

**For Attention: Anesh Soonder**

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Dear Anesh

**Discussion Paper on Retirement Fund Reform (the “Discussion Document”):  
Comment**

Glenrand M.I.B. Benefit Services supports the broad principles for retirement fund reform, recently agreed to between business and labour at NEDLAC. The Discussion Document also sets out the various objectives that the retirement policy seeks to achieve, which objectives we believe are in accordance with the principles agreed to at NEDLAC.

The purpose of this document is therefore to highlight certain areas of the Discussion Document in respect of which we wish to submit suggestions to National Treasury that might in our view further promote the achievement of the stated objectives. In respect of certain recommendations made in the Discussion Document, comment is made on points that might in our view prevent or delay the achievement of such objectives.

It is within this context that we now comment in respect of Annexures 2 to 4, as set out below:

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## **ANNEXURE 2**

### **1. National Savings Fund (paragraph 2.5)**

It is stated in the Discussion Document that –

*“For people with low incomes (particularly workers in the informal sector, part-time and seasonal employees, domestic and seasonal employees, domestic and agricultural workers)...the National Savings Fund (NSF) should be created...It is envisioned that this fund will provide a suitable retirement funding vehicle to many low-income workers, and possibly to individuals in the informal sector.”*

The proposed NSF will in our view be a welcome measure that will ensure that persons working within the informal sector have access to a retirement funding vehicle. The NSF can, as proposed, also provide a valuable alternative to persons that are formally employed but that earn below a certain level of income.

However, it is our view that it would be unfair to limit exemption from the means test exclusively to members of the NSF, whilst members of other funds earning at the same level of income are denied such exemption. In order to encourage retirement savings whilst at the same time providing freedom of choice with regard to the retirement fund selected, it is proposed that exemption from the means test remain based on the level of income of the member and not on membership of any particular fund.

The same argument applies to the proposed exemption for the NSF from Retirement Fund Tax, i.e. it is our suggestion that such exemption be considered in respect of retirement funds in general, but only in respect of members earning below a certain tax threshold or fixed monetary amount.

Furthermore, with regard to the recommendation made in paragraph 2.5.1.2 (b) we respectfully submit that the recommended approach to pay a bonus for

people who remain in the NSF until retirement may result in cross-subsidy between people who are in the NSF for a short period of time and those who are in the NSF longer. According to our actuaries, it will be difficult to produce a bonus system that will be equitable and fair and members of the NSF would have to understand how the bonus system works, so that they are not unfairly prejudiced by early withdrawals from the NSF. The recommended approach also appears to contrast with the approach contained in the Pension Funds Second Amendment Act, 2002, whereby members of defined contribution categories of funds are treated the same regardless of the length of time that they remain within a fund.

## **2. Differentiation (paragraph 3.5)**

With regard to point 3.5.2.2 we submit that in many cases, differentiation in fund rules on the basis of salary level and employment grade is merely the result of the fact that for certain employees earning below a certain salary level, in particular those earning below the tax threshold, the benefits of membership of a tax approved occupational fund do not justify the costs of fund administration of such fund. It is our proposal that instead of being prescriptive with regard to the conditions for membership, employees earning below a certain level be permitted to join the NSF or an appropriate individual retirement fund and that the proposals set out in paragraph 1.6.1.2 be applied to such employees.

Regarding point 3.5.2.3, we wish to point out that the recommended prohibition against material differences in benefits due to age or gender differences contradicts the principles of the Minimum Individual Reserve calculation in respect of a defined benefit fund, as outlined in section 14B(2)(a)(i) of the Pension Funds Act.

### **3. Individual Retirement Funds (paragraph 4)**

We are in general in support of all the proposals made with regard to Individual Retirement Funds, but have the following comments regarding two of the recommendations made:

- (a) The reason for the proposal that transfers between such funds be allowed on condition that the transferee fund meets conditions applicable to the transferor fund is unclear;
- (b) It is further unclear as to why intermediaries that introduce members to individual retirement funds, or financial services providers licensed in terms of FAIS and who might provide a valuable service in terms of providing advice to the member on the appropriate choice of fund, be denied the opportunity to earn an income for their services. It is our view that such provision would discourage the investment of retirement savings within a recognized retirement funding vehicle and might provide an unfair (and sometimes inappropriate) incentive to intermediaries to sell individual insurance products. We are of the opinion that legislative requirements relating to full disclosure of commissions and costs will place members in a position to assess whether the payment of such commissions in respect of a particular product is justifiable.

### **4. Ancillary Benefits (paragraph 6.5)**

With regard to paragraph 6.5.1.3 it is our view that the decision as to whether risk benefits should be capped should be decided by the fund board on the basis of the circumstances surrounding such fund. In a fund with members who have a lower than average life expectancy and where it is likely that the member will die prior to retirement, it might be more appropriate to protect the interests of members' dependants by maintaining the level of risk cover.

With regard to the recommendation made in paragraph 6.5.2.1, it is proposed that where the employer has structured remuneration packages on a cost-to-company basis, such contributions will not be forfeited in the event of early withdrawal.

### **ANNEXURE 3**

#### **1. Adequacy of Retirement Benefit (Paragraph 1)**

In view of the past leakage of pension benefits, as a result of which many current working persons from age 40 and older might not have adequate funding for retirement, it is proposed that the possible increase in the maximum tax-deductible contribution levels for persons above age 40 be investigated without delay, as appears to be proposed in paragraph 1.5.

#### **2. Loss of Employment (Paragraph 3.11)**

With regard to paragraph 3.11.1, we agree with the compulsory preservation of retirement benefits on change of employment. Having regard to the possible hardship experienced as a result of loss of employment, it is further suggested that where termination of employment amounts to an involuntary loss of employment, an income benefit be provided, subject to certain limits such as the lesser of 75% of salary earned or 10% of the benefit amount up to the earlier of the employment of the member or expiry of a period of 6 months.

#### **3. Preservation and Portability (Paragraph 3.12)**

Rather than specify a minimum amount that needs to be preserved, which the regulator would need to review from time to time, we propose that a minimum period of service be considered, such as in the UK where preservation is only compulsory for more than 2 years' service.

**4. Housing Loans and Guarantees (Paragraph 3.15.1)**

We are generally in agreement with the proposals made in paragraph 3.15. With regard to paragraph 3.15.1.3, however, we respectfully submit that the assumption that higher-income members will be eligible for top-up finance without a pension-backed guarantee might not be correct in all instances. Some such members might for various reasons, e.g. due to previously being a director on the board of an insolvent company, not be granted personal finance by a banking institution. Provided such loans are granted strictly on an affordability basis, a housing loan guarantee system provided by the member's retirement fund could provide the member with access to housing loan finance due to the relevant banking institution having a greater measure of security in respect of the loan granted. In view of the finding in the Mouton Report of home ownership having such an important influence on income adequacy on retirement, it is submitted that the recommendation regarding a maximum specified rand amount in respect of such guarantees be revisited.

**5. Other Life Crises Needs (Paragraph 3.15.2)**

In view of the stated objective of the retirement policy to promote the purchasing power of pensions and in view of the concerns of the National Treasury Task Team with regard to leakage of retirement benefits prior to retirement, it is our concern that the provision of loans for life crises needs to members of the NSF will have the undesired effect of eroding monies intended specifically for purposes of retirement. The high rate of loans obtained by low-income persons from the micro-lending industry, which are paid at the highest rates of interest, further militates against the use of high interest rates to discourage such loans.

**6. Divorce (Paragraph 3.17)**

It appears that there will be a mismatch between the reduction to the DB Minimum Individual Reserve offset and the DC type benefit for the

spouse, such that a fund is exposed to a greater degree to the risk of a members' salary increasing (i.e. there appears to be a gearing effect).

## **7. Death Benefits (Paragraph 3.18)**

The recommendation regarding the provision of income, as opposed to lump sum, death benefits is welcomed. We would, however, also suggest the following, on the basis of our experience in the disposition of such benefits:

- Most funds already require their members to update records regarding their dependants on a regular basis. It should be noted, however, that many fund members do not adhere to such requests. In addition, we submit that in our experience, members' family circumstances on average change about every two years and that a 5 year-period for members to update such records might be of little value.
- Regarding paragraph 3.18.3.1(b) it should further be noted that a great number of members nominate their parents to receive all benefits, despite the fact that they have minor children that are dependent on them. Although the recommendation made is that trustees may be able to deviate from the nomination form, the onerous duty of providing "compelling" reasons for doing so might encourage trustees to follow the nomination form despite the fact that some minor dependants have not been provided for.
- Regarding paragraph 3.18.3.3, it is proposed that greater certainty be provided in respect of the duties of trustees relating to the payment benefits into trust, in particular in respect of minor dependants. The question that has been the subject of much debate within the industry, is what circumstances would justify the payment of such benefits into trust, instead of payment to the legal guardian of the child.

We trust that our comments will be of value to the IRF, in submitting its comments to National Treasury.

Yours sincerely

Dalene Willemse