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CHANGING TOMORROW
SHARING KNOWLEDGE AND EXPERIENCE.
PREPARING FOR THE FUTURE.

Topic: **IMPLEMENTING THE “SURPLUS
LEGISLATION”**

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Employer /

Organisation: **Fifth Quadrant Actuaries &
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Implementing the “surplus legislation”

- Broadly involves:
- Minimum individual reserves for members
- Set up contingency reserves
- Minimum pension increases
- Determine actuarial surplus
- Allocation of actuarial surplus
- Allocation of future surplus

Step 1 : Background information

- Umbrella or stand alone fund?
- Defined benefit or defined contribution?
- Valuation and/or audit exempt?
- Date of previous statutory valuation?
- History of fund – commencement date / mergers / transfers / benefit improvements / contribution holidays

Step 2 : Determine surplus apportionment date

- Valuation exempt?
 - Financial year end after 7.12.2003
 - Appoint an actuary!
- Audit exempt?
 - Fund anniversary after 7.12.2003
- Next statutory valuation date
- Bring forward?

Step 3 : Collect data

- Pensioner data since retirement
- Former member data (*not necessary if there is no surplus*):
 - Administrator records
 - Company records
 - Funds to which former members transferred
 - Union records
 - Advertise
- Must wait between 6 and 9 months for members to come forward

Step 3 (cont) : Collect data

- Improper use of surplus
 - Benefit improvements for executives
 - Additional service for selected members
 - Post retirement medical aid
 - Contribution holiday since 7.12.2001
- Trustees to determine if improper use
- Actuary to quantify

Step 4 : Actuarial valuation of the Fund

- Liabilities on valuation basis
- Increase for minimum individual reserves
- Allow for pensioner accumulation account?
- Set up appropriate contingency reserves
 - Actuary must motivate level of these reserves
 - Mortality, expenses, investments, data, etc
- Add in improper use of surplus
- Balance is actuarial surplus (or deficit)

Step 5 : Pension increases

- Determine pension increase policy
 - Linked to inflation
 - Linked to affordability
 - Communicate to pensioners
- Grant increases to bring pensions up to inflation
 - Subject to affordability
 - Must be done on first financial review after
7.12.2001

Step 6 : Enhanced benefits on exit

- Minimum individual reserves
 - All exits for any reason
 - 12 months after surplus distribution date
 - Apply earlier?
- Surplus and reserve accounts
 - All exits for any reason
 - From effective date of the Act (7.12.2001)
 - Investment reserve and member surplus account must be paid
 - Other reserves at discretion of trustees

Step 7 : Valuation deficit

- Notify Financial Services Board
- Communicate to members and former members?
- Funding plan (or reduce future accrual of benefits) to amortise deficit
- Maximum 9 years

Step 8 : Valuation surplus – first level of allocation

- 15F : Employer Reserve Account
- Appoint former member representative
- Pragmatic approach if surplus is negligible
- Surplus apportionment
 - Former member benefits up to minimum individual reserves – pro rata down if insufficient
 - Balance at the discretion of the trustees
 - Hedge surplus (cash?) to protect capital value?

Step 9 : Second level of allocation at trustee discretion

- ❑ Examine history of the Fund
 - ❑ Sources of surplus
- ❑ Prescribed “equitable” bases
 - ❑ Secondary top up to retrenchments, transfers and conversions
 - ❑ Establish pensioner accumulation account
 - ❑ Actuarial reserve value plus investment margin on exit for in-service members
 - ❑ Split in proportion to accumulated member and employer contributions to the fund
- ❑ Allocate to Member and Employer Surplus Accounts

Step 10 : Allocation of future surplus

- ❑ Trustee discretion
 - ❑ Member Surplus Account or Employer Surplus Account
 - ❑ Must be set out in the Rules
 - ❑ If not in rules – determined by the trustees at each future actuarial valuation

Step 11 : Approval of proposed allocation

- 75% approval of trustees required
- Approval by outside parties must not be a requirement
- Actuary must certify that:
 - Apportionment complies with the Act
 - Any trustee discretion is reasonable
- Former member representative report
 - Adequate effort to include former members
 - Discretion with regard to former members reasonable

Step 12 : Communication

- Communicate proposed scheme to all stakeholders
 - Members
 - Pensioners?
 - Former members
 - Funds to which former members transferred
 - Employer
- Must specify Rand amounts
- 12 week objection period
- Address all objections

Step 13 : Registrar and the special ad hoc tribunal

- Submit scheme to the Registrar for approval
 - Within 18 months of apportionment date
 - May request a report from an independent actuary
- Referred to a special ad hoc tribunal if:
 - Registrar unhappy with the scheme
 - Member objections not resolved
 - Former member rep objects to the scheme
 - No scheme submitted to the Registrar
 - Requested by the trustees

Step 14 : Registrar approval received

- Payments to former members
- “Move” assets into appropriate reserves and surplus accounts
- Member trustees determine use of Member Surplus Account
- Employer trustees determine use of Employer Surplus Account
- Communicate to stakeholders?

Step 15 : Rule amendments

- Minimum benefits on exit
- Establish reserve accounts and “rules” for inflows and outflows
- Establish Member and Employer Surplus Accounts
- Allocation of future surpluses

Step 16 : Trustee policies

- Pension increase policy
- Payment of reserve accounts on exit
- Investment smoothing policy
- Levels of contingency reserve accounts
 - Minimums and maximums

Step 17 : Other issues

- Reapply for valuation and/or audit exemption (if appropriate)
- Review investment strategy of the Fund

Timeline



The way forward

- ❑ Number of “holes” and ambiguities in the legislation
- ❑ Legislation may be challenged
- ❑ May require precedent or case law to interpret legislation
- ❑ PF Circulars and Board Notices may especially be successfully challenged
- ❑ *Proceed with care!!*