

FSB Update on Surplus

Christiaan Ahlers
Actuary: Pensions
Financial Services Board

PENSION LAWYERS
ASSOCIATION
make a splash in 2007
Conference

AGENDA

- Background & Process
- 15B Full Apportionments
- Nil Schemes
- 15F
- 15K
- PF128 – Improper Uses

PENSION LAWYERS
ASSOCIATION
make a splash in 2007
Conference

BACKGROUND

- 7 Dec 01 – Legislation promulgated
- 7 Dec 04 – all funds passed their SAD
- 7 Jun 06 – all funds should have submitted
- 31 Dec 06 – appoint tribunals for non-submission
- ??? 07 – Amendment Bill

PENSION LAWYERS
ASSOCIATION
make a splash in 2007
Conference

PROCESS

- Submit application & pay fees
- Processing & checking
- Queries or approval
- 60-day turnaround
- If rejected – lodge appeal within 20 business days of the Registrar's decision

PENSION LAWYERS
ASSOCIATION

make a *splash* in 2007
Conference

15B FULL APPORTIONMENTS

- Steady flow of applications
- Difficult to estimate number outstanding
- Many queries outstanding

PENSION LAWYERS
ASSOCIATION
make a splash in 2007
Conference

SURPLUS APPLICATIONS

- Major queries:
 - Valuation report not best-estimate
 - Excessive contingency reserves
 - Excessive budgets
 - Incomplete submissions, e.g. signatures
 - Sanlam-judgment
- Schemes returned if:
 - Premature submission (12-week objection period)
 - Fees not paid

15B CASE STUDY – SOLVENCY RESERVES

- When is a solvency reserve sufficient:
 - 10% of liabilities?
 - 20% of liabilities?
 - 50% of liabilities?
- Strict interpretation of PF117 – “best-estimate” valuation basis –
 - “common sense”?
 - “professional judgment”?

15B CASE STUDY – RESIDUAL DISTRIBUTION

- Employer enjoyed a contribution holiday prior to 7 December 2001
- Residual distribution: Assessing the “financial history of the fund”
- Should it be taken into account?

15B CASE STUDY - BUDGETS

	A	B	C
Type	15B	Nil	Nil
Active Members	40	31	7
Former Members	37	383	38
Total	R81 000	R1 234 000	R200 000
Cost per member	R1 050	R2 980	R4 445

15B CASE STUDY - BUDGETS

- What concerns us?
 - Advertising costs – is it really necessary to advertise nationwide?
 - Additional costs for the valuation report
 - Provision for legal costs, almost every step of the way
 - Costing for complaints on the basis that 50% of stakeholders will complain
 - FSB Fees + VAT

15B FULL APPORTIONMENTS

As at 28 Feb 07:	Single	Umbrella	Total	%
Approved	222	22	244	42%
Pending	118	34	152	26%
Not Completed	147	36	183	32%
Total	487	92	579	100%

PENSION LAWYERS
ASSOCIATION
make a splash in 2007
Conference

15B FULL APPORTIONMENTS

As at 28 Feb 07:	Amounts (R'm)
Approved	7 559
Pending	3 010
Not Completed	1 948
Total	12 517

PENSION LAWYERS
ASSOCIATION
make a splash in 2007
Conference

NIL SCHEMES

As at 28 Feb 07:	Single	Umbrella	Total	%
Recorded	5 303	8 466	13 769	91%
Pending	415	662	1 077	7%
Not Completed	169	60	229	2%
Withdrawn	8		8	0%
Rejected	18	4	22	0%
Total	5 913	9 192	15 105	100%

PENSION LAWYERS
ASSOCIATION

make a splash in 2007
Conference

15F EMPLOYER SURPLUS

- Very few applications still received
- Why do applications fail?
 - Proper negotiation and communication with all stakeholders
 - Adequate disclosure to all stakeholders, of the amounts involved

15F APPEALS

- Appeal allowed & 15F granted: 1 case
- Appeal pending: 5 cases
- Appeal board decision awaited: 1 case

15F

As at 28 Feb 07:	Total	%
Approved	36	47%
Rejected	35	46%
Not Completed	5	7%
Total	76	100%

15F CASE STUDY

- 15F application rejected
- Fund does a full surplus apportionment
- Net result the same
(i.e. the same amount going to the employer as what was put forward in the 15F)
- How do the requirements differ?
- Was the FMR “bullied”?

15K SPECIALIST TRIBUNALS

- Problem: Non-submission of schemes
- Efforts to submit fall on deaf ears!
- Registrar appointing tribunals as a last resort
- Further problem: Limited tribunal resources
- Concern: Tribunal not clear on their duties
- Tribunal = Lawyer + Actuary + Another
- Average fee: R5,000 per hour

15K SPECIALIST TRIBUNALS

Once a tribunal appointed, trustees want to meet the Registrar to have the appointment revoked:

WHAT NOW?

Does the board have *locus standi*?

15K SPECIALIST TRIBUNALS

- Tribunal replaces board of a fund for the sake of 15B
- Registrar cannot get involved
- Registrar must be satisfied that costs are reasonable
- Registrar must abide by decision

15K SPECIALIST TRIBUNALS

As at 28 Feb 07:	Total	%
Appointed	89	19%
Withdrawn	148	40%
Appointment outstanding	135	41%
Completed	1	0%
Total	373	100%

SANLAM PENSIOENFONDS (KANTOORPERSONEEL)

- Registrar can only consider finalising affected schemes once the legal position has been clarified
- PF128 issued

PF128 – IMPROPER USES

As at 28 Feb 07:	15B	Nil
Already approved	4	2
Subsequently approved	1	
Pending	9	13
Total	14	15

PROBLEMS

- Funds took their time to submit: “lack of planning on their behalf does not constitute an emergency on our behalf”
- Schemes pended for trivial reasons, e.g. missing signatures
- Absence of Chief Actuary

PROBLEMS

- Members contacting us
- Many query letters out – unanswered
- No further extensions – unless exceptional circumstances

PENSION LAWYERS
ASSOCIATION
make a splash in 2007
Conference



THANK YOU!

QUESTIONS?

PENSION LAWYERS
ASSOCIATION

make a *splash* in 2007
Conference