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THE RETIREMENT INDUSTRY NEWSLETTER

TABLE OF CONTENT

Local News

International News

Out of Office News

LOCAL NEWS

To defer or not to defer – the annuitisation question

There are many options for retirees to consider when choosing an investment or product to provide them with an income in retirement. Life annuities (a guaranteed income for life) are growing in popularity to serve this purpose. Although many agree that a guaranteed life annuity should form part of their post-retirement investment strategy, they may still opt to defer annuitisation. Three possible reasons for this are: human behaviour, the misperception of relative value, and the misperception of the drivers of the price of a life annuity.

Human behaviour

Arguably the biggest factor contributing to this conundrum is that humans tend to have an inherent desire to defer big decisions. Unfortunately, this inclination makes fertile ground for opposing arguments to take root and look for reasons to support the desire to defer. It is therefore easy to see how common misperceptions can lead to decision making that is contrary to ensuring a sustainable retirement income for life.

Misperception of value

There is a common misperception that high life annuity rates at older ages represent better value. While it is true that life annuity rates are higher for older ages, it isn't true that these rates represent better value for money. For example, many people incorrectly assume it is better value to buy a life annuity at age 70 with an annuity rate of 10% than buying at age 65 with a rate of 8,5%. In fact, it is relatively more expensive. This is because it allows for 5 years' worth of additional potential annuity payments from a product provider, which is not included in the annuity rate from age 70 onwards.

If you correctly compare the price of the payments from age 70 onwards, the decision to defer annuitisation from 65 to 70 is between 10%-15% more expensive. It is better value for money to secure an income for life sooner, rather than later.

Clarifying Example

If the annuity rate is 10% for a 70-year-old male, and 8.5% for a 65-year-old male, one assumes 10% is better than 8,5%. However, this does not compare like-for-like as the annuity rate for the 65-year-old is expected to pay five years more income.

Misconception of the drivers of the price of a life annuity

Another common misperception is that low short term interest rates (like South Africa is currently experiencing) make guaranteed life annuities unattractive. What matters in pricing life annuities is **long term** interest rates. In South Africa, long term interest rates have increased from pre-COVID levels and despite coming down from their peak in March 2020, annuity rates are still attractive. Buying an annuity now means you benefit from these higher long term rates. A view of short term interest rate movements should not influence the decision of when to buy a life annuity.

To defer or not to defer

The inherent desire to defer big financial decisions; and the common misperceptions of price and value are some of the reasons why many South African retirees opt to defer annuitisation.

As we've shown, it makes sense to annuitise earlier, but that doesn't mean that retirees must commit solely to a guaranteed life annuity. Partial annuitisation in a blended living annuity is also an option and is deemed an optimal solution in retirement. A blended annuity is a living annuity that uniquely has a guaranteed life annuity as an investment portfolio option inside its legal structure.

This means the best features of both products are offered in one solution. Research shows that blended annuities provide a more sustainable income in retirement. Retirees can secure cover for essential expenses with guaranteed income from the life annuity, while allowing for the balance to be invested more aggressively for capital growth and to possibly leave a higher capital legacy at death – all in a single product. And it is not an all or nothing decision. Blending allows annuitants to structure a suitable combination over time, balancing the various trade-offs by switching additional tranches into the life annuity component as required.

FA News | 22 November 2021

New SARS approvals on purchasing an annuity at retirement

Executive Summary

BGR 58 is now final. It follows the withdrawal of GN 18 and provides that any annuity on retirement must be compulsory, non- commutable, payable for and based on the lifetime of the retiring member or the value of the member's benefit, if applicable. It may not be transferred, assigned, reduced, hypothecated or attached by creditors as per 37A and 37B of the Pension Funds Act. Any combination of annuity methods is permitted

BGR 58: Purchase of different types of Annuities at retirement

The provisos in the definitions of the different types of retirement funds in the Income Tax Act ("ITA") permit the Commissioner to prescribe additional limitations and conditions for the approval of rules of retirement funds. This discretion may be exercised whenever the Commissioner deems it necessary. This BGR 58 confirms the exercise of the Commissioner's discretionary power in relation to annuities purchased on retirement. In essence BGR 58 deals with three main issues regarding annuities at retirement which is in the discretion of the Commissioner to approve, namely:-

1. The permitted methods of purchasing an annuity;
2. The non- commutability of annuities and their payment for the lifetime of the member; and
3. The creditor protection applicable

A. Permitted methods of purchasing an annuity

GN 18 and 18A which were withdrawn in February 2021 laid down the SARS requirements when an annuity is purchased from an approved retirement fund:-

- in the name of the retiring member; or
- in the name of the retirement fund; or
- paid directly by such retirement fund

Unlike GN 18, BGR 58 now confirms that since the withdrawal of GN 18, any combination of the aforementioned methods may be provided, and multiple annuities of each type may be provided for in the rules of a retirement fund. There is no longer a restriction on using multiple annuity methods to purchase retirement income. Regulation 39 of the Pension Funds Act requires trustees to have an annuity strategy for members. The definitions of each type of retirement fund state that up to one-third of the member's total retirement interest may be commuted for a single payment and the remainder must be paid in the form of an annuity (including a living annuity). However, the provisions in the Act do not prescribe whether the annuity must be provided by the retirement fund or purchased from an insurer, nor do they prescribe the nature or characteristics of such an annuity.

Taxation Laws Amendment Bill of 2021

In addition to BGR 58, the Taxation Laws Amendment Bill of 2021 proposes to include this right in the ITA too. There is a proposed proviso in the ITA however (which is not in BGR 58), which will limit the capital value of each annuity purchased to not less than R165 000. This is to avoid a multiplicity of small annuities in order to avoid the annuity requirements, which would allow the small annuities to be commuted for a lump sum. The implementation date is expected to be 1 March 2022.

B. Non-commutable, payable for and based on the lifetime of the retiring member

BGR 58 notes that an annuity must be compulsory, non-commutable, payable for and based on the lifetime of the retiring member "or the value of the member's retirement interest", if applicable.

Comment: As we know, a living annuity is commutable when the capital assets of the living annuity reach the level of R125 000 or less. The wording in BGR 58 has the wording " … or the value of member's retirement interest, if applicable." A "member's interest" is the value of the retirement benefit from the retirement fund and is not the capital of each living annuity. Although the terminology used should have been different, it seems that the intention is to recognise that if the capital of a living annuity is sufficiently small to cause the capital to fall below the de minimis amount of R125 000, then the annuity is commutable and won't be payable for the lifetime of the annuitant. There is no legislation which provides for a guaranteed annuity to be commutable. GN 16 which provided for it under certain conditions has been withdrawn. So, a guaranteed annuity is no longer commutable during the lifetime of the member.

C. Creditor protection of section 37A and B of the Pension Funds Act

BGR 58 contains the acknowledgement that an annuity may not be transferred, assigned, reduced, hypothecated or attached by creditors as contemplated by the provisions of sections 37A and 37B of the Pension Funds Act. Section 37A states that " save to the extent permitted by this Act, the Income Tax Act or the Maintenance Act, no benefit provided for in the rules of a registered fund (including an annuity purchased or to be purchased by the said fund from an insurer)" …will be subject to the creditor protection provisions of the section. The Commissioner interprets section 37A being applicable to all the annuities which can be purchased at retirement. This BGR applies from 26 February 2021, until it is withdrawn, amended or the relevant legislation is amended.

FA News | 22 November 2021

Regulation 28

Local retirement fund members are breathing a collective sigh of relief as prescribed asset sabre-rattling is dropped in favour of a more sensible, voluntary infrastructure investment policy. National Treasury is spearheading changes to Regulation 28 of the Pension Funds Act to encourage allocators of capital to invest more in domestic infrastructure assets.

A machine-gun salvo of retirement regulation

The latest regulatory intervention started with the publication of draft amendments to Regulation 28, in February this year. Stakeholders in the asset management and pension funds industry were quick to respond, with no fewer than 39 detailed submissions made during the ensuing public comment window. "Most submissions welcomed the proposed amendment of the regulation; but several comments drew attention to shortcomings in the 'infrastructure' definition it contained," writes National Treasury, to accompany the launch of the second draft of the amendments. Financial advisers and planners will be quite familiar with the definition wrangle, given how long it has taken to finalise adviser categorisation through the Retail Distribution Review (RDR) process.

Quibbling over definitions should be expected because the devil, as it is so frequently said, is in the detail. Treasury noted that the first amendments offered a narrow definition of infrastructure as "installations, structures, facilities, systems, services or processes relating to the matters specified in Schedule 1 of the Infrastructure Development Act of 2014". In addition, infrastructure had to be part of the national infrastructure plan, which explicitly excluded private sector infrastructure and infrastructure in the rest of Africa or abroad! It is always interesting to watch the regulatory to-and-fro take place, starting with government policymakers' often extreme positions, until finally legislated under a 'compromise' wording.

Over the past few years the industry has been subject to widespread rumblings about prescribed assets being foisted on pension funds. Prescribed assets did not make it into regulation; but the infrastructure proposal contained in the first draft of amendments to Regulation 28 were certainly prescriptive insofar what infrastructure investments would be allowed. After much kicking-and-screaming, the second amendment replaced the narrow "invest in government projects only" with a softer definition, allowing allocators of capital a much wider infrastructure investment universe.

The consumers' lament

PS: It remains fascinating to this writer how legislation aimed at protecting consumers, in this case retirement savers, is conjured up first to meet government interests, and second to placate the giant financial services providers that invest and manage these assets. The individual retiree is third in line, if at all. As an aside, we are particularly concerned about the applause and celebrations from business and government officials following announcements of COP26-inspired international funding to South Africa's energy sector. One hopes our enthusiasm to play a part in reducing global carbon emissions does not leave taxpayers with countless one-sided, long-term, dollar-based finance and loan structures, which capital will inevitably be misspent. But I digress.

Redefining infrastructure investments

Treasury has used the second draft of regulation 28 amendments to redefine infrastructure. In the retirement funds context, the word now refers to "any asset class that entails physical assets constructed for the provision of social and economic utilities or benefit for the public". And that, dear reader, is very broad indeed. According to Treasury, the revised definition ties in with United Nations' Principles for Responsible Investment (UNPRI) as well as being better-aligned to emerging impact and sustainable investing trends. "The social aspect of the definition will accommodate impact investing by retirement funds," they write. The 39 submissions to the first draft offered divergent views with respect to the infrastructure limits as well as raising concerns over the requirement to assess projects based on the regulator's proposed 'infrastructure columns'.

National Treasury writes: "The revised draft removes the infrastructure columns; however, the overall investment in infrastructure across all asset categories will be kept at 45% in respect of domestic exposure with an additional limit of 10% in respect of the rest of Africa". The second draft also eased the infrastructure investment reporting requirements; retirement funds will only (sic) have to include their top 20 infrastructure investments in the annual report.

Bad news for those crypto asset bulls!

The regulators have clearly been keeping a close eye on developments in the crypto asset universe. They will be aware that individual investors are pouring savings into these assets and bringing pressure to bear on asset managers to do the same. Their appetite is driven by ridiculous price action from assets in this space. In fact, in the weeks since the second amendments, Bitcoin and Ethereum have been on a bit of a tear… Bitcoin charged past R1 million per coin as it set a new all-time high at around US$69000. It is only a matter of time, we reckon, before retirement fund trustees join individual fund members in yearning for crypto class returns.

National Treasury has therefore introduced a new clause in Regulation 28, to restrict retirement funds' investment in crypto assets "because they are seen to be of very high risk". This restriction is reportedly in line with the Intergovernmental Fintech Working Group (IFWG) policy proposal of not allowing collective investment schemes and pension funds to have exposure to crypto assets. And the IFWG policy is likely to remain in place for some time. Incidentally, we support the regulator's view on keeping risky assets out of the retirement funding realm. The industry now has until 16 November to make comments on the updated definition, applicability of the proposed infrastructure limit across all asset classes, reporting requirements and proposed limits in the format provided on the National Treasury website.

Writer's thoughts: There have been ongoing arguments about the appropriateness of the asset class limits imposed on retirement fund savers by Regulation 28. Many financial commentators take issue with the relatively small exposures allowed offshore, with some even arguing that the 70% equity cap is off the mark. Is Regulation 28 something that keeps you and your clients awake at night; or do you simply implement a discretionary investment workaround? Please comment below, interact with us on Twitter at @fanews_online or email us your thoughts editor@fanews.co.za

FA News | 16 November 2021

Pension fund 'unlawfully' deducted study loan from worker's retirement lump sum

The Bokamoso Retirement Fund, administered by Akani Retirement Fund Administrators, has been ordered by the Pension Funds Adjudicator to pay back an amount deducted from a man's retirement fund withdrawal benefit in respect of a study loan. The adjudicator, Muvhango Lukhaimane, said the Financial Sector Conduct Authority (FSCA) should investigate the fund for unlawful conduct. The complainant, Mr A, was a member of the Bokamoso fund. He was paid a withdrawal benefit of R14 868 on July 30 this year, after the deduction of R60 879 in respect of a study loan. Mr A submitted in his complaint that he signed an acknowledgement of debt in respect of a study loan of R52 252.

However, the fund deducted an amount of R60 879 from his withdrawal benefit. Therefore, the fund owed him R8 627. It was established that the deduction of the study loan from Mr A's withdrawal benefit was not in accordance with the provisions of section 37D of the Act. In her determination, Lukhaimane said section 37D of the Act only provided for the deduction from a member's benefit in respect of compensation for any damage caused to the employer by reason of theft, dishonesty, fraud or misconduct by the member. The deduction of the study loan fell outside the scope of section 37D and was therefore unlawful.

"As a result of [Bokamoso's] unlawful conduct, Mr A suffered prejudice in that he has been denied access to his full withdrawal benefit, which would have become available upon the termination of employment," said Lukhaimane. She added that section 7C(2) of the Act enjoined the fund to take all reasonable steps to ensure that the interest of the members in terms of the rules of the fund and the Act were protected at all times. Further, the fund had a fiduciary duty to members in respect of accrued benefits or any amount accrued to provide a benefit. The fund had failed to adhere to the Act and its rules by effecting deductions from Mr A's benefit that were not permissible.

Therefore, the fund failed in its fiduciary duties in terms of the Act. "In light of the foregoing, the deduction from [Mr A's] benefit was not authorised by section 37D of the Act. The fund should pay [Mr A] the amount deducted from his withdrawal benefit in respect of the study loan plus interest.
"The conduct of both the fund and the administrator is inconsistent with keeping with their fiduciary responsibilities. Such conduct must be scrutinised by the regulator as it is the regulator that permits these administrators to operate in the retirement funds sector. "Accordingly, this determination will be made available to the FSCA together with any other information that the regulator may require in order to consider such behaviour," Lukhaimane said. The fund was ordered to pay Mr A the amount deducted from his withdrawal benefit in respect of study loan, with interest.

Personal Finance | 23 November 2021

Much-needed millions remain unclaimed in government pension fund

Like many other pension funds in the industry, the Government Employees Pension Fund (GEPF) grapples with unclaimed pension benefits in its coffers, some dating back to the 1990s and 1980s. Over 20 000 former government employees or beneficiaries of those employees have not claimed their pension benefits for varying reasons. The GEPF is Africa's largest pension fund. It has more than 1.2 million active members, in excess of 450 000 pensioners and beneficiaries, and assets worth more than R1.61 trillion. Unclaimed benefits are defined as benefits that have been unpaid for longer than 24 months after the exit date, where the mode of exit is known.

It is either the exit documents were submitted but payment could not be effected due to various reasons or the member and employer department stopped contributing to the GEPF and no claim to request the processing of the pension benefit was submitted. According to the latest figures, unclaimed benefits in the fund total almost R760 million. Eligible claimants for these unclaimed benefits range from retired GEPF members (employees who exited the public service system without claiming) to beneficiaries of GEPF members who are no longer in service or are deceased.

In the light of South Africa's unemployment rate which ranks amongst the highest in the world, and a significant number of people living under the poverty line, monies such as these would surely alleviate the scourge of poverty in our communities across the country. Eligible claimants are invited to come forward. The beneficiaries, for example, could use the money to go to school, while claimants could start small businesses thus creating much-needed employment – especially for young people of South Africa. What are some of the common reasons for benefits becoming listed as unclaimed?

- The member's exit documents forms, known as Z102 forms, submitted when a member leaves the fund, were not submitted or contain errors that have not been rectified;
- The GEPF is unable to get a tax directive from SARS as the member or beneficiaries' tax affairs are not in order, for example, when they are not registered for tax or they have not submitted tax returns, the member has unresolved tax matter/s, etc.
- Employees who have left their employment (thus no longer contribute to the GEPF) without claiming their benefits – this is normally due to pending disciplinary actions.
- The benefits cannot be paid due to incorrect banking details, frozen or dormant accounts, incorrect pay points and;
- The GEPF does not have enough information in respect of the deceased members' beneficiaries or beneficiaries fail to claim their benefits.

To reach out to members, pensioners, potential beneficiaries and guardians, the GEPF conducts awareness and outreach campaigns such as roadshows; retirement member education campaigns; mobile offices and co-locations with other service centres; engagements with community development workers; and through the media among others, to help increase the reach of our message. Through this, GEPF seeks to address the growing list of unclaimed benefits by identifying claimants and processing their benefits promptly. The so-called "new norm" forced on us by the Covid-19 pandemic has enabled us to find new ways to interface with our clients.

To continue rendering services to clients including those in the peripheries of the country, the GEPF now conducts some of its educational campaigns virtually. "The response of our clients on the use of virtual events as well as the GEPF self-service application is encouraging. We believe that we are on course to the envisaged state wherein all our clients will interface with us from anywhere at any time and their convenience. This will help expedite the processing of pension claims cases and reduce errors," the GEPF says.

Personal Finance | 20 November 2021

A culture of retiring comfortably

According to National Treasury, only 6% of the population will have accumulated enough money to retire comfortably, without having to sacrifice their standard of living. This number is incredibly low, and what it implies is that less than a tenth of the population will not have to rely on the state (government) or family/friends for financial support post retirement. A contributing factor to such low retirement savings is that South Africans in general have a very poor savings culture. Financial literacy is the knowledge necessary to make important financial decisions and unfortunately a large proportion of the population have low levels of financial literacy and limited access to proper financial advice and products. About 50% of South Africans do not have retirement plans [**1**]. Of the working population that have a retirement product or products, around 50% can or will retire with less than 20% of their replacement ratio [**2**]. The recommended ratio is 70% or more [**3**]. This translates into a very real challenge of financial stability amongst retirees. More tangibly, this implies that around 61% [**4**] of retirees are unable to make ends meet. Saving for retirement should be a primary lifestyle goal to ensure financial independence. The reality is that if we fail to plan for retirement, we plan to fail for our own retirement needs as an increase in longevity, rising health costs etc will mean that we place our retirement lifestyle at risk.

Charting the path to a comfortable retirement

While you are working and earning a monthly income, you are most likely able to pay the necessary household expenses involved in providing security, transport, food, bond payments/rent, etc. After retirement, your income must be funded from investment products which you accumulated during your working years (pre-retirement funding). The first step to securing a comfortable retirement and being able to leave a positive financial legacy for your family is to have a comprehensive retirement plan in place. Having a comprehensive retirement plan enables you to:

1. Determine **how much** to save or invest during your working years
2. Invest into **suitable investment products**
3. Optimise your investment returns and **measure progress towards retirement goals** to minimise your risk to a reduced standard of living at retirement; and
4. How to wisely use your retirement income to fund and **sustain your retirement needs**.

Changing your ways

It appears to be fairly simple: you spend your working life saving and then at retirement you spend the rest of your life enjoying the fruits of your labour. However, reality is far from simple as we sometimes don't have much control over economic conditions and lifestyle changes. While most individuals want to save for retirement, it takes dedication and discipline to change savings and spending behaviour. Ill-disciplined behaviour and/or unforeseen changes to circumstances are the main contributors that lead to an income gap at retirement that result in having a lower standard of living in your retirement years.

How much do you really need to retire?

Most clients underestimate the amount of capital that will be required at retirement. Herewith some of the common reasons why you might not have enough capital to provide sufficient income during retirement:

1. Retirement age

Changing jobs (for whatever reason) is not unusual nor is it a negative move. However, more often than not, retirement fund members do not preserve their retirement capital when they change jobs but rather take a cash withdrawal to settle debt or fund other expenses. This decision of not preserving retirement capital can put you at high risk of retiring with insufficient funds. When you resign and/or change jobs, **seek professional help** regarding resignation benefits or try not to be swayed by economic and lifestyle choices.

2. Inflation

Due to the decrease in purchasing power of money over time, sufficient retirement capital should be accumulated to provide for an escalating income need. Failure to do so will lead to an income gap at and after retirement.

3. Life expectancy

Individuals' life expectancies are increasing. This increases the period for which most of us will need to make provision after retirement and thus more capital is required to sustain post-retirement income needs. Apart from the inflationary pressures on medical costs, the need for medical care and related cost is generally higher after retirement and these additional costs increase the income need during retirement.

4. Non-pensionable fringe benefits and income

The impact of the loss of employee benefits such as subsidised medical aid contributions, group life insurance, company vehicles and housing allowances are also often underestimated.

5. Divorce

As a member's retirement interest may be seen as part of his or her assets to be taken into account when determining the asset distribution, it goes without saying that divorce may well affect the member's eventual retirement capital.

Conclusion
Our behaviour towards spending and saving may be difficult to change. However, if we want to make provision for a comfortable retirement, our attitude towards borrowing and investment need to change. It is important to **seek the professional services of a trusted and qualified financial adviser** to compile and/or review your retirement plan. It is never too late (or too early) to start saving for retirement.

FA News | 16 November 2021

POPIA… questions answered

The Protection of Personal Information Act (POPIA) wait is finally over. However, for some, there are still questions. Who is the Information Officer, and who can be Deputies? What are the Information Officer's duties and responsibilities? During an iTOOsday webinar, the Norton Rose Fulbright data privacy team, Rosalind Lake and Ushenta Naidoo explained the roles and responsibilities of the Information Officer and how to comply with the requirements.

Parties involved
"The responsible party controls the procedures and purpose of processing of personal information. The operator processes personal information on behalf of the responsible party. An operator must only process personal information with the responsible party's knowledge or authorisation and treat all personal information as confidential," said Lake. "POPIA requires a written contract between responsible parties and operators. At a minimum, the operator must comply with security safeguards, and provide immediate notification when there are reasonable grounds to believe that a breach has occurred. But, responsible parties remain liable for breaches of any of the conditions for lawful processing by operators," added Lake.

The Information Officer
"Who qualifies as an Information Officer? It must be a natural person who carries on any trade, business or profession, but only in such capacity or any person duly authorised by that natural person. Any partner of the partnership or any person duly authorised by the partnership. By default, the Chief Executive Officer or the Managing Director or equivalent officer of an organisation will be the Information Officer," said Naidoo. "Information Officers may delegate any of their powers or duties to Deputy Information Officers.

Deputy Information Officers may be appointed at the discretion of the organisation. Only employees of an organisation can be designated as Deputy Information Officers. Information Officers must remain in control of the Deputy Information Officer's activities. Delegation of powers does not prevent an Information Officer from exercising the delegated power or duty. Guidelines provide a template form for the appointment of DIOS," added Naidoo."

Roles and responsibilities

"An Information Officer's has a number of responsibilities otherwise ensuring compliance by the body with the provisions of POPI and as may be prescribed. Officers must take up their duties in terms of POPI only after they have registered with the regulator," said Naidoo. Norton Rose Fulbright explained that in order to ensure effective compliance with POPIA, and in particular the organisation's compliance with the conditions for lawful processing of personal information, the Information Officer must:

1. Know what personal information is in the organisation's possession or is collected;
2. Know where such information is stored;
3. Know the purpose for which it is collected;
4. Know the uses to which it is put;
5. Have a comprehensive knowledge of Popia and all the requirements which apply to the organisation;
6. Be empowered to enforce compliance with Popia.

POPIA sets out the following duties for the Information Officer, the Information Officer must:

- Be able to handle all requests for access to information;
- Have a good understanding of the grounds for refusal, including handling of partial requests;
- Verify the identity of data subjects when handling data access requests;
- Be trained on how to deal with investigations by the information regulator or requests from the information regulator;
- Ensure that a compliance framework is developed, implemented, monitored and maintained;
- Ensure that a personal information impact assessment is done on all processing activities to ensure that adequate measures and standards exist, so to comply with the conditions for lawful processing of personal information;
- Make certain that a manual is developed, maintained and made available in accordance with the promotion of access to information act (Paia) and will on request provide copies of the manual to any person who requests it, on payment of a fee determined by the regulator;
- Ensure that internal measures are developed together with adequate systems to process requests for information or access thereto; and
- Ensure that internal awareness sessions are conducted regarding the provisions of Popia, regulations made in terms of Popia, codes of conduct, or information obtained from the information regulator.

Lake added that it is important to keep records of all data subject requests, processing activities and personal information impact assessments in case there is a complaint to respond to down the line. Public companies are required to report to the Information Regulator annually on data subject requests.

Personal consequences

The Information Officer may be held liable for the failure to adequately perform their responsibilities in terms of POPIA and its Regulations, or PAIA. In certain circumstances, criminal consequences may personally attach to the Information Officer which may include a fine or imprisonment of up to two years. POPIA empowers the Information Regulator to serve the Information Officer with an enforcement notice which sets out, amongst other things, actions that the Information Officer is required to take or must refrain from taking. Should the Information Officer fail to comply with the enforcement notice, they will commit a criminal offence. The Information Officer may also be found criminally liable should they commit any of the following acts:

1. With intent to deny a data subject’s right of access to their personal information: (a) destroys, damages or alters a record; (b) conceals a record; or (c) falsifies a record or makes a false record; and
2. Wilfully or in a grossly negligent manner fail to comply with section 51 of paia which regulates the procedure for publishing a manual that describes to data subjects how to access and request their records of personal information.

Norton Rose Fulbright recommends that all organisations take data privacy compliance very seriously.

Writer’s Thoughts:

There are significant risks for individuals who are appointed as Information Officers, and it is critical that the Information Officer complies with all their obligations. For those who are still unsure, partner with someone who has extensive experience and understanding of the POPI Act. If you have any questions please comment below, interact with us on Twitter at @fanews_online or email me - myra@fanews.co.za.

FA News | 16 November 2021

Millennials worst affected by Covid-19 and they have no money to retire

Millennials are worst affected by Covid-19 financial fallout and they are disillusioned with retirement based on their parents experiences.

Recent research by Alexander Forbes 2021 Member Insights shows that the Covid-19 pandemic had a more significant impact on South Africa's millennials due to high unemployment rates – and they're unlikely to afford retirement. Millennials are people aged between 25 and 40 years. This generation has already lived through two financial crises during their careers, and they make up more than 50% of the membership of South African retirement funds.

Covid-19 pandemic fallout victims

The Covid-19 pandemic caused a tectonic shift towards short-term survival. The pandemic emphasised the need for financial services such as medical aid, life insurance and emergency savings. During the initial lockdown, retirement funding was used to release cash flow to employers and employees by suspending retirement fund contributions. Former Finance Minister Tito Mboweni had allowed people emergency access to a portion of retirement funds as part of broader reform measures. "Millennials have been hardest hit financially by Covid-19 and are at the highest risk of loan defaults," said Alexander Forbes, Head of Research, Best Practice and Academy Vickie Lange. "The analysis found that at least 14% of loans taken by early millennials (aged between)were in default, followed by late millennials at 5%, generation X 2% and baby boomers at just 1%," she added.

Millennials are disillusioned with retirement

According to Alexander Forbes Executive Strategy and Customer Experience manager Viresh Maharaj, retirement planning companies like Forbes are at risk of becoming irrelevant to millennials. "Retirement is simply not on the 'must have' radar for this generation and most of the other generational groups until they are within about ten years of retirement," said Maharaj.
"A unique characteristic of millennials is that many of them are living the experience of a defined contribution retirement outcome via the challenges their parents now face in their old ages," he added.

Millennials have become broadly sceptical of financial services due to watching their parents struggle to survive solely on their pensions. Using your retirement savings now, might come back to haunt you when it is time to retire. They have to partially or even fully support their parents and in-laws in their retirement because the living costs typically include extras like medical aid contributions. At the same time, they have to meet the demands of raising children in the context of ever-increasing living cost pressures. “The immediate challenge facing such households is simply to make ends meet, which is increasingly difficult to achieve,” said Maharaj.

Social media influences millennial spending habits

Maharaj was scathing in his assessment of millennial spending, saying that financial behaviour is heavily influenced by ‘professional posers’. “Millennial views of spending are influenced on social media by professional posers promoting lifestyle choices only accessible to most by swiping, tapping or extending their credit,” said Maharaj. Millennial spending behaviour is worrying for financial services providers in the retirement space because the target market is choosing to forego services like retirement savings.

“This plays itself out in the employer-sponsored retirement funding space in the form of the non-preservation of retirement funds when people change jobs,” explain Maharaj. When changing jobs, customers are given a choice to move their pensions to another retirement account or cash out immediately. 94% of the time, the default response is to opt-out of the retirement funding journey and access their cash. “Approximately 94% of this generation are choosing not to preserve compared to 84% of the older generations. Maharaj said retirement saving companies have to help their target market address their present needs to connect with this generation and remain relevant in the future. “To help our customers save for tomorrow, we must help them survive today by considering their point in time financial needs such as indebtedness and budgeting,” concluded Maharaj.

The CITIZEN | 21 November 2021

INTERNATIONAL NEWS

Three foreign pension lessons for the UK – PPI report

The Pensions Policy Institute’s (PPI) latest report looks at what the UK can learn from other countries to improve value for money for pension savers. Such contries, among others, include Sweden, Australia and the Netherlands. When Sweden introduced its defined contribution (DC)-based premium pension system in the 1990s, it launched a campaign to encourage workers to make an active, considerate choice between the six available investment funds.

With remarkable success, as two thirds of workers did indeed make an active choice in 2000/01, the first years the new system was running.

But with the withdrawal of the campaign, the share of active choice quickly fell to 10%. Now, just 1% of new pension savers make a considerate choice for an investment fund. “This suggests that effort needs to be both concerted and continuous,” the PPI concluded. As this would be costly and time-consuming, it’s not sure this would be a preferrable option, the research institute added. This makes the existence of a good default option all the more important. And the Swedish default option, the AP7 fund, passes the litmus test, according to PPI.

With its high equity allocation (65% to global equities, 20% to Swedish equites and 10% to emerging market equities) the fund looks like an unusually high-risk option for a default fund at first sight but, noted PPI, this should be seen in its context: contributions to the fund are only just under 14% of the total notional contributions of an individual to their national pension. The remaining 86%, forming their income pension, creates a pension entitlement financed on a pay-as-you-go basis, creating a low-risk, bond-like asset. That said, AP7 also delivers great value for money compared to comparable investment options, PPI concluded. From inception in 2000 to end 2020, AP7 had returned 292% compared to an average 131% for the marketplace, at a cost charge of only 0.17%.

Punish the laggards

When the Australian Productivity Commission (APC) investigated the quality of the country’s pension funds, it concluded in its final report at the end of 2018 that while some Australian super funds achieved consistent high net returns, total performance was mixed with a significant number of funds underperforming. This was even the case after adjusting for differences in investment strategy. While reported fees had trended downwards, a tail of high-fee products also remained, mostly in retail funds. According to APC’s research, commercial retail funds underperformed not-for-profit ones by 2% a year, mainly because of high fees.

The APC then recommended funds should earn the ‘right to remain’ in the system using benchmark outcome tests, and members should be empowered to choose their own fund from a ‘best in show’ shortlist, set by a competitive and independent process. A focus on benchmarking against tailored benchmark portfolios and median fees with material sanctions on funds falling below a tolerance, as the APC did, “sends a very strong signal to providers and governance as to what is expected by the system”. This system also comes with risks though, according to the PPI.

“The stated aim to address the ‘long tail’ of poorly performing funds may well be achieved but could also result in a reversion to median as providers are likely to first seek to minimise the chance of failing the performance test, rather than deliver maximum risk-weighted returns appropriate to their members,” it said. Additionally, there could “be a risk that undue weight is placed on gaming the performance tests rather than optimising investment strategy, and so restricting further value-for-money improvements.”

Consolidation is not a panacea

It is often thought that consolidation of pension schemes leads to large reductions in costs. When UK pensions minister Guy Oppermann stated recently that “there is no doubt in my mind that there must be further consolidation in the occupational DC pensions market”, he suggested “scale is the biggest driver in achieving value for money for savers and ultimately better retirement outcomes.” But evidence from the Netherlands suggests otherwise. Earlier this year, two scholars affiliated to pension regulator De Nederlandsche Bank (DNB) concluded that the economies of scale that had driven the consolidation of Dutch pension funds from the 1990s, had all but disappeared. While larger funds paid significantly lower investment management fees than smaller ones until around 2004, the effects of economies of scale have now become negligible.

IPE reported on the regulator’s conclusions in May.

“Today, scale hardly produces cost efficiencies for pension funds,” said Jaap Bikker, a retired professor at Utrecht University and a guest researcher at pension regulator DNB, and Jeroen Meringa, a company analyst at the regulator. Bikker and Meringa calculated that, if all smaller pension funds were to merge to obtain a similar size as the fifth-largest pension fund, investment management costs would drop by 2.4%, or €64m. “This is 0.8% of total investment management costs. As such, potential cost savings of this magnitude do not carry enough weight to serve as a reason for pension fund consolidation,” they argued. “With this, an important reason for further consolidation and upscaling has disappeared.”

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OUT OF INTEREST NEWS

Inflation dominates the onshore, offshore equity debate…

The decision to remain 'long' global and offshore equities, and the specific sectors and shares you should be choosing, could be functions of your view on US inflation. As 2021 draws to a close, asset managers seem to be in one of two camps, with some seeing inflation as a genuine systemic problem, and others arguing that it will prove transient… "US Inflation might endure for a bit longer due to supply chain issues such as the well-documented computer chip shortage; but ultimately, it will not be a problem," said Chris Freund, co-manager at Ninety One Equity Fund, during a panel debate at the 2021 Morningstar Investment Conference.

US rate hikes only expected late in 2022

In this context, the US Federal Reserve is only expected to raise interest rates in the fourth quarter of 2022, with a gentle hiking cycle through 2023 and 2024. Freund expects robust economic growth in the fourth quarter of 2021 and throughout 2022 as the global economy gradually emerges from pandemic. "We think equities will outperform other asset classes under these conditions, but with more periodic setbacks that will test investors' mettle," he said, adding that the so-called 'easy money' generated from equity portfolios post the March/April 2020 collapse was a thing of the past.

Chantelle Baptiste, a senior equity analyst at Fairtree, took a different view on inflation. "We are more in the permanent inflation camp and are taking a cautious view on US inflation," she said. "US housing prices and homeowners rentals are going up significantly, and there is a certain 'tightness' in the US labour market". Other macroeconomic concerns that influence the asset manager's asset class selection include geopolitical tensions between China and the West, and the continued polarisation of communities within countries. As example of the latter, Baptiste pointed to the political landscape in the US: "The middle ground, the conservative rational voice is muted; so the extreme left and extreme right have become very noisy … in the US, you are either very Democrat or very Republican".

Opportunities in South Africa Inc

Sean Neethling, a portfolio manager at Morningstar, and moderator of the panel discussion, interrogated panellists on the outlook for South Africa equities. "The South Africa Inc story is an interesting one," said Sean le Roux, a portfolio manager at PSG. "There are fantastic businesses in South Africa, and every now and then they go on sale". He pointed out that many

JSE-listed firms had been in a protracted bear market pre-pandemic, which made the local bourse an excellent hunting ground for value-based stock pickers. These firms bled value in March/April 2020 but have since bounced back to deliver stellar returns. According to Baptiste, local shares were selected based on their potential to generate return rather than whether or not they fit into a South Africa Inc basket.

"We go where we can generate alpha, if South Africa Inc will give us that, we will be there," she said. During 2020 and 2021, the asset manager saw potential in the industrial and retail complex, with a standout performer being MTN. More recently, the focus has shifted to include opportunities in the resources sector and taking larger stakes in Naspers/Prosus. Freund, meanwhile, was starry-eyed about the return potential in South Africa's banking sector. "You could close your eyes and buy any of the big four banks [you can include Capitec and Investec as well], and come back in 24 months with a 10-15% per annum return, including dividends," he said.

On China, concentration risk and insane valuations

Baptiste's comment about increasing exposure to Naspers triggered a debate within the debate. "We do not own the share, and we are some way off pulling the trigger on it; this offers a classic example of the selective application of ESG factors in portfolio construction," said Le Roux. He pointed out that governance risk was elevated due to Naspers' massive exposure to China-based Tencent, and the pressure on management to be "beholden to the whims" of the Chinese political system. Simply put, Naspers is too pricey to compensate for this governance risk. Concentration risk is also an issue.

"As a consequence of significant crowding and consensual positions, [we see this share] at between 10% and 20% of every South African equity portfolio … and that is absurd," he said. China is South Africa's largest trading partner and the largest consumer of commodities globally, and could prove quite influential in how financial markets perform, whether locally or offshore. "With their property market mildly imploding at the moment, it is obviously not great for resources," said Baptiste. "Anything that has exposure to China is going to be volatile over the next 18 months; but if you can stomach that, and you can see through it, there is probably a lot of money to be made".

Some thoughts on share selection

How should one invest in equities going forward? US equity valuations have been heavily skewed by the long duration low interest rate environment and unprecedented monetary policy and fiscal stimulus in that market. The result is that many shares are sitting on staggering price-to-earnings ratios… "We are avoiding the elevated parts of the market that are trading off global interest rates," said Le Roux. "I can give you a long list of companies that are well under 10 price-to-earnings; these are companies that should grow faster over the next 10 years".

According to Freund, investors must acknowledge the risks of systemic inflation in the US, which could prove damaging to global equity markets. Dollar-based commodities should do well under this scenario. But investors should also consider the possibility of a global recession, which will prove damaging to South Africa Inc shares. Under this scenario, said Freund, "the dollar will get stronger and all emerging market currencies will go weaker … which means you will want a portfolio filled with rand hedges such as Anheuser-Busch, British American Tobacco and perhaps Bid Corp". He concluded that global recession and systemic inflation, although not part of the Ninety One house view, were tail risks that the asset manager was monitoring closely.

Writer's thoughts:

We have long followed the SA versus offshore equity debate, with one of the frequent criticisms being the dwindling investible universe on the JSE. And it seems, given recent de-listings, that this investible universe continues to shrink. I would love to hear what financial planners, IFAs and investment advisers think about the long-term prospects of SA-only equity portfolios. Please comment below, interact with us on Twitter at @fanews_online or email us your thoughts editor@fanews.co.za

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