The roles that employers can and should play to improve the prospects for ‘value for money’ retirement savings for employees and their dependants: Lessons from the past, thoughts on the future

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Introduction

- Speaking as an individual – nothing to be attributed to the FSB or the Registrar of Pension Funds

Illustration: The closures of thousands of funds

- The establishment of thousands of stand-alone, mostly wholly underwritten, retirement funds to take advantage of generous tax incentives
- Problematic business model for the ‘distribution’ of retirement fund products and services
- Shift to umbrella funds, abandonment of old stand-alone funds by their boards (not to be blamed, necessarily)
  - **Lesson:**
    - **We need a new business model in which rewards to employee benefits consultants are more aligned to outcomes for fund members and other stakeholders**

The Registrar's 'Cancellations Project'

- Thousands of registered, but 'unresponsive' retirement funds
  - Some were 'shell funds' – ie they did not have any assets or liabilities;
  - Others were simply 'dormant' – ie they had assets and liabilities but did not have properly constituted boards and were not properly conducting fund business

The Registrar’s ‘Cancellations Project’

- Project entailed
  - Identifying these funds;
  - In the early days, publishing notices of the registrar’s intention to cancel their registrations in the Government Gazette and, in the absence of objections, cancelling them;
  - Appointing ‘authorized representatives’ or, later, ‘section 26(2) trustees’ – most of them employees of the administrators of the funds and thus ‘conflicted’ - to investigate the circumstances of the funds, dispose of any remaining assets and liabilities and then provide certification to the registrar that they had no assets and liabilities so that he could cancel their registrations in terms of section 27 of the Pension Funds Act
- Objects of the project were laudable.
- However, some of the measures adopted were not authorized by law and thus unlawful.

The Registrar's 'Cancellations Project'

- This would not have been a problem if none of the funds, and/or their members, beneficiaries and other stakeholders had been prejudiced by the way in which the project was conducted. But some were. For example-
    - Some appointees did not ensure that all of the funds' assets were fully accounted for before asking for the cancellations of their registrations eg
        - Claims against insurers for benefits payable by underwriters of fund benefits
        - Proceeds of investments eg in corporate bonds
        - 'Secret profit' payments
    - Some transferred assets to provide for unclaimed benefits to unclaimed benefit funds established by their employers regardless of whether those funds likely to produce best value for money
- And it is not easy to see from the registrar's records alone which funds need to have their registrations reinstated and which can be left alone.

The unclaimed benefits disaster

- FSB stats as at the end of 2014:
  - Aggregate value of unclaimed benefits accrued in funds subject to regulation in terms of the Pension Funds Act: R34 billion
  - Of this, only R6 billion held in unclaimed benefit funds – the rest may be in the funds in which the benefits accrued
- Then there are unclaimed benefits in funds not subject to regulation in terms of the PFA
- And the figures may be understated because the FSB’s records in relation to the funds the registrations of which were cancelled in the course of the Cancellations Project are not complete

Why so many unclaimed benefits?

- Employer failures to inform and advise
  - **Lesson: Need a special purpose PoPI Code**
- Fund failures to inform and advise
- Member negligence
  - **Lesson: Reward programmes?**
- Old or false documentation
- Obstructive behaviour by intermediaries
- Obstacles to claiming benefits, particularly for foreign workers
- Poor fund administration
  - **Lesson: Don’t decide on fund provider on basis of fund administration costs alone – members pay for bad administration**

Thoughts for the future

- Employer initiatives
  - Employees with financial crises are risky employees - take advantage of insights from behavioural economics to encourage employees to save for emergencies eg in an in-house savings fund;
  - Use peer pressure to encourage responsible behaviour
  - Provide financial training and guidance as part of employee wellness programmes
  - Change terms of relationships with employee benefits consultants – require independence and proper oversight and reporting on providers

Thoughts for the future

- Government and regulator initiatives
  - Default regulations – subject to consultation
  - Other
    - Immunise employers against risks of shortfalls in retirement funding after retirement, to encourage funds to retain liabilities for pensioners and achieve better value for money
    - Wholesale distribution review
    - Greater standardization to improve comparability, competition, consolidation and improvements in bargaining power.

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