

Pension members must know their rights, stand up for it

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Pension fund members should be sufficiently educated and knowledgeable to understand their rights and look after their own interests to ensure there are enough eyes on the industry to ensure that proper double-checking systems are in place.

Until members are this educated, financial funds, and the vast financial services industry they support, will remain exposed to sustainability risks, Eben de Klerk of ISG Risk Services said at a breakfast of the Retirement Fund Industry recently.

"And the intended beneficiary, the member, who is now largely being ignored, will continue to be exposed to unacceptable levels of risk," he said.

De Klerk said it is the duty of the trustees of pension funds to turn this tide and "to ensure that this deplorable state of affairs is turned around".

He used several real-life examples of how pension fund members in Namibia have been getting the short end of the stick.

ENDLESS STREAM OF COMPLAINTS

In one of the saddest cases ISG dealt with, a former member struggled for four years to explain to the fund that her benefits could impossibly have been properly calculated. Her plight was ignored that whole time.

The trustees continued to rely on the data and advice provided by a service provider after having been alerted that a fund-wide error of tens of millions was suspected, which error was most likely made by that same service provider.

The cause of action against the fund consists of the same grounds on which the fund will have a right of regression against the service provider.

After the eventual involvement of investigators, and a protracted tug of war between lawyers, the fund made a partial payment to this member two months before she passed away. De Klerk said.

In one instance, a fund refused to give ISG information about a member, despite ISG having the power of attorney to verify the benefit payment to a member. The fund employs sufficiently reputable service providers, ISG was told.

In another case, a member had to pay N\$25 200 to get a contribution history to calculate the correctness of a benefit payment. When the data was eventually received, it was less than an A4 page, De Klerk said.

When another member asked for the data used to calculate his benefits, the fund told him that all calculations were the intellectual property of the service provider and that the member wasn't entitled to them.

De Klerk cited another example where, after it was discovered that a fund made hundreds of benefit payments contrary to the approved rules of the fund, the fund explained that the rules were in fact previously changed.

However, the regulator has no such amendment on record and after three written requests the fund refuses to provide any proof of such claim.

"Like most other consumers in the financial services industry, members to pension funds find themselves in a very difficult situation," De Klerk said.



Photo: Contributed

FIGHT FOR YOUR RIGHTS ... Eben de Klerk of ISG Risk Services believes pension fund members should be more aware of what happens to their retirement nest egg.

Legislation did not keep up with market conduct and products, he said.

"Consumers are forced to participate as consumers in a highly technical and perplexing financial services industry they most often know and understand very little of, and are requested to blindly entrust their savings, with no cost-effective means to protect themselves, to a number of parties who are not regulated by law.

De Klerk said although the Namibia Financial Institutions Supervisory Authority (Namfisa) regulates pension funds, it only regulates contributions from members and the amount paid back to members in terms of the rules of the fund.

Trustees and members expect and trust that Namfisa keeps a watchful eye on all aspects of the fund, while in terms of the current legislation, that is not the case.

"The status quo is based almost solely on trust. Trust is good, but control is better," said De Klerk.

"We have seen numerous cases of fraudulent conduct

on the part of financial services providers, both in Namibia and South Africa, which have cost our consumers billions of dollars; most of the culprits involved still being giant players in the industry."

It remains the duty of the trustees to ensure correct payments to beneficiaries as they are the management of the fund in terms of the law, and have the legal duty to ensure that the rules are at all times complied with, he said.

This seemingly impossible situation that the trustees find themselves in can be resolved with a few remedial steps, while amended legislation is awaited that should bring about better protection, more controlled and standardised market conduct and easier access to information, he said.

De Klerk said trustees must recognise the risk, empower members through education, ensure free access to relevant information, and above all, put the interest of the member before the service provider if a possible dispute arises.

"Trustees are there to protect the fund and its members, not the service providers," he said.

According to De Klerk, it is very likely that the parties involved in the pension fund industry simply do not want the results that educated and sophisticated consumers will bring about: a consumer that knows his rights, stands up for it, ensures that the mistakes are rectified, and that damages resulting from negligence or fraud are paid.

"This will no doubt be a great shock in a system that has been operating unregulated for decades," he said.