

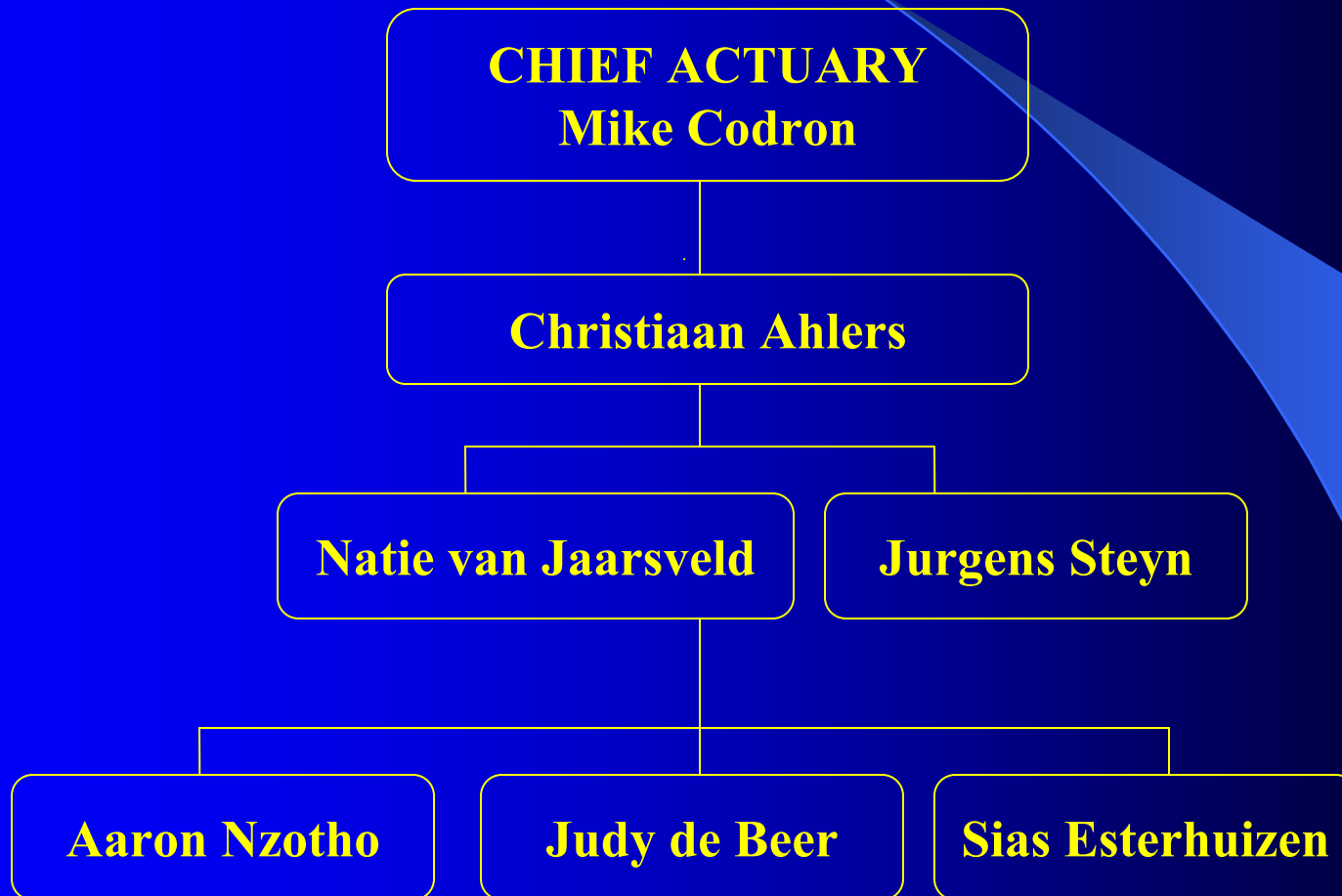
PENSION LAWYERS ASSOCIATION

FEEDBACK ON SURPLUS ISSUES

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Financial Services Board
18 August 2005**



SURPLUS TEAM



TIMELINE

- 7 December 2001 – surplus legislation promulgated
- 7 December 2004 – all funds have passed their surplus apportionment dates
- 7 June 2006 – all funds must have submitted their schemes
- Newly registered funds have different timeline



SURPLUS PROCESS

- Application arrives & fees paid
- Application and valuation report assessed at the same time
- All schemes assessed by Processor & Checker
- Sign-off by Chief Actuary
- 60-day turnaround
- If rejected, appeals may be lodged within 20 business days of Registrar's decision at the FSB Appeal Board



WHY ARE THERE DELAYS?

- Fees not paid – refer to Schedule L
- Incomplete applications
- Statutory actuarial valuation report not in line with PF 117
- Statutory actuarial valuation report not submitted
- Improper uses
- Missing signatures



WHY DO WE RAISE QUERIES?

- Not to question anyone's integrity
- Not to delay process unnecessarily
- To ensure that Registrar applies his mind
- To ensure that sufficient information is available to make an informed decision
- To comply with the Act

WHAT HAS FSB DONE TO ENCOURAGE SUBMISSIONS?

- PF Circulars – PF 121 & PF 122
- Chief Actuary met with 15 largest administrators
- Chief Actuary wrote to all administrators
- Chief Actuary will do a follow-up within the next few months
- Eventually a cut-off point – further action necessary: 15K tribunal



HOW LONG DOES IT TAKE?

	Apportionment	Nil Schemes
Processing	6 hours	1 hour
Checking	2 hours	½ hour
Total	8 hours	1½ hours

15B STATISTICS

	"Nil" Returns			
	Single		Bulk	
Approved	427	39%	1 483	60%
Rejected	6	0%	0	0%
Pending	356	33%	2	0%
Not completed	300	28%	993	40%
Total	1 089	100%	2 476	100%

15B STATISTICS

	Apportionment Schemes	
Approved	17	29%
Rejected	-	0%
Pending	36	62%
Not completed	5	9%
Total	58	100%

AMOUNTS

	15B Apportionment (R'million)
Approved	1 691
Pending	1 132
Not completed	438
Total	3 261

15F STATISTICS

	Applications	
Approved	17	30%
Rejected	37	65%
Pending	2	3%
Not completed	1	2%
Total	57	100%



WHY DO 15F APPLICATIONS FAIL?

- Registrar applies principles of PF 105
- Two main issues:
 - Proper negotiation and communication with all stakeholders
 - Full disclosure to all stakeholders of the amounts involved
- Registrar can only assess what has been submitted



AD-HOC TRIBUNAL (15K)

- One scheme referred
- Registrar approves panels of Actuaries and Lawyers
- Tribunal takes over total scheme
- Registrar abides by their decision



EXTENSION REQUESTS

- Valuation report - 12 months
- SAS - 18 months
- Apply for extension
- Reasonable until the end of December 2005
- Lenient to a point, thereafter: Action



EXTENSION REQUESTS

- Address requests to Natie van Jaarsveld
- State valuation date / SAD
- Motivate the request
- Specify date until which extension required
- Request should be reasonable



PF 121

- Guidance for surplus applications
- Use prescribed formats & standard forms
- A marked improvement in the quality of applications
- Fewer queries raised since the circular was issued



BUDGET PROPOSALS

- Surplus apportionment budget needs to be reasonable
- Approval on basis that budget reviewed before payments and payments adjusted accordingly



UNACCEPTABLE PRACTICE

- Excessive reserves
- Excessive costs
- Providing for future litigation
- Costs of paying out members: cost of payment > value of benefit



WHAT WE DO & DON'T DO

- Registrar must apply the provisions of the Act
- Registrar must act independently and objectively
- Registrar does consult on surplus issues – refer to Schedule L for fees
- Registrar does not give advice – please do not ask for advice
- Registrar does not give legal opinions – please get your own
- Registrar does not peer review



PENSION FUNDS ADJUDICATOR

- Recent determinations regarding RAs
- Registrar has applied for leave to intervene in all matters going to court for review
- Registrar will place views before court
- No further comment



WAY FORWARD

- Surplus a once-off exercise
- Proper databases and better regulation
- Compliance team
- Principles of retirement reform – towards a new retirement funds act

THANK YOU
QUESTIONS?

