IN TERMS OF SECTION 1 OF THE PENSION FUNDS ACT, AN UNCLAIMED BENEFIT AND UNCLAIMED BENEFIT FUND ARE DEFINED AS FOLLOWS:

"unclaimed benefit" means -

(a) any benefit, other than a benefit referred to in paragraphs (aA), (b), (c) and (d), not paid by a fund to a member, former member or beneficiary within 24 months of the date on which it in terms of the rules of the fund, became legally due and payable;

(aA)a death benefit payable to a beneficiary under section 37C not paid within 24 months from the date on which the fund became aware of the death of the member, or such longer period as may be reasonably justified by the board of the fund in writing;

(b) in relation to a benefit payable as a pension or annuity, any benefit which has not been paid by a fund to a member, former member or beneficiary within 24 months of-

(i) the expiry date of any guarantee period for pension payments provided for in the rules of the fund; or

(ii) the date on which any pension payment or annuity legally due and payable in terms of the rules of the fund became unpaid;

(c) in relation to a benefit payable to a former member who cannot be traced in accordance with section 15B(5)(e), any benefit that has become legally due and payable to a former member in terms of a surplus apportionment scheme approved in terms of this Act not paid to that former member within 24 months of the date on which it became legally due and payable;

(d) any benefit that remained unclaimed or unpaid to a member, former member or beneficiary when a fund applies for cancellation of registration in terms of section 27 or where the liquidator is satisfied that benefits remain unclaimed or unpaid; or

(e) any amount that remained unclaimed or unpaid to a non-member spouse within 24 months from the date of the deduction contemplated in section 37D(4)(a)(i),

"unclaimed benefit fund" means a fund that is established for the receipt of unclaimed benefits contemplated in the definitions of a pension preservation fund and a provident preservation fund in section 1 of the Income Tax Act, 1962 (Act No. 58 of 1962).
SUMMARY

The latest Annual Report of the Registrar of Pension Funds states that approximately R20-billion in unclaimed benefits is owed to about 3.5-million beneficiaries.

The Registrar of Pension Funds' office assists members or beneficiaries in tracing an unclaimed benefit, surplus or benefit by liaising with the fund and/or administrator of the fund and does not charge a fee for this service. It has come to the Registrar's attention that there are individuals assisting members to claim their benefits, and benefit by liaising with the fund and/or administrator of the fund. In some cases the fee is a percentage of the members benefit.

Although the FSB is not against members being represented, we have to be cautious that the organisation is promoting members' interests by they are not exploited and have to pay fees for a free service. The FSB cannot be seen to be promoting a business practice that may be considered as undesirable.

The FSB will assist a member, former member or beneficiary directly and request that agents should provide the following contact details to the member/former member/beneficiary in order for that person to directly contact our office.

WHAT IS THE ROLE OF THE FSB IN TRACING THESE BENEFICIARIES?

The FSB makes enquiries with the relevant pension fund and if a member has already contacted the fund and a response has been given (i.e. the availability of unclaimed benefits is confirmed or not), then it would not be wise for the member to contact the FSB this would be a duplication. The Registrar's office assists members or beneficiaries in tracing an unclaimed benefit, surplus or benefit by liaising with the fund and/or administrator of the fund. It does not charge a fee for this service.

The Registrar does not maintain the records of individual members. She maintains the records of retirement funds and retirement fund administrators and therefore assists with facilitating your enquiry with the relevant retirement fund or retirement fund administrator. If the information is available, a good starting point would be for funds or administrators to contact the employer or former employer of the beneficiary. Funds or administrators could also look at social media as a means for advertising unclaimed benefits or tracing members.

WHAT HAPPENS IF THE MONEY REMAINS UNCLAIMED?

Prior to 2007, retirement funds had provisions in their rules that allowed for unclaimed benefits that remained unclaimed to revert back to funds, i.e. the Prescription Act allowing for benefit not claimed within 3 years to prescribe. In 2007, PF Circular No. 126 was issued by the registrar of retirement funds, which provided guidelines on treatment on unclaimed benefits and introduced a definition of an unclaimed benefit. Consequently retirement funds were required to amend their rules to in-line with the circular before 31 December 2008.

Therefore, previously unclaimed benefits could revert to a fund however certain funds did pay such benefits when beneficiaries came forward. However, this is not the current practice and funds are required to retain these benefits until such time as the benefit is claimed or legislation allows for alternative arrangements.

Most administrators derive more income from the administration of the business of a fund relating to contributory members than that relating to unclaimed benefits. If, however, liabilities for unclaimed benefits, and assets of equivalent value, are transferred to an unclaimed benefit fund over which the administrator has effective control, it may be able to ensure that financial services providers related to it, such as asset managers, derive significant income from the provision of services to the unclaimed benefit fund provided that that fund retains those assets rather than dispos of them by trading and paying those entitled to the unclaimed benefits for which the assets have been held by the fund.

WHAT ARE THE STEPS THAT CLAIMANTS SHOULD FOLLOW TO CORRECTLY CLAIM FOR THEIR RETIREMENT FUND BENEFITS?

• The first step would be to establish the retirement fund that they belonged to or the deceased belonged to in the case of a dependant/guardian/caregiver.

• Next step would be to contact the retirement fund or benefit administrator to claim the benefit.

• Once in contact with the retirement fund/benefit administrator the beneficiary must ensure that they are in possession of documents that show that they or the deceased belonged to the fund for e.g. benefit statement, correspondence from fund etc.

• If a benefit is available, the members will be provided with further instructions by the fund which may include the completion of an application form and/or submission of supporting documents such as copies of ID, banking details etc.

• Members must follow up the payment process with the fund or administrator.

HOW DO 3.5 MILLION BENEFICIARIES STILL REMAIN UNTRACED?

• The failure by many employers and/or funds to provide proper information to employees, such as informing them of their entitlement to a withdrawal benefit if they resign, are dismissed or retracted from their employment and how to claim a benefit when it accrues.

• Poor administration by administrators coupled with a failure by the boards of retirement funds to monitor compliance by those administrators with their duties in terms of their agreements with the funds and to take timeous action to minimise the problems that resulted from poor administrative practices when the boards became aware of them.

• The requirement that foreign workers leave the country shortly after the expiry of their work permits and the lack of sufficient mechanisms to enable them to claim their benefits from their home countries and be paid in those countries.

• The failure by many fund members to inform their dependants that, if they die in service, there may be benefits payable by their funds to those dependants.

• The failure by some fund members and beneficiaries to claim their benefits (particularly those of low amount).

• The failure by many boards of funds to take all reasonable steps to trace and pay those entitled to the unclaimed benefits.

• The rules of some funds -
  • provided for compulsory preservation of benefits on termination of employment before retirement;
  • provided for a waiting period of six months to a year before a member could claim his or her benefit and then only if he or she did not become employed by another employer participating in the fund;
  • Funds sometimes thereafter lost contact with these members.

HAS THIS NUMBER BEEN THIS HIGH FOR OVER TWO OR THREE YEARS OR HAS IT DECLINED?

According to the annual reports issued by the Registrar of Pension Funds, the number of unclaimed beneficiaries were as follows: 3.4 million (2013); 3.3 million (2012) and 2.9 million (2011). It has increased in the last 2 years but must also be noted that overall fund membership also increased over the said period as follows: 13.4 million (2013); 13.2 million (2012) and 12 million (2011) in terms of the annual reports.

WHO ARE THE LIKELY BENEFICIARIES IN TERMS OF DEMOGRAPHICS AND EMPLOYMENT SECTOR?

The Registrar does not have specific demographics of unclaimed benefits such as income category, ethnicity or gender as this information is not disclosed in the annual financial statement submissions of funds to our office. From our interaction with the industry, we are aware that there is a large proportion of unclaimed benefits relating to beneficiaries residing in neighbouring countries but it is difficult to estimate the numbers. We recently conducted a review of unclaimed benefits in retirement funds in the main retirement fund administrator at R5.2-billion with 200 000 beneficiaries. The average value of unclaimed benefits is thought to be approximately R5 600.

It has been reported that there are unclaimed benefits with an aggregate amount of approximately R456m which have accrued in terms of the rules of the Government Employees Pension Fund and no doubt there are many more for which other retirement funds not subject to regulation and supervision in terms of the PFA are liable.

WHY SHOULD BENEFICIARIES BE CAUTIOUS WHEN TRYING TO CLAIM THESE FUNDS THROUGH INTERMEDIARIES?

Benefits need to be cautious in dealing with intermediaries. However, there are intermediaries such as tracing companies who are contracted by retirement funds to trace beneficiaries. It is important for beneficiaries to establish whether intermediaries who contact them are authorised by the funds to perform this function.

Typically, tracing is not a core function or focus of benefit administrators and as such the administrators may not also have the resources or expertise to perform this function. As a result, there are specialised tracing agents whose sole focus is to locate beneficiaries. However, it is the responsibility of the board of a fund to ensure that efforts or mechanisms are in place to trace beneficiaries. This would include considering all possible and cost effective mechanisms before deciding to contract a tracing agent or transfer the benefit to an unclaimed benefit fund. Funds also do not report to the FSB specifically on tracing activities at this stage as tracing agents do not currently fall under the FSB’s supervision or regulation at this stage.

Although we are not against members being represented, we have to be cautious that we are promoting members’ interests by ensuring they are not exploited and have to pay fees for a free service and we cannot be seen to be promoting a business practice that may be considered as undesirable.

WHAT MEASURES ARE IN PLACE TO ENSURE AGENTS DO NOT EXPLOIT CLAIMANTS OF BENEFITS?

If an individual intends to act as the agent of the member/former member/beneficiary, such an individual must provide proof in the form of an affidavit signed by this person in which it is confirmed that the member/former member/beneficiary is aware and has been informed of the FSB’s contact details, but that despite this, the person still wishes to use the agent and the unclaimed benefit that he may be entitled to receive from a retirement fund.

Details should be provided in the affidavit, of the rates the agent charges clients for this service and proof of the agent’s FAIS accreditation to provide such financial and intermediary service.

What are the steps that claimants should follow to correctly claim for their retirement fund benefits?

- The first step would be to establish the retirement fund that they belonged to or the deceased belonged to in the case of a dependant/guardian/caregiver.
- The second step would be to contact the retirement fund or benefit administrator to claim the benefit.
- Once in contact with the retirement fund/benefit administrator the beneficiary must ensure that they are in possession of documents that show that they or the deceased belonged to the fund for e.g. benefit statement, correspondence from fund etc.
- If a benefit is available, the members will be provided with further instructions by the fund which may include the completion of an application form and/or submission of supporting documents such as copies of ID, banking details etc.
- Members must follow up the payment process with the fund or administrator.