

What to do with pension fund surplus?

The board of a pension fund – which includes employee representatives – must apportion surplus funds at the first actuarial valuation after 7 December 2001, the date on which the Act became law, or earlier if the fund is converted from defined benefit to defined contribution, or if the fund is liquidated. The amount to be apportioned is made up of the actuarial surplus at the surplus apportionment date, plus the present value of four specific past uses of surplus that benefited the employer. The latter has been defined by parliament as ‘past surplus utilised improperly’. Parliament decided that such monies should be paid back into the fund to increase the amount to be apportioned.

The process to establish surplus apportionment starts with a valuation of the fund to determine the actuarial surplus, after setting aside such contingency reserves as the board deems appropriate. Contingency reserves must make provision for matters such as the anticipated cost of the surplus apportionment exercise. To this surplus must be added ‘surplus utilised improperly’. This will require the board to investigate the financial history of the fund. If there is surplus after the valuation, the boards must apportion it. Former members and pensioners get the first slice of any surplus as their benefits must be increased to minimum levels. Thereafter, any residual surplus is split equitably between stakeholders.

The board has to appoint a person to represent the interests of former

*The Pension Funds Second Amendment Act, 2001, requires that surpluses in retirement funds be distributed to fund stakeholders – employers and existing and former members (including pensioners) since January 1980. The **Financial Services Board (FSB)** explains how this should be done and cautions against using companies who charge former pension fund members a fee to find out if a benefit is due to them.*

members of the fund, and must obtain records for all former members. The role of the representative is to scrutinise the process, facilitate communication with former members and ensure that former members get a fair deal. Former members who anticipate that they might get something in the surplus apportionment are encouraged to send their contact details to their former fund’s administrators.

Critical to the equitable split of the surplus are the following issues:

- The decision must be approved by at least 75% of the board.
- The split must be communicated to all stakeholders. They have 12 weeks to object, and the board must consider these objections.
- The scheme is then put to the Registrar of Pension Fund who approves the apportionment, provided it is reasonable and equitable.
- If the Registrar or the former member representative feels that the split is not reasonable and equitable,

the apportionment will be referred to a special tribunal. If the board deadlocks and is unable to agree, the board may refer the matter to the tribunal.

While parliament froze any use of surplus funds by the employer after 7 December 2001, subsequent investment losses could have eroded the surplus since then. Former members of such funds may have built up expectations that may not be realised, and may be disappointed.

People who are anxious about their fund surplus apportionment should contact their fund trustees or the FSB. The FSB has set up a database and call centre to enable former members to call on a toll-free number at 0800 202087 or 0800 110443 or send an e-mail to info@fsb.co.za. In view of the fact that this service is being provided for free to former pension fund members, the FSB has expressed its concern that companies have been set up and are charging a fee to find out if a person will benefit from the allocation of surplus funds. LB