document, nor are any of National Treasury's subsequent proposals taken into account.

Summary of the 2012 Provisions

A short summary of this 2012 document is set out below:

- The existing three pillar social security framework will change over time. These are:
  - **Pillar 1:** social grants. It is stated that the means test will be phased out
  - **Pillar 2:** compulsory arrangements funded by employees and employers (RAF, UIF, COIDA, NHI). Improvement of and alignment between the various entities will be implemented
  - **Pillar 3:** These are supplementary private retirement and insurance arrangements, paid for by employees and employers and include medical schemes and retirement annuity funds. Auto enrolment into occupational funds is being considered as well as a move to a tax credit system, rather than a tax deduction system for contributions
- A compulsory National Social Security Fund ("NSSF") will be established to provide retirement, death, disability and unemployment benefits
- Institutional initiatives will be implemented to enhance the efficiency and coherence of the social security system.

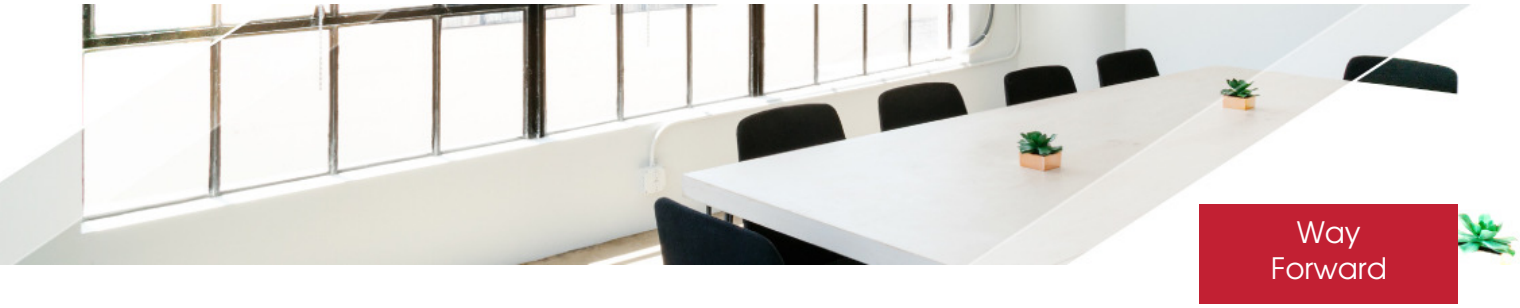
It is proposed that the reforms be implemented in three phases:

1. Creation of a unified policy platform
2. Establish NSSF and consolidate existing entities and systems
3. Transition over 5 to 10 years from existing funds to the NSSF and approved funds framework.

It is noted that some funds will be affected if their members are required to contribute to the NSSF. Many low income workers would not be able to afford to contribute to both the NSSF and their existing retirement funds. However, Government does not want the NSSF to result in a reduction in savings and workers will be urged to maintain or even increase their existing contribution levels. This encouragement could take place via the auto enrolment system.

Way Forward

The next step is for public comments to be submitted and consultations to take place on this discussion document.



B. Information Circulars 2, 4 & 5 of 2016

Information Circular 2 of 2016: Member personal details for purposes of member communication and payment of benefits

The FSB issued Information Circular 2 of 2016 in September 2016, in response to:

1. The number of member complaints regarding the value and timing of payment of fund benefits
2. The increase in number of unclaimed benefits in funds.

In this Information Circular, trustees are reminded that they are legally obliged to make sure they regularly communicate with their members and have sufficient and updated member details to comply with the Pension Funds Act.

Member records and contact details

The Registrar is aware that many funds do not have members' updated personal information. The Registrar indicated that their perceived reason for this is that consultants or brokers act as middle man and fail to provide the relevant information to funds.

Action for fund boards:

- Review member information on record to see if it is up to date
- Where necessary, take steps to get members' latest contact details
- Keep member records up to date and maintain these into the future.

Information Circular 4 of 2016: Responsibility to submit annual financial statements on time and penalties for the late submission of annual financial statements

In Information Circular 4 of 2016 the Registrar of Pension Funds ('the Registrar') reminds trustees about their duty to submit their funds' annual financial statements timeously. Failure will result in penalties being issued against the fund. A short summary of this PF circular is set out below:

- Funds must submit annual financial statement within 6 months after the fund's year end
- Failure to submit the financial statements on time is a breach of the Pension Funds Act and trustees' fiduciary duties
- The Registrar will be issuing penalty letters for funds that have not submitted their 2014 financial statements
- The penalty will be R60 for each day that the financial statements are late
- Funds are reminded to make provision for penalties, where applicable.

Information Circular 5 of 2016: Transfers in terms of the Pension Funds Act and the requirement to obtain tax directives where individual voluntary transfers of benefits are concerned

Information Circular 5 of 2016 clarifies the transfers which are regarded as a transfer of business in terms of section 14 of the Pension Funds Act ('the Act') as opposed to the transfers of individual members' benefits on exit, which require tax directives:

Section 14(1)

Section 14(8) transfers do not require FSB approval but must comply with certain requirements. These include transfers where both funds are valuation exempt, transfers between beneficiary funds, transfers between funds where one fund is neither registered nor required to be registered and the other is valuation exempt, transfers of unclaimed benefits from funds to unclaimed benefit funds, transfers between unclaimed benefit funds, transfers between retirement annuity funds, transfers between preservation funds. These require tax directives to be applied for from the SARS.

Section 14(8)

Section 14(1) transfers need FSB approval**.** These include: purchasing an annuity policy in the name of a pensioner, agterskot adjustments, fund to fund transfers of business, transfers resulting from a section 197 sale of business where affected members' benefits are being transferred to the new employer's fund. Here tax directives are not required, unless they are from a pension fund to a provident fund or from a pension preservation fund to a provident preservation fund.

Transaction

The following transactions are not seen as a transfer of business and section 14 does not apply: Transfer of pension interest on divorce to a non-member spouse, members who leave service (for example resignation or retrenchment) and choose to move their benefit to another fund, liquidation of a fund where the members choose to move their benefit to another fund, retiring members / death benefit beneficiaries purchasing an annuity from an insurer on the death of a member.

Tax Administration Laws Amendment Bill of 2016

This Bill proposes to remove the exemption from having to obtain a tax directive. This means that administrators may have to apply for a tax directive for every member in all section 14 transfers. Industry suggestions have been made to SARS to highlight the administrative burden and cost of applying for tax directives for every single member in a section 14 transfer.

Johannesburg T+27 11 509 3000

Cape Town T+27 21 943 1800

Durban T+27 31 566 2133

Port Elizabeth T+27 41 397 3400

NMG Consultants and Actuaries (Pty) Ltd is an Authorised Financial Service Provider
Website: www.nmg.co.za