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irfa dispatch

THE RETIREMENT INDUSTRY NEWSLETTER

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LOCAL NEWS

Regulation 28 of the Pension Funds Act: Increased foreign portfolio investment limits

The FSCA recently published Communication 8 of 2022, confirming the increase in the foreign portfolio investment limits as set out in Regulation 28 of the Pension Funds Act No.24 of 1956. In this article we take a closer look at the impact thereof on retirement funds and their members.

Regulation 28

Section 36(1)(bB) of the Pension Funds Act provides that the Minister of Finance may make regulations limiting the amount and the extent to which a retirement fund may invest in particular assets or in particular kinds or categories of assets, prescribing the basis on which the limit shall be determined and defining the kinds or categories of assets to which the limit applies. Currently, these limitations are set out in Regulation 28. The main purpose of Regulation 28 is to mitigate excessive concentration risk to member savings and to ensure protection by limiting the extent to which retirement funds may invest in a particular asset or in particular asset classes.

This is echoed in the preamble to Regulation 28 which clearly states that "*a fund has a fiduciary duty to act in the best interest of its members whose benefits depend on the responsible management of fund assets... This duty supports the adoption of a responsible investment approach to deploying capital into markets that will earn adequate risk adjusted returns suitable for the fund's specific member profile, liquidity needs and liabilities.*"

The change

Regulation 28(3)(i) states that the aggregate exposure to foreign assets must not exceed the maximum allowable amount that a fund may invest in foreign assets as determined by the South African Reserve Bank ("SARB"), or such other amount as may be prescribed. On 23 February 2022, following the 2022 Budget announcement by the Minister of Finance, the SARB issued Exchange Control Circular No. 10/2022, indicating that the foreign investment limits of 30 per cent and 40 per cent respectively - as well as the African allowance of 10 per cent – applicable to **institutional investors** (*for example, retirement funds, long-term insurers and CIS managers*) have been **combined** into a single limit of 45 per cent of total retail assets under management.

Consequently, on 18 March 2022, the FSCA published Communication 8 of 2022 which confirmed the increase in foreign investment limits as set out in the SARB Exchange Control Circular 10/2022.

Conclusion

The increased foreign investment limits came into effect on 23 February 2022, being the date of the publication of the SARB-issued Exchange Control Circular No.10/2022. While portfolio managers are likely to take advantage of this increased allowance, it is important for the boards of trustees of retirement funds to ensure that they revise their investment policies and mandates (where needed) to ensure that the overall investment strategy of the funds remains focussed on helping members reach their goals within the regulatory limits.

FA News | 30 March 2022

What can we expect after foreign investment limits were raised

THE NATIONAL Treasury has increased the allowance for retirement funds to invest offshore from 30 percent to 45 percent and simultaneously collapsed the 10 percent African allowance. This is a big change for the asset management industry, which, excluding Africa, had moved its offshore allowance from 15 percent to just 30 percent in the first 25 years of democracy. What, if anything, does the change in foreign exchange regulations mean for your investment strategy? Surprisingly, in the short term, perhaps not much.

Post the regulatory change, we engaged 14 asset management companies in the multi-asset mandates we make use of, and none intended to increase their foreign exposure in the short term, given their view that valuations still favoured South African assets. We suspect, though, that in the medium term, the changes are likely to be profound and will result in asset management companies making quite significant changes. Quite how they will scale their businesses and take full advantage of the wider opportunity set remains to be seen. Certain managers will undoubtedly play to their strengths and stick to a pronounced SA bias through the cycle, while others may favour global fixed interest over global equities, especially at lower risk profiles.

Where managers favour global equities, they will need to convince investors they have an edge, while tactical asset allocation skills may become even harder to implement successfully. As a multi-manager, we have always employed South African and global asset managers, and in addition, we make use of specialist managers. Here the further relaxation of exchange controls will allow us to implement meaningful changes to our own strategic asset allocation frame- work, which will affect how we access our specialist managers and have significant implications for our clients. Importantly, compared to before, we will now equal-weight global equities relative to South African equities across all our strategic asset allocations that have inflation targets. This is a significant change for us and implies our neutral allocation to equities will be split equally between South African and global asset managers across all our specialist mandates. The equal weight between South African and global equities will not remove the home bias to South African equities but will reduce it.

We view the South African equity market as highly concentrated and reducing its weighting in our portfolios relative to foreign equities will help mitigate both stock-specific risk and climate-transition risk over time. Of course, tactically, we can still overweight South African equities relative to global equities, but our portfolios will generally be better diversified over time. In contrast, our strategic asset allocation to global fixed interest remains low, despite the relaxation of exchange controls, even at lower risk portfolios, where we will continue to significantly favour SA fixed interest over global. There is no single right answer as to how best to incorporate the new regulations in investment portfolios.

Like many South African managers, we currently favour South African equities, but our preference will be tempered by our new strategic asset allocation and the opportunities our global asset managers are finding. Asset managers themselves are also likely to change their own strategic asset allocations, and each may solve this in different ways, depending on their own internal capabilities and how they wish to enhance return or reduce risk. As a multi-manager that aims to combine managers to achieve more consistent returns, we are excited about both the greater opportunity set we can now access, especially through our specialist capabilities, and how our SA multi-asset managers will differentiate themselves in playing in this new universe, and also how we can successfully combine them across our portfolios to improve client outcomes.

Business Report | 30 March 2022

Early retirement - not ideal during the current economic climate

Unless you save at least 15 times of your annual salary by the time you retire, it is not advisable to take early retirement, says NMG Benefits, Head of Retirement, Craigh Chidrawi. NMG's retirement fund administration database of stand-alone and umbrella fund members undertook an analysis to identify trends, to assist retirement funds and employers to benchmark themselves against other retirement funds and the industry in which they operate. The data analysis covered the information for approximately 163,000 members that are on the NMG retirement fund South African administration database as at July 2021. According to NMG Benefits data, the average member has only three-quarters (75%) of their annual salary invested for their retirement in their current fund. This has decreased since 2019 when members had saved 103% of their annual salary. Chidrawi's concern is that members are not on average saving enough for retirement. On average, members invested 9.47% in 2021, compared to 2019 when they saved 10.7% of their salary for their retirement.

"This shows an increase in the percentage of members contributing less than 10% of their salary. In 2021, 51% of the members compared to 16% of members in 2019 contributed less. The average replacement ratio across all the active NMG retirement fund members has dropped to 32% in 2021 from 35% in 2019. "This means that the average active member can expect an income after retirement that is 32% of the salary that he/she is expected to be earning before retirement," says Chidrawi. The significant reduction in the contributions being paid to retirement funds highlights the dire effects of the Covid-19 pandemic on the economic situation.

During the COVID-19 induced lockdown, many retirement fund members lost jobs due to the closing of companies or opted for salary reductions due to business scaling down operations. The reason is that during this period the members were desperate for their money. They were not leaving their jobs and moving to another one but leaving because they did not have new work. That desperation forced them to take early retirement benefits. Chidrawi stresses that allowing members to retire later gives the member the opportunity to increase their retirement savings and lessen the time required to live off their retirement savings. Currently, the most common normal retirement age is 65 years (2021: 38.97%; 2019: 56.21%).

The next most common retirement ages are age 63 (2021: 37.21%; 2019: 20.77%) and age 60 (2021: 22.63%; 2019: 22.19%). "To ensure that members are securing a financially stable future, they need to increase their current savings rates and start saving earlier. "It is essential that when members are given the option to reduce the contribution to the retirement fund, they are made aware of the long-term effect of a low contribution rate on the income that can be expected at retirement, concludes Chidrawi.

FA News | 24 March 2022

Discretionary products can give RAs a run for their money

There are scenarios where investing surplus contributions for retirement into discretionary funds leads to better overall income longevity in retirement, according to new research from Old Mutual. Tiaan Herselman, Head of Advice at Old Mutual Wealth says their data indicates that while all the growth in the RA vehicle is tax-free, leading to greater capital accumulation at retirement, it does not lead to greater income longevity. When only considering income longevity, there are other investment vehicles to take into consideration alongside retirement funds.

Since 2016, investors can contribute up to 27.5% of their total annual income into a retirement annuity and get a tax refund at the end of each tax year in February and, during this period many investors tend to top-up their annual contributions into RAs to the limit to ensure that they benefit from the income tax deduction. Therefore, RAs continue to be popular due to the unparalleled tax benefits pre-retirement which not only reduce income tax liability but lead to more growth as there is no tax on interest, dividends or capital gains on funds that remain invested.

They also offer various estate planning benefits as the proceeds do not fall into a deceased estate and, as a result, do not attract estate duty. However, Old Mutual Wealth's recent research shows that there are certain situations when clients are better off when they invest their surplus contributions in a combination of discretionary funds, such as unit trusts, tax-free investments and endowments, rather than in an RA alone.

The research explained

The example below takes a 40-year-old investor, who has R5000 in surplus contributions available every month to invest into a retirement plan, above that which his employer contributes to a pension fund. The investor's income goal at retirement is R25000 a month and R3500 for medical aid in today's terms. The research considered seven different investment strategies to determine how long the investor's income would last post-retirement in each scenario.

Surplus fund investment scenarios

Scenario	Total monthly contribution	Income longevity (The point at which income needs can no longer be met in retirement)

One: R5,000 into RA	Pension Fund: R10,000 p.m. Retirement Annuity: R5,000 p.m.	Age 100 (40 years)
Two: R5,000 into endowment	Pension Fund: R10,000 p.m. Endowment: R5,000 p.m.	Age 103 (43 years)
Three: R5,000 into unit trust (10% tax rate)	Pension Fund: R10,000 p.m. Unit Trust: R5,000 p.m.	Age 108 (48 years)
Four: R5,000 into unit trust (20% tax rate)	Pension Fund: R10,000 p.m. Unit Trust: R5,000 p.m.	Age 105 (45 years)
Five: R5,000 into RA + tax saving into unit trust	Pension Fund: R10,000 p.m. Retirement Annuity: R5,000 p.m. Unit Trust: R1,950 p.m.	Age 107 (47 years)
Six: R5,000 into RA + tax saving into tax-free investment and unit trust	Pension Fund: R10,000 p.m. Retirement Annuity: R5,000 p.m. Tax-free investment: R1,950 p.m.	Age 109 (49 years)
Seven: R5,000 into tax-free investment and unit trust	Pension Fund: R10,000 p.m. Tax-free investment: R3,000 p.m. Unit Trust: R2.000 p.m.	Age 110 (50 years)

Noting the data in table 1, Herselman says “it is clear that the RA only compares favourably with the scenarios whereby the surplus is invested into discretionary funds when the tax saving is also invested. When the annual tax saving is not invested, the RA does not compare too well. Many investors tend to spend the tax savings they receive from SARS on an annual basis and this tends to tip the scale in favour of discretionary investments”. “This outcome is due to the negative impact of taxation on the income drawn from the retirement annuity post-retirement. Every R1 is fully taxed as income, whereas in the tax-free investment no taxation is applied and in the unit trust and endowment structure tax is only levied on interest, dividends and capital gains,” adds Herselman.

The retirement annuity might provide the most capital at retirement, however accessing that capital in the form of an income, comes at quite a price for investors with higher expenses in retirement as there will be a bigger income tax liability to be considered. “These scenarios do clearly make a compelling argument for the consideration of discretionary (liquid) investments in one’s retirement portfolio,” says Herselman. “However, investors need to be aware of the risks of having access to the capital in the discretionary investment vehicles and be disciplined enough to not access this capital prior to retirement. An emergency fund should be set aside for this purpose". The data also underpins the argument that discretionary funds allow for potentially higher returns over the long term as they are not constrained by Regulation 28 which applies to retirement funds. The regulation limits investment allocation of retirements savings to certain assets classes, including equities, property, and foreign assets. "Deciding on the correct investment vehicle into which to invest could be quite complex and clients should always consult with a professional financial planner to get advice on the most suitable investment vehicle for their needs," concludes Herselman.

FA News | 31 March 2022

You have the right to retire comfortably: what you need to know

In March, we commemorate our human rights as South Africans. In remembrance of South Africa's long road to democracy – and the struggles along the way – the month is dedicated to understanding and celebrating our cultural, religious and racial differences.

A cornerstone of this democracy is the Bill of Rights, which is intended to protect all South Africans from infringements on their human rights, affirming the democratic values of "human dignity, equality and freedom." While not something that is formally stipulated in the Bill of Rights, the right to retire comfortably is consistent with these same values enshrined in the constitution.

"Sadly, a large portion of our population were financially excluded by the apartheid administration, and so – when it comes to retirement – many of us still lack a clear understanding of our rights, and how to save effectively for old age," says Abulela Gazi, Executive Head: Client and Business Solutions at Metropolitan. A 2021 research paper states that the saving behaviour of an individual can, in part, be explained by behavioural factors and the impact of having an insufficient income.

"Due to the income inequality within South Africa, certain individuals may be disproportionately affected by insufficient income, often along racial, educational and gender lines due to the racialised and gendered distribution of wealth." Gazi says that even if your means are limited, it is important to be aware of your rights when it comes to retirement. "The most important thing to know is that it is never too late to start saving, even for retirement. "Having said that, the earlier you can start, the better, as you will benefit from compound interest. This is when your interest earns interest, creating a powerful snowball effect." Gazi shares the three most important 'retirement rights', which all South Africans need to know.

Retirement right #1: You have the right to retire comfortably

A comfortable retirement is not something for only an elite few – it is for everyone. It is important to understand that you don’t need to be wealthy to save for retirement, says Gazi. “No matter your background, income or personal circumstances, you have the right to not worry about making ends meet in your old age. But, an important condition attached to this right is that it is your responsibility to make sure that you will be comfortable when you someday stop earning an income – no one else can do this for you. “Every little bit counts. Don’t wait until you have a lump sum to save – start today, putting away as much as you can afford every month,” he says.

Retirement right #2: You have the right to be treated fairly

Gazi advises that you get in touch with a qualified and experienced financial adviser, to help you plan for retirement. However, he adds, it is important to know your rights before you engage with them. Treating Customers Fairly (TCF) is a regulatory framework that governs authorised financial services providers and intermediaries, ensuring that they deliver specific and fair outcomes for customers.

These six outcomes are fair treatment, products that meet your specific needs, clear information, suitable advice, products that perform to expectations, and no unreasonable post-sale barriers. “You have the right to demand clear information about a financial product, such as a retirement annuity, so that you can understand exactly what it offers you. You also have the right to ask your financial adviser questions about anything you are unsure of, such as “what are the fees attached to this plan?” and expect that they explain it to you in a way that is free from jargon, and which makes sense to you.

Retirement right #3: You have the right to choose the best solution suited to you

There are affordable retirement plans on offer, says Gazi and you have the right to ask about – and understand – the options available. “There are various solutions that might suit you, depending on where you are in your life stage (pre or post-retirement age). Look for one that offers you the greatest value, with the lowest fees. This will help you grow your money over time. “Make sure that you consult a reputable financial adviser, who will be able to guide you in selecting the one that best suits your unique needs. They will also be able to explain the various tax breaks to you, helping you to take advantage of them.”

Business Report | 24 March 2022

ESG: Tick-box exercise or a true risk differentiator?

Although not new, Environmental, Social and Governance (ESG) issues have become a key focus in the last 18-24 months, in part driven by growing awareness of environmental and equity and inclusion issues, as well as the health and wellness impacts of COVID-19. The events of 2020 highlighted how ESG issues can become financial risks overnight. In a nutshell, ESG is the consideration of material environmental, social and governance risks and opportunities alongside traditional financial factors. It is increasingly a major factor used to assess the long-term viability, resilience and financial prospects of an organisation, and is also increasingly influencing the capital and insurance markets.

What does ESG mean from an insurance and risk management perspective?

ESG is gaining increasing focus in the underwriting community with many carriers having signed up to the Paris accords. Initiatives to become carbon-neutral means ESG is increasingly focused on. Generally, insurers have made much progress in understanding the physical risk implications of climate change and broader climate and ESG issues, but the gap between how the road to net zero will be enabled by underwriting activities remains to be closed. The underwriting considerations are so much wider as insurers need to review risk across a corporation's entire ESG stance –

The potential for huge reputational risks emanating from a significant environmental or social disaster are top of mind here – consider for example the Brumadinho tailings dam disaster in Brazil a few years ago. Brazil's worst industrial accident sent millions of tons of toxic waste gushing into the surrounding area, destroying the rural village of Córrego do Feijão, in the state of Minas Gerais in south-eastern Brazil, killing 270 people and devastating agriculture in the region. Today, reinsurers, like Munich Re as one example, have environmentalists on their board of directors. Several companies have investors who actively ensure that the companies they invest in are proactive and robust in their ESG stance.

Environmental Component

The environmental component encompasses the impact that a company has on the environment - both positively and negatively. The most common considerations here are climate change and greenhouse emissions. From a South African standpoint, the complexity of the Environmental element of ESG is best articulated in our coal environment. In 2015 the insurance market first became impacted by thermal coal policies when most of the European insurers signed up to the Paris Agreement. This triggered a harsh decline in capacity as most global insurers were swift to exit the coal sector, with 30% plus revenue coming from thermal coal. More recently, the American and Australian carriers issued their own thermal coal policies. With the rapid and large decrease in capacity, premiums and rates have increased exponentially, with those insurers still able to deploy capacity acutely aware that this capacity comes at a big premium. In addition, it also has the ability to impact Insurers' own ESG profile. As a result, what was initially anticipated to be a gradual withdrawal from the sector, in fact turned into an immediate disruption with more than 50% of local capacity lost in the past 12 months alone. The loss of capacity is not limited to just one line of insurance but is also impacting multiple lines including property damage and most liability insurance classes.

Eric Anderson, Aon's President, presenting on this issue recently in Bermuda, articulated it best when he said that carbon-intensive businesses need support from the insurance sector to transition, rather than being abandoned. "In order to decarbonise, we need massive investments in new technology and new resources, both public and private. That capital will require protection, so walking away from carbon-intensive businesses in the short term, with no plan to transition, will leave a power generation void, particularly in developing countries. It will also strand that workforce and leave them without family-sustaining wages."

Andersen explained that none of the private, public and social sectors can get to net-zero without the help of the others. He identified a need to collectively create the conditions that leverage the talent and creativity of the best scientists, engineers, technologists and inventors, and which provide the opportunity to create a financial return. "This combination will require a market to measure, price and transfer risk." Aon's experience in the market is that carbon-intensive clients need to conduct separate and comprehensive presentations on their ESG initiatives to ensure that their efforts are properly recognised by carriers. Fundamentally, these presentations have the ability to change an Insurer's viewpoint if they move away from tick-box approaches and demonstrate real value from an underwriting perspective.

For example:
• Detailed long-term strategies to lower carbon emissions.
• Environmental improvement projects such as solar and other renewable endeavours, green buildings, reforestation and so on.
• Detailed rehabilitation plans in the mining sector.

Social Component

While environmental and governance issues are easier to define, the 'social' component of ESG is imminently more challenging to encapsulate, covering a litany of issues from socially ethical business practices; workforce policies, supplier relationships, and the extent to which they invest in their local community. Social issues that have translated to actual reported claims in the Directors & Officers Liability space include:

• Diversity and Inclusion
• Human Rights
• Working Conditions
• Corporate Social Investment

Could ‘social’ ultimately be the element that stems the withdrawal by Insurers from risk on the basis of a poor ‘environment’ score if it is in turn balanced by a strong social position? Does a lack of insurability for these sectors then translate into a negative social score for insurers? When looking at developing countries and their dependencies not only on coal from a power generation perspective, but also from a wider mining industry viewpoint, one cannot ignore the huge role that they play in community outreach, public schooling, local medical services and social development.**Full Report:** ***https://www.fanews.co.za/article/views-letters-interviews comments/18/all/1102/esg-tick-box-exercise-or-a-true-risk-differentiator/34166***

FA News | 24 March 2022

INTERNATIONAL NEWS

UK to push ahead with reform to pension charges despite backlash

Ministers proceed with plan to leave performance fees out of 0.75% cap on costs for retirement saving schemes

The UK is to push ahead with plans to dilute a cap on workplace pension charges that protect millions of savers in spite of a backlash against the proposals from consumer groups and leading asset managers. The Department for Work and Pensions unveiled plans in November to remove performance fees from a 0.75 per cent ceiling on annual administration and investment charges that can be levied on the defined contribution (DC) workplace retirement funds that most employees are enrolled in automatically.

The move followed a call by Boris Johnson, prime minister, and Rishi Sunak, chancellor, last August for British pension funds to plough more retirement savers’ cash into UK assets to spark an “investment big bang” to support the economic recovery. It would give trustees greater flexibility to invest in more expensive “illiquid” assets, such as infrastructure and green technology, that are often managed by private equity and venture capital managers, who typically levy performance fees. In response to its consultation, published on Wednesday, the DWP said it intended to stick to its plan, even though it was not “positively received or supported” across the entirety of the pensions sector or other interested groups more widely. However, it did not recommit to plans to have the reform in place by this October since “almost all respondents called for DWP to ensure that any regulatory changes planned have the necessary safeguards in place to ensure effective member protection”. The government said it had received 54 responses to its consultation, with the financial services sector and multiple-employer pension plans, known as master trusts, broadly in favour.

However, trustees and legal advisory services in general “were not convinced” the proposals would stimulate investment in illiquid assets that come with performance fees. In its response to the DWP consultation, Scottish Widows, one of the county’s biggest pension providers, said “there was no evidence to suggest that performance fees improve customer outcomes . . . the charge cap offers valuable protection to savers.” The Trades Union Congress, the umbrella body for unions representing 5mn workers, said “the case has not been made for diluting the charge cap”.

The DWP said: “We believe it is important for the government to take the time to fully understand the concerns raised, engage further and understand how these concerns might be fully addressed in the design of the policy as we pursue this further. “We’re continuing to work on the original proposals and will consult on any future draft regulations in this area in due course.” Joe Dabrowski of the Pensions and Lifetime Savings Association said the government “seemed determined to make the reforms”. “If we are moving ahead we want to see the evidence base for future changes and that they are appropriate,” he said.

Separately on Wednesday, the government unveiled further proposals to ramp up pressure on pension scheme trustees to consider illiquid assets, including a requirement to “disclose and explain” their policies on illiquid investment. It also announced plans to bring forward legislation this year aimed at further opening up private market investment by authorised pension master trusts. “I am determined to pursue the path to opening illiquid asset classes to DC schemes,” said Guy Opperman, pensions minister. “I am firmly of the view that all DC schemes should be considering diversifying their portfolio.”

Financial Times | 30 March 2022

OUT OF INTEREST NEWS

Beneficiaries’ rights to information in a trust

Beneficiaries are entitled to a certain amount of information about the trust of which they are a beneficiary and trustees have a duty to disclose that information. But trustees can sometimes be reluctant to disclose certain information, or it may be that beneficiaries are unclear about what they are entitled to see. As a beneficiary of a trust, perhaps one created by a family member to preserve assets for future generations or to look after dependants after death, one may not be aware of the right to receive information regarding the trust’s financial position. There may also be occasions where beneficiaries have concerns about the way in which the trustees are dealing with the trust and want additional information about the trust.

The trustee, or trustees of a trust are the guardians or custodians of the assets held in that trust and it is their responsibility to ensure that the trust’s finances and records are looked after and kept up to date. Trustees act according to the instructions of the founder of the trust as set out in the trust deed, which is the founding document for any trust. Their functions generally include; recording expenses and income, distributing funds to beneficiaries, filing tax returns on any income the trust generates and keeping record of other transactions that occur.

“What this means is that a trustee is acting as a fiduciary – they are looking after the assets in the best interest of the beneficiaries of the trust in good faith,” explains Katherine Timoney, associate at boutique, commercial law firm Gillan and Veldhuizen Inc. Because of this fiduciary relationship, a trustee is bound to report on the trust’s affairs to a beneficiary so that the beneficiary can establish, for example, what if anything, they are entitled to have distributed. One does in fact have a right to see trust documents which set out the terms of the trust, the identity of the trustees and the assets within the trust, along with the trust deed.

In a comparatively recent case which decided on this obligation owed by the trustee, Doyle v Board of Executors [1999] 1 All SA 309 (C), in which a capital beneficiary (who would be distributed the trust’s capital when it dissolved and distributed) requested a full audit from the trustee on what had been done with the trust’s assets during the lifetime of the trust. He was refused on the grounds that he only became a beneficiary after his mother’s death.

The Court found that:
“*On her death he became entitled to receive the trust capital. However it had been invested or reinvested over the years, it was to be passed on to him. Consequently, the defendant was*

bound, on handing it over, to satisfy him with proper explanations, that it was what it purported to be? the full and true trust capital, no more and no less. This it could not do simply by furnishing him with unvouched and untested opening balances on an account. It is therefore bound, in discharge of its duty of good faith, to demonstrate to him that that which he has received is the correct product of the initial capital, properly administered."

"Beneficiaries are therefore entitled to an accounting from trustees relating to the benefit that they are due to receive," says Timoney. In this case the beneficiary was to receive the capital of the trust and so he was owed an accounting of the trust's capital for the duration of the trustee's tenure as trustee of that trust – to enable them to confirm for themselves that the amounts are correct and to hold trustees to account as fiduciaries for their management of the trust's assets on their behalf. Disputes often arise between trustees and beneficiaries and sometimes even between fellow-trustees.

"In these circumstances and to avoid potential costly and lengthy court proceedings to resolve issues, donors and those who draft trusts should consider the insertion of an alternative dispute resolution clause in trust deeds catering for mediation and arbitration," advises PJ Veldhuizen, MD and dispute resolution specialist at the firm. If you as a beneficiary have any concerns regarding the way in which a trust of which you are a beneficiary is being run or if you are unsure of your rights to information, be sure to consult an attorney for expert advice, and who can also mediate on your behalf.

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