

Pension Lawyers Association Conference 2005

PRESENTATION TO THE PENSION LAWYERS ASSOCIATION

Presented by Mike Codron

Financial Services Board



AGENDA

- The New Act
- Surplus Issues
- Concerns with the industry



THE NEW ACT

- Recent IRF INDABA
- National Treasury Road Show
- Rewrite to take place



SIZE OF FUNDS IN SOUTH AFRICA

Number of Members and Pensioners	Number of Funds	Percentage of Total	
		By Funds %	By Members %
1-20	7354	54,8	0,4
21-50	2019	15,1	0,8
51-100	1206	9,0	1,1
101-500	1829	13,6	5,0
501-1000	429	3,2	3,7
1001-5000	434	3,2	11,7
5001-10000	58	0,4	5,1
10001+	91	0,7	72,2
	13420	100,0	100,0



SURPLUS SCHEMES SUBMITTED

	15B SCHEMES	15B "NIL" SCHEMES	15F SCHEMES
Approved	8	119	15
Rejected	-	5	27
Pending	15	219	2
Checking	2	24	2
Not started	4	18	4
TOTAL	29	385	50



WHAT IS TO BE DONE

- Write to all administrators
- Visit the largest
- Determine how to penalise funds/
administrators



SURPLUS ISSUES

- A PF circular dealing with these will be issued
- Please submit valuation report plus SAS
- Must make sense
- SAD cannot be before 7 December 2001
- Comply with PF 117 “but estimate valuation”
- Motivate valuation basis change
- Motivate all contingency reserves
- Motivate if SAD is advanced



NIL SCHEMES

- Many suggest no need to not submit a “Nil” Scheme
- Will amend the Act
- Submitting a nil scheme is an effective way to do a valuation
- There is a need to be able to know the position on all schemes



PF 114 APPLICATIONS

- Need to communicate to members
- Ideally give them 12 weeks to object



ADVICE

- Cannot give advice
- Industry asks for guidance
- Yet when suitable told PF Circulars are not law



CONCERNS WITH THE INDUSTRY

- Have been with the FSB for 1 year
- General view of the industry
- It is



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SLOPPY



ADMINISTRATORS

- According to the Registrar's 45th Annual Report

Benefit Administrators

Benefit administrators and Investment Managers

Employer Administrators 109

32

81

—
222
—



CONCERNS

- Are they aware of the Acts/ Regulations/
PF circulars/ Service Level
Commitment/ etc?
- If so – Do their consultants know?



SECTION 14 PROBLEMS

- Queries not replied to
- Pending schemes – Note will become Null & Void
- Reports make no sense
- Cut and paste without thought
- Not all questions answered e.g. funding level in a DC fund
- No concise reply – in future official replies only



SECTION 14 PROBLEMS - CONTINUED

- No surplus transfer prior to SAS
- No full transfer without an SAS
- Late submissions
- Participating employers in an Umbrella fund not registered
- Will not accept if not signed by a valuator – unless valuation exempt



ILLEGAL TRANSFERS

- Transfers occur without approval
- Window period to correct
- No submissions to date



NEW PF 120

- New PF 120 replaces PF 78
- Comments needed by 28 February 2005
- Will issue soon



VALUATIONS

- Valuation exemptions not applied for
- Valuations not submitted
- New Register set up
- Will fine in future



ANNUAL VALUATIONS

- Good governance
- DC funds need annual reviews



YOUR DUTIES

“Duties of persons dealing with funds of, and with trust property controlled by, financial institutions

A director, member, partner, official, employee or agent of a financial institution or of a nominee company who invests, holds, keeps in safe custody, controls, administers or alienates any funds of the financial institution or any trust property –

- (a) must, with regard to such funds, observe the utmost good faith and exercise proper care and diligence;*



YOUR DUTIES cont.

- (b) must, with regard to the trust property and the terms of the instrument or agreement by which the trust or agency in question has been created, observe the utmost good faith and exercise the care and diligence required of a trustee in the exercise or discharge of his or her powers and duties; and*
- (c) may not alienate, invest, pledge, hypothecate or otherwise encumber or make use of the funds or trust property or furnish any guarantee in a manner calculated to gain directly or indirectly any improper advantage for himself or herself or for any other person to the prejudice of the financial institution or principal concerned."*



COMPLIANCE

- Need for industry to change
- FSB also committed to change
- New compliance section



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THANK YOU



QUESTIONS ?

