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irfa dispatch

THE RETIREMENT INDUSTRY NEWSLETTER

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LOCAL NEWS

Dementia: Heart-breaking, sad… and also a major financial problem

Dementia is a major threat to all pensioners. And then we have Covid-19 pandemic, which is a particular threat to the elderly, and all the other health issues that inflict the aged.
It is important that this column is read by both parents and their children. The problems of dementia, including Alzheimer's disease, are:

- Costs: The treatment of serious illnesses, including dementia, can be long and drawn out, costing a lot of money. Frail care can cost up to R40,000 a month, in addition to the cost of medicine, nappies and medical aid contributions. Frail care and home care are only covered on the top medical aid options, and there are rand limits.
- Scams: Pensioners are subject to more scams than any other group, particularly when they are of failing mind.
- General rips-offs: There is often a problem being a pensioner – people talk down to you. It doesn't matter who you are. They will not explain things properly or will try to pass off a higher-priced item on to you. Medical aid schemes are also notorious for trying to reject claims of the elderly. The government has passed legislation to protect the elderly, but there does not seem to be much in the way of compliance. It is not a problem just here, but around the world. You can see what has happened in old-age centres where people have been left unattended with Covid-19, and where there have been very high rates of infection or death.

The scams

Scams where pensioners are taken to the cleaners come from a variety of sources and for different reasons.

- Pensioners are often desperate for better returns. Consider that the average replacement ratio of a pension is only about 20%, according to research done by the country's biggest retirement fund administrator, Alexander Forbes. A replacement ratio is the percentage by which your retirement income will replace your final salary.
- Serious illnesses, with dementia being the top of the list, makes people even more vulnerable. The scamsters come from almost anywhere. They include:

    - Product providers. The biggest scam, pulled mainly on pensioners, was property syndications, sold during the 90s and the early parts of this millennium. Billions of Rands were in effect stolen from pensioners under the guise that these were low-risk investments. There are many other scams. The list goes on forever with

investment in fictitious goldmines, with names like Eldorado, to currency trading, to pyramid Ponzi schemes.
  - Some financial advisers who have sold purely on maximum commission, such as property syndications.
  - Scams from other professionals, such as some lawyers or accountants, come in various forms, from passing accounts of major sleaze companies through to allowing over-charging and general malpractice.
  - It is amazing how relatives, even close relatives, will move on someone who they think is vulnerable, particularly if the relative is short of cash.
  - Over the years there have always been cases where caregivers manage to get wills altered by various, often devious means.

(This does not mean all are involved. Most people are very honest and treat pensioners well. The trouble is you always have the hard men everywhere, from gangsters to con artists)

The Catch-22 of dementia

Your financial well-being in retirement depends on your being able to make decisions, to contract and to litigate, either independently or with the assistance of others. So, what happens when you no longer have this ability? The answer: You become a danger to yourself. The law requires that you must be able to understand the nature, purpose and consequences of your actions. If you are not able to understand what you are doing, then any contractual decision is invalid in law.

But it is not quite so simple. There are still several problems:

- First Catch-22: The onus is on the person, claiming diminished mental capacity, to prove that a transaction is invalid. The problem is that if you are of unsound mind, you are unlikely to know about your condition or that you have made a poor decision. If a court has declared you to be of unsound mind and incapable of managing your affairs, then the onus to prove you were of sound mind shifts to the party that wants to hold you to a legal transaction.

- Second Catch-22: Dementia is the loss of cognitive functioning – namely, thinking, remembering and reasoning – and behavioural abilities, to the extent that it interferes with your daily life. Dementia does not occur overnight – it is a gradual process that can take place over many years, often with periods of total lucidity on the downhill slope, until the sufferer cannot carry out simple functions. This makes it difficult to take timely action.

You and your family cannot come to a decision that at a particular age or stage you will sign a "power of attorney" that gives nominated people the right to handle your affairs and control your finances, from banking and investments to paying your daily living expenses. This is because a power of attorney is only valid for as long as you can manage your affairs. As soon as you are

no longer capable, the power of attorney lapses. In other countries, there are what are called "enduring powers of attorney", but this isn't the case in South Africa. ***Full Report: https://www.dailymaverick.co.za/article/2020-07-28-dementia-heartbreaking-sad-and-also-a-major-financial-problem/#gsc.tab=0***

Daily Maverick | 28 July 2020

Retirement saving: Where does it go wrong?

South Africans appear to be as bad as ever when it comes to saving for their retirement: about half (49.7%) of retirement fund members are retiring with a pension of less than one-fifth of their pre-retirement salary and only 6% have saved enough to retire with 75% or more of what they earned when they were working. This is according to the most recent annual retirement survey (for 2019) by one of the country's biggest retirement fund administrators, Alexander Forbes. With more than a million members in the funds it administers and its umbrella funds, the Alexander Forbes Member Watch has the biggest data sample of all retirement fund surveys in South Africa.

Retirement funds use what is known as your "replacement ratio" when calculating whether or not you are on track to have saved enough for retirement. This is the pension you will be able to afford as a proportion of your pensionable salary (your salary on which your pension deductions are based, which excludes additional income such as bonuses and allowances). For example, if your pensionable salary just before you retire is R20 000 a month and if your savings can provide you with a sustainable pension of R4 000 a month, your replacement ratio is 20%. The industry works on the assumption that most people can retire comfortably – essentially retaining their pre-retirement lifestyle – on a replacement ratio of 75% (R15 000 a month in the above example).

This, according to the survey, equates to having accumulated savings of at least 12 times your gross annual salary by the time you stop working at age 65, but this figure does depend on your personal circumstances. What the Member Watch survey shows – and, unfortunately, has continued to show each year – is that the vast majority of South Africans have saved nowhere nearly enough by the time they retire to be able to live comfortably off their savings. (As a caveat, the survey takes into account only what members have saved in their retirement funds; it doesn't include other savings or investments.) The 2019 survey shows that contribution rates have remained relatively stable over the past few years, with employees contributing an average of 5% of salary and employers contributing 9.2%, resulting in an overall average contribution of 14.2%.

But not all of this goes towards savings: if you subtract costs and group insurance contributions, the average member saves 12.3% of his or her salary each month. The survey shows that even

if you were diligent and saved 12.3% of your salary for 40 years – from starting work at age 25 to retiring at age 65 – you would, given certain return assumptions, reach a replacement ratio of only about 55%. You would need to save 17%, or almost an extra 5% of your salary, from day one, to reach 75%. Making the situation far worse is the fact that most people do not accumulate savings over their full working life. ***Full Report:*****https://www.iol.co.za/personal-finance/investments/retirement-saving-where-does-it-go-wrong-963027c7-d158-469c-9429-d61527159d79**

IOL | 27 July 2020

Divorce and your retirement funds

The division of assets where a retirement fund or multiple retirement funds are involved is complicated.

Divorces can be complicated, especially when it comes to the division of assets where a retirement fund or multiple retirement funds are involved. As it currently stands, a spouse can bring a claim under the Divorce Act for a share of their spouse's retirement fund upon the dissolution of the marriage. However, this process is a complicated one strictly governed by the Divorce Act, Pension Funds Act and Income Tax Act, and is best navigated together with an attorney who specialises in divorce.

The non-member spouse's claim to the member spouse's pension interest is not an automatic one and will depend on a number of factors including the matrimonial property regime under which the couple is married. It is important to bear in mind that the right to claim a share of the member spouse's pension interest only applies to couples who are married or in a civil union. If a couple is living together as 'husband and wife' but is not married under a legal act of parliament, there is effectively no marriage capable of dissolution and therefore no transfer of pension interest benefit.

Understanding the pension interest

When negotiating a divorce settlement, it is important to understand how the pension interest is calculated for the purposes of such a claim. In respect of pension, provident and preservation funds, the pension interest is the total benefit to which the member would have been entitled to in terms of the fund rules if their membership had terminated due to resignation at the date of divorce. Where the member spouse is invested in a retirement annuity, the pension interest refers to the total amount of the member's contribution to the fund up to the date of divorce plus simple interest at the prescribed rate.

Bear in mind that the generic term 'pension fund' refers to all retirement funds that fall within the ambit of the Pension Funds Act and, as such, a claim for a share in the pension interest cannot be brought in respect of living and life annuities. This can result in prejudice for a spouse where a divorce takes place after the member spouse has retired.

The impact of matrimonial property regimes

The marital regime under which a couple is married will impact on such a claim in terms of the Divorce Act. Where a couple is married in community of property, the pension interests of each spouse will form part of the joint estate, and each spouse will be entitled to claim 50% of the pension interest at the date of divorce. In circumstances where a couple is married out of community of property with the accrual, each spouse's retirement fund value will be taken into consideration when determining the value of their respective estates for accrual purposes.

Keep in mind that a spouse can choose to expressly exclude the value in their retirement annuity or pension fund as at the date of marriage. Matters can, however, become complicated for couples married out of community of property before 1984. Under this marital regime, each spouse retains their own separate estate and there is no sharing of assets at divorce. However, the court can order a redistribution of assets in terms of Section 7(3) of the Divorce Act, and the member spouse's pension fund interests could form part of the redistribution order.

Alternatively, a couple may agree to share the pension interests as part of their divorce settlement agreement. Where a couple is married out of community of property after 1984, they are deemed to have expressly excluded the accrual and there can be no redistribution of assets, although the couple retains the right to share the pension interest in their settlement agreement. This though becomes a personal obligation between the two parties, and it cannot be enforced against the retirement fund.

Options for the non-member spouse

Where a court has awarded the non-member spouse an amount from a retirement fund in terms of a valid divorce order, the retirement fund is obliged to give the non-member spouse the right to decide how the benefit will be paid out. The non-member spouse can choose to withdraw the full amount, although this will be subject to retirement fund withdrawal tax. They can choose to take a portion as a cash lump sum and transfer the balance to an approved retirement fund although, once again, the cash portion will be taxed accordingly.

Alternatively, they can choose to have the full benefit transferred to an approved retirement fund, in which case no tax will be paid on transfer, although the proceeds will be taxed in their hands upon withdrawing or retiring from the fund at a later stage. Where the member spouse has a policy-based retirement annuity, bear in mind that the life insurer may impose a penalty for early

cancellation of the policy as the withdrawal effectively breaks the terms of the contract, and this penalty should be factored in when determining the pay-out.

Once the divorce order has been granted, the non-member spouse is normally given 120 days in which to make a decision regarding how they want the pension fund interest paid, and it is always advisable that they seek independent financial advice before making a final decision. ***Full Report:*** **https://www.moneyweb.co.za/financial-advisor-views/divorce-and-your-retirement-funds/**

Moneyweb | 23 July 2020

Marriage vs Cohabitation: The different financial consequences

There are pieces of legislation that recognise the rights of cohabiting couples

Many people who opt to live together rather than get married don't fully understand the financial consequences of doing so. While cohabitation isn't a recognised legal relationship in South African law, there are pieces of legislation that recognise the rights of cohabiting couples. Let's have a closer look at the financial consequences of married couples as opposed to those who choose to live together.

Medical aid

In terms of the Medical Schemes Act 131 of 1998, a member's spouse or life partner qualifies as a dependant on their medical aid, and this, therefore, includes cohabiting couples. If you are the principal member, you are able to add your partner as an adult dependant to your medical aid and gap cover. If you die, your registered partner will continue to be covered provided the premiums are paid. As such, it is important to ensure that you share financial responsibility and that your partner can continue paying the bills if you are no longer around.

Income tax

Couples who cohabit fall within the definition of 'spouse' as set out in the Income Tax Act, with this piece of legislation including a 'same-sex or heterosexual union which the commissioner is satisfied is intended to be permanent'. Married couples and cohabiting couples, therefore, enjoy the same status from a taxpaying perspective. In the absence of any proof to the contrary, the definition provides that cohabitants are deemed to be in a union without community of property. This extends to donations tax which is not payable on donations made between cohabiting couples.

Estate duty

In terms of the Estate Duty Act, the first dying spouse can leave assets to the surviving spouse without incurring estate duty. On the death of the second-dying spouse, she can make use of any unused portion of the estate duty abatement in the first dying spouse's estate to offset any estate duty that her estate may attract. Although estate duty is levied at 20% on the first R30 million and at a rate of 25% above R30 million, the act provides that the first R3.5 million of your net estate is exempt. If the full estate is left to the surviving spouse, this exempt amount is rolled over to the surviving spouse, leaving her with an exempt amount of R7 million.

However, this exemption only applies to partners who fall within the definition of 'spouse' which includes people who are in a marriage or customary union and same-gender or heterosexual unions that the commissioner of Sars recognises as permanent. If you are in a long-term relationship and are unsure whether your fall within the definition of 'spouse', it is recommended that you implement a cohabitation agreement, or prepare signed affidavits by both parties that can provide permanence.

Transfer duty

If you bequeath fixed property to your partner, bear in mind that she will be exempt from paying transfer duty in the event of your passing. This is because our law exempts heirs and beneficiaries from paying transfer duty on property inherited from a deceased estate – regardless of the nature of their relationship. Bear in mind, however, that your deceased estate will be liable to cover the conveyancing costs in respect of the property transfer.

Life insurance

As in the case of married couples, cohabiting couples are free to nominate each other as beneficiaries on their life policies. However, where a married person might nominate 'spouse' as the beneficiary, it is important that cohabiting partners specifically name each other as beneficiaries and refrain from using terms such as 'partner' or 'common-law spouse' in order to avoid confusion.

Retirement fund

As in the case of married couples, you are entitled to nominate your life partner as a beneficiary on your retirement fund. However, bear in mind that the distribution of your retirement fund benefits is done at the discretion of the fund trustees who will make a determination as to whether your nominated partner qualifies as 'dependant' in terms of the fund rules. When making a determination, the trustees will give consideration to anyone who was financially dependent on you in any way at the time of your death, keeping in mind that this could include aged parents, an ex-spouse, or children from a previous relationship.

Pension interest

If you and your partner live together, bear in mind that you will have no claim to his pension interest in the event that your relationship comes to an end. The right of a non-member spouse to claim a share of the member spouse's pension interest is strictly governed by the Divorce Act, Pension Funds Act and Income Tax Act and is limited to couples who are legally married under an act of parliament. If a couple is living together as 'husband and wife' but are not married, there is effectively no marriage capable of dissolution and there can be no transfer of pension interest benefit.

Maintenance of children

Section 21 of the Children's Act 2005 grants full parental responsibilities and rights to the parents of minor children, regardless of whether you are married or not. In terms of our law, both parents are responsible for the maintenance of their children regardless of their living arrangement. This means that if you and your partner live together and have children together, you have the same responsibility as a married person to care and contribute to the financial maintenance of your child. ***Full Report**: https://www.moneyweb.co.za/financial-advisor-views/marriage-vs-cohabitation-the-different-financial-consequences/*

MoneyWeb | 27 July 2020

Ten questions to help you retire into a better world

2020 – the year that forced history to sit up and reckon with itself. For those entering the world of work, the word "pension" or "retirement" may sound far off. Given that you have until 2060 (at the very least) to reflect upon its importance, is it really a debate for "today"? If we are living twice as long, it is fair to assume that healthcare costs increase. If population growth increases faster than death rates, it is safe to assume that a greater societal and environmental burden exists.

For thousands of years, economic progress was largely linear and linked to population growth. Without machines or technological innovations, one person could only produce so much with their time and resources. With technological progress came growth in gross domestic product, inflation, interest rates and rampant inequality. These separate the developed nations from the developing. A world with low to negative interest rates, falling inflation, increased inequality, energy poverty, competing interests, the rise of the east and pockets of fascism within democracies.

A changing world order needs new tooling. Global warming through carbon emissions illustrates a social and environmental emergency. What good is it if your fund achieves its return target of

inflation plus a few per cent when the world that you retire into is a far cry from your utopia? The concept of responsible investment (RI), and impact of investment, takes a late, but much-needed centre stage to protect pension fund destruction. Pension fund regulation in most countries has evolved over the past decade to include environmental, social, governance (ESG) factors and RI terminology within their ambit.

Legislation helps to shine the spotlight on issues and provides a much-needed seat at the table for all investment and pension fund related sustainability. The danger, however, is that “tick box” ESG factors become merely rules in a framework. Economic outcomes must accompany long-term financial returns or targets. Millennials tend to be much more proactive than previous generations when it comes to their investments and also express a desire to invest in companies that echo with their values.

Here are questions to ask if you want to be a successful ESG investor:

1. Does your fund have an ESG or RI policy?
2. Does the fund or its underlying asset managers consider the importance of sustainability?
3. Is the fund manager capable of understanding and assessing the impact of ESG risks?
4. Can the fund manager highlight topical matters that impact outcomes?
5. Does the fund manager vote on proxies of listed companies?
6. Does the fund manager report on the above?
7. What progress are companies making toward the United Nations Sustainable Development Goals?
8. Where does my capital get allocated?
9. Are there avenues for investment that cater to both financial returns and ESG outcomes as they ought to be mutually inclusive?
10. Do I as the investor have any personal values that I wish were catered for by my financial adviser?

The role of ESG has gained more prominence and expansion because of the pandemic, ESG investors outperformed their counterparts in the first quarter of 2020 and as a result, investors are prioritising investing with a conscience.

FA News | 23 July 2020

POPIA unpacked: What you need to know

After years of start and stops – virtually all the operational provisions of the Protection of Personal Information Act 4 of 2013 (POPIA) finally came into force on?1 July 2020. All businesses and public bodies will be affected. This development impacts every public and private body in South Africa. The infographic below provides an overview of the instances in which POPIA will apply to processing activities and the obligations which come with POPIA.

There is a 12-month grace period - until 30 June 2021 by which to comply with the comprehensive requirements set out in POPIA and non-compliance can result in significant penalties - up to 10? years' imprisonment and/or ZAR10?million in administrative fines.? POPI's reach is wide – it regulates all organisations who process personal information, - information about employees, customers, suppliers and those who outsource key processing activities, share data offshore, or engage in direct marketing. We can offer clients a cradle-to-the-grave service, including POPIA audits, gap analyses, insurance, training, data protection impact assessments, crisis planning for data breaches, and expert advice in engaging the Information Regulator and managing litigation. Infographic attached and available online:
https://www.webberwentzel.com/News/Pages/popia-unpacked-what-you-need-to-know.aspx

FA News | 24 July 2020

INTERNATIONAL NEWS

Hedge Fund Fees in Free Fall is the New Reality for a Humbled Industry

Hedge-fund fees had already been shrinking before the pandemic ripped through global markets. Now, they're in terminal decline. One of London's fastest-growing hedge funds is enticing new investors by agreeing to forgo performance fees until returns hit a key threshold. In Hong Kong, a fund boss is offering to cover all losses, a concession that's almost unheard of in this rarefied world. And famed investor Kyle Bass has told clients he'll charge his usual 20% cut of profits only if he earns triple-digit returns in a new fund he has started.

Long notorious for charging high fees, the $3 trillion industry runs portfolios that are generally open only to institutions and affluent individuals. It's going to extraordinary lengths to attract new

money as the coronavirus pandemic triggers losses and accelerates an investor exodus that has plagued the industry for years. Many of the world's most prominent managers have come to the stark realization that they need to upend the "two-and-twenty" fee model that's been a fixture for decades if they want to expand. For some smaller firms, the goal isn't growth. It's survival. ***Full Report:*** ***https://www.bloomberg.com/graphics/2020-hedge-fund-management-performance-fees/***

Bloomberg Businessweek | 27 July 2020

OUT OF INTEREST

Aligning your savings plan to your life stage

In the middle of a crisis it can be difficult to quiet the storm. However, it is important to keep sight of your long-term goals and ensure that your financial plan will continue to meet your needs appropriately as you move through life. The life stage investment model: is it just for retirement savings? Life stage investment models are usually referenced within the context of planning for retirement savings, looking at the stages that you go through as a build-up to your retirement. Although this is useful and important, it is also imperative to think about your life stages as a continuum that flows past the point of retirement.

Remember the basics in every life stage

First and foremost, create a budget and stick to it. Your responsibilities and dependants will change as you get older, and it is important to control your debt. When debt is unavoidable, be sure to service it on a regular basis. Secondly, be sure to take advantage of tax incentives, especially for your retirement savings and tax-free investment products. Many investors miss out on benefits that are freely available and don't realise that it can make a significant difference to their financial well-being in the long run.

Lastly, remember that your savings and investment products should always be underpinned by the appropriate protection at every life stage. These include:
• Medical aid throughout your life
• Death, disability and illness cover – especially when you have dependants
• Having an adequate will in place

The table below provides an overview of products that are likely to be suitable at different life stages.

Factors to keep in mind	Possible product building blocks	Underlying investments
Starting out your career: 23 – 30		
• You likely start out young and single. • You might find a partner and get married during this time. • Time is on your side: start saving now.	• Retirement annuity (RA) • Tax Free Investment Plan (TFIP) • Emergency savings or Voluntary Investment Plan (VIP)	• You should maximise your investments in growth assets like equities. • Younger people can afford to, and should, take on risk in their investment strategy; this applies to both your RA and TFIP. • Your emergency savings can be invested in a more balanced fashion, given that these funds might be needed on short-term notice.
The middle years – part 1: 31 to 50		
• You may buy your first house, which means you will create debt. • You may have children and will need to start saving for their education.	• RA • TFIP • Emergency savings and/or a VIP to save for a specific short-term goal, like an overseas holiday • Share portfolio: a diversified portfolio that includes both offshore and local shares	• Have a significant proportion of your investments exposed to growth assets. • Consideration can be given to a diversified share portfolio, including both offshore and local shares.
The middle years – part 2: 51 to 65		
• Adult children start leaving home. • You will likely have settled or be	• RA • TFIP • Emergency savings and/or a VIP to	• Continue to have a significant proportion of your investments exposed to growth assets.

close to settling your home loan.	save for a specific short-term goal, like an overseas holiday • Share portfolio: a diversified portfolio that includes both offshore and local shares	• Consideration can be given to a diversified share portfolio, including both offshore and local shares.
In retirement		
• You will spend many years in retirement. • You might want to travel more or enjoy your other hobbies.	• Living annuities: managed with the help of an adviser, and keeping your drawdown rate low. • Consider some form of annuity that provides a minimum guarantee for life.	• Reduce the risk of outliving your savings by avoiding investing too conservatively if you have selected a living annuity.

Remember that changes and life challenges are part of the journey, and don't fall into the trap of making short-term decisions based on emotional factors. Always think long-term and stick to your plan. And if you need help constructing a financial plan that is appropriate for your unique needs, a financial adviser will be able to assist.

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