MONDAY, 4 March 2019

irfa dispatch

THE RETIREMENT INDUSTRY NEWSLETTER

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LOCAL NEWS

D-day is here for the SA retirement industry

What to consider when selecting a default investment portfolio.

Treasury’s new default regulations for retirement funds are set to come into full effect from Friday. Among other things, they will require retirement funds to have a suitable default investment portfolio in place for pre-retirement savings that is not excessively complex or unreasonably expensive.

As a result, trustees will be best positioned to achieve this for their members through an outcome-based investing model. There are several factors for trustees to consider when deciding on a default investment portfolio.

1.Consider the member profile and their desired retirement outcome
Default investment portfolios are applicable to members who do not specifically choose how their retirement savings should be invested. This means that a default investment portfolio should consider the investment objective, underlying asset allocation, fees and charges, as well as expected risks and returns.

It therefore becomes crucial that a default investment portfolio provides an opportunity to generate inflation-beating returns that will maintain the purchasing power of members’ savings – and for those members who cannot withstand the market volatility, the portfolio should also offer a capital guarantee to protect them against adverse market movements.

2.Find a balance between protection and cost
A new era of smooth bonus portfolios is required for this type of solution to be considered as a default option. This is because while the smoothing process reduces the impact of market volatility on the member’s investment, there is a high cost associated with the guarantees that are typically associated with smooth bonus portfolios. These guarantees, while integral to capital protection when the market is not performing, can be so expensive that they actually end up eating into returns, because the capital charges are normally deducted from a member’s growth.

3.Communicate effectively
The new default regulations also require the ins and outs of the default investment portfolio to be disclosed to members in understandable language – including the pricing structures, which members always find difficult to interpret.

The default regulations are intended to improve members' retirement outcomes by ensuring that an appropriate investment portfolio is in place for members that do not select one. If implemented effectively, we believe that the default investment regulations will go a long way to achieving the intended outcome.

Moneyweb | 2 March 2019

Trustees must consider nominees when distributing death benefits

Several recent determinations by the Pension Funds Adjudicator, Muvhango Lukhaimane, attest to the work her office is doing in resolving disputes, ensuring that people's retirement savings are protected, and that, in the event of an employee dying in service, death benefits are distributed equitably.

Death benefit payout

The board of a pension fund "should have exercised better discretion" when allocating a death benefit of more than R1million to a dead man's 75-year-old mother, to the exclusion of his former life partner, a nominated beneficiary. Lukhaimane's office received a complaint from JT Damoense, the life partner of the late LB Mantjiu, who had been a member of the Absa Pension Fund, administered by Absa Consultants and Actuaries.

Following Mantjiu's death in a car accident on March 4, 2017, a benefit of R1065480 became available for distribution. The board allocated the entire amount to Mantjiu's mother.

Damoense submitted that she was a nominee on Mantjiu's beneficiary nomination form and, as such, she should have been considered by the fund. She said the fund had failed to consider the fact that Ms Mantjiu was 75 years of age and received a state old-age grant. It had failed to consider her own circumstances and the fact that she was a nominee entitled to half of the benefit.

In response, Absa Consultants and Actuaries submitted that, during its investigation, it had established that Mantjiu's mother, who had been nominated to receive the other half of the benefit, was financially dependent on him.

It stated that Mantjiu was involved in a life partnership with Damoense when he signed the beneficiary nomination form in March 2010. However, the relationship between Mantjiu and Damoense was non-existent at the time of his death.

Since their break-up, Mantjiu had contributed to the maintenance of their son, who also died in the car accident. Thus, the extent of Damoense's financial dependency on Mantjiu was their son's maintenance. The investigation revealed that Damoense was gainfully employed and earned R21000 a month, was 37 years of age and fully able to generate income through her employment.

It submitted that even though Damoense was a nominee, the board had identified her as not being financially dependent on the deceased. There was no longer a need to maintain their son, because he had also died.

In her determination, Lukhaimane said that where there are dependants and nominees, the Pension Funds Act provided for pension fund boards to make an equitable distribution. She said a critical point in this case was that, on the beneficiary nomination form, Mantjiu had assigned half of the death benefit to Damoense and the other half to his mother. However, the board had failed to follow Mantjiu's wishes.

"The complainant did not have to prove that she was financially dependent on the deceased for her to be considered. The mere status of being a nominee compelled the fund to consider her situation, together with [all] other relevant factors." She set aside the decision of the board and ordered it to re-exercise its discretion in terms of section 37C of the Pension Funds Act, considering the issues raised in the determination.

Municipalities not paying over contributions

It's not only certain rogue private-sector employers that try to "steal" their employees pension fund deductions by not paying them over to pension funds - some municipalities are doing it too.

Lukhaimane said non-compliance by municipalities regarding the payment of contributions affected members in terms of their pension or provident fund investments and risk benefits. Funds cannot pay out benefits if contributions are in arrears.

She was commenting in a determination concerning Maluti-A-Phofung Local Municipality, which had failed to pay the contributions of the complainant, TP Hlongwane, to the Phuthaditjhaba Municipality Pension Fund and the National Fund for Municipal Workers.

In submissions from the respondents, including administrator ACA Employee Benefits, it emerged that the municipality had been heavily in arrears in paying over the pension fund contributions of its employees and that a case against it had been opened with the police by the Phuthaditjhaba Municipality Pension Fund. The matter had also been reported to the Financial Sector Conduct Authority.

In March last year, an agreement was reached whereby the municipality undertook to pay the arrear contributions of members who had been dismissed, or had resigned or died by June 2018, and the balance would be rectified thereafter. But while the municipality had eventually paid the arrear contributions, the interest on these payments was still outstanding.

In her determination, Lukhaimane acknowledged that the pension funds and administrator had made attempts to get the municipality to pay up.

The municipality was ordered to pay the outstanding interest on the arrear payments so that Hlongwane's contributions were up to date.

Beneficiary nominations

Pension fund members who have legal dependants must include allocations to such dependants on the beneficiary nomination form, and cannot entrust their welfare to family members who are often "less than honorable where money is concerned", Lukhaimane says. She was commenting in the wake of a determination involving a complaint by LR Roems against the Metal Industries Provident Fund and Metal Industries Benefit Funds Administrators concerning the delay in the payment of a benefit following the death of her brother, C Roems.

Lukhaimane found that the complainant had been "dishonourable" and had deliberately failed to disclose important information.

On C Roems's death, a benefit of R892829 became payable. The board of the pension fund resolved to allocate 40% to the complainant based on her nomination as a nominee and retained the remaining 60% (R536697) to a son of the deceased who had not appeared on the nomination form.

When, in 2017, the administrator had contacted LR Roems to obtain information about her dead brother's dependants and a child mentioned in her affidavit, she said that she had no idea of the whereabouts of the child, did not know his name and had never met him.

However, a nephew of C Roems subsequently confirmed that the child's name was Christopher and the complainant was aware of him. He confirmed that Christopher would visit his father and, after his father's death, he enquired about his father's benefits and belongings, which the complainant was aware of.

In her determination, Ms Lukhaimane said it was the board's responsibility when dealing with death benefits to conduct a thorough investigation to determine the beneficiaries, to decide on an equitable distribution.

The board was not bound to allocate the entire benefit to the complainant based on her nomination as the sole beneficiary. It had to take into account other beneficiaries and the extent of their dependency on the deceased.

"It follows that the board exercised its discretion equitably in allocating 60% of the death benefit to [the child]," she said, ordering the fund to pay the son the portion of the benefit as allocated.

Personal Finance | 4 March 2019 | Martin Hesse

The obligations and responsibilities of trustees

Indemnity clauses in family trusts not worth the paper they are written on

Many people are quite happy to be appointed as a trustee, but often the responsibilities that accompany this role are not well understood. My name is Ingé Lamprecht, and to explain what exactly these responsibilities are, and what you need to keep in mind if you *are* appointed as a trustee, I'm joined by the CEO of the Fiduciary Institute of Southern Africa, Louis van Vuren.

INGÉ LAMPRECHT: Louis, let's start at the beginning. Broadly speaking, what would my responsibilities be if I'm appointed as the trustee of a trust?

LOUIS VAN VUREN: The trustees have the overall responsibility to manage the affairs of the trust and they must do so in the best interest of the trust fund or the trust estate and all its beneficiaries. I have to tell you that I'm seeing more and more instances where trustees acted way outside their powers and in total disregard of their responsibilities.

One of the first responsibilities that any trustee has to comply with is to read and understand the trust deed or the trust instrument (it could be a will as well), and to understand the powers and duties and responsibilities and to also become familiar with the duties and obligations in law and specifically the Trust Property Control Act of 1988. I find that many people become trustees without doing these things and without understanding the huge responsibility that they are taking on when they become trustees.

INGÉ LAMPRECHT: Louis, we will talk about the responsibilities in a moment, but just taking one step back, can you briefly explain what types of trusts there are, and how this would impact the powers awarded to trustees?

LOUIS VAN VUREN: A trust is not a separate legal persona like a company, unless there is specific legislation that says it is. A trust, according to our Supreme Court of Appeal, is an accumulation of assets and liabilities – an estate if you like – but not a separate legal persona. A trust can be regarded as a person if specific legislation makes provision for it. An example of that is the Income Tax Act, where for obvious reasons a trust has to be regarded as a person and a taxpayer.

Now trusts can be divided into different groups on more than one basis. The first basis we find in the Trust Property Control Act and that is on the basis of who owns the trust assets. The act distinguishes between two types of trusts. The first is what is called an ownership trust, where the trustee or trustees own the assets in their representative capacity and for the benefit of the beneficiaries.

A ‘bewind’ trust is the second type of trust. It is quite interesting where these two types come from. The Afrikaans word ‘bewind’ [‘administration’] comes from the Dutch – in old Roman Dutch law there was an office called ‘Die bewindhebber’. In a ‘bewind’ the beneficiaries own the assets, but the assets are placed under the control of the trustees. In contrast, your typical family trust is an ownership trust, so the trustees own the trust assets, but they do so in their capacity as trustees and they do so for the benefit of the beneficiary or beneficiaries.

You can also divide trusts into different types according to where they come from. How did they come into being? Or how were they created? And your typical so-called family trust is what is called in law an *inter vivos* trust, which is just the Latin that means ‘between the living’ and that in our law is a contract. The founder of your typical family trust will enter into a contract, which is called the trust deed, with the first trustees of that trust and that is how the trust comes into being.

The second type of trust according to where they come from is your testamentary trust, where the trust comes into being by way of a will, where a bequest in a will is made to the trustees or to the beneficiaries, and that will determine whether it is an ownership trust or a ‘bewind’, but it comes into being by a bequest in a will. The will will also then contain the trust instrument – the trust deed – by which the trustees will be bound, and which will set out what they can and cannot do.

The third type is a trust created by a court order and a good example of that is a court order that creates a trust for the beneficiary of a Road Accident Fund claim, where somebody injured in a car accident is the beneficiary of that trust and the award that the court makes and which the Road Accident Fund must then pay over to the trustees is for the benefit of that person.

Your trust instrument can therefore be a trust deed or a will or a court order. This trust instrument – and let’s call it a trust deed because we are going to talk mostly about your typical family trust – is, as the Supreme Court of Appeal called it, the ‘Constitutive Charter’ of the trust (so it is basically the constitution of the trust) and the trustees can generally only exercise powers given to them by law and this trust instrument. Outside these two sources of powers they have no other powers.

INGÉ LAMPRECHT: Upon accepting trusteeship the trustee must take control of the trust assets. What does that mean practically?

LOUIS VAN VUREN: Taking control of the trust assets means, among other things, that any immovable property must be registered in the name of the trustees of the trust, if it is an ownership trust obviously. If it is a ‘bewind’, it must be registered in the names of the beneficiaries but placed under control of the trustees. Trustees must also ensure that any movable property is properly secured and insured. Insurance is quite an important thing. If you let slip on that one, it could have serious consequences.

The trustees must also take control of existing investments, private company shares. They must ensure that any private company of which they are now the shareholders, is actually managed properly. In your typical will trust – testamentary trust – trustees will have to sit down and seriously think whether they are going to keep those private company shares or whether it would be in the best interests of the beneficiaries to sell the company if the deceased person who bequeathed the company shares to a testamentary trust was the owner. They will have to seriously think whether they are going to keep that, but as a starting point, they must take control of the assets and exercise proper control over the assets.

INGÉ LAMPRECHT: What other responsibilities does a trustee have?

LOUIS VAN VUREN: Well one of the first things that you have to do is to create a proper record or inventory of the trust assets. It is sort of obvious, because you can't control assets if you don't know what you are controlling. There has to be a proper record and an inventory of all assets and statements reflecting the financial side of the trust.

Now there is no requirement in the Trust Property Control Act that a trust must be audited, but to be able to keep proper accounts, then it sort of stands to reason that you will have to, in some form or format, create annual statements reflecting the business and the financial situation of the trust.

Trustees must also open a bank account in the name of the trust as soon as they receive money on behalf of the trust. You can't just say: "I'm the trustee, I'm running this trust" and mix the trust monies with your own money in your own bank account. You have to open a bank account as soon as there is money that should be deposited into an account.

The Master of the High Court can demand an account from the trustees with regards to the administration and their disposal of the trust property. There is a section in the Trust Property Control Act that gives the Master of the High Court that power to demand an account and that is a safety measure to help prevent the abuse of their position by trustees.
Trustees must also always act jointly unless the trust instrument makes provision for delegation of powers to one or more trustees – and, even if the trust instrument makes provision for that, the delegate can only act when properly empowered and that means that all trustees must have had the opportunity to attend the meeting and take part in the decision where that delegate was empowered to act, otherwise it will not be a valid decision.

In fact, all decisions by trustees must be taken on that basis, that all the trustees must have been placed in a position where they could take part in the decision, otherwise it is not a valid decision. ***Full Report:*** ***https://www.moneyweb.co.za/in-depth/fisa/the-obligations-and-responsibilities-of-trustees/***

Moneyweb | 4 March 2019 | Ingé Lamprecht

Will the retirement of your dreams be beyond your means?

Working out how much is JustEnough to save for retirement is sometimes not a priority when simply making ends meet is a struggle. But realistic retirement planning is important if we want our retirement income to match what we expect it will be.

“South Africans are underestimating the proportion of their retirement income they will need to allocate to basic living expenses and the amount of money they will need for discretionary income. In fact, we found in the latest Just Retirement Insights that there is a major gap between expectation and reality,” says Bjorn Ladewig, longevity actuary at Just.

According to Just Retirement Insights – independent research commissioned by Just – South Africans’ expectations of what their retirement income will be, based on current savings and returns, will not be realised. On average, respondents expect a monthly income in retirement of almost R12 000. This implies an expected annual income rate of 8%, based on their average retirement savings of R1,8 million. However, in current market conditions this expectation is not achievable – guaranteed lifetime income that targets inflationary increases provides an annual annuity income rate of approximately 6,5% for a couple where the male is aged 65 and his female spouse is aged 61.

This means that, to achieve the expected level of income, 22% more needs to be saved to reach R2,2 million. Even worse, if the expected level of income is to be achieved through a living annuity, a retirement saving of R3,6 million is required. This figure is based on the draft maximum sustainable income rate recommended by the Financial Sector Conduct Authority for living annuities for a similar couple, which is only 4%, compared to the 6,5% above.

FA News | 27 February 2019

Retirement planning for age-gap couples

One of the biggest challenges facing financial planners when advising clients about retirement is getting them to appreciate how many years they will spend in retirement and, as a result, how long their retirement capital will have to provide an income. If you’re married and there is a significant difference between your and your spouse’s ages, this will extend your retirement-funding requirements.

One of the biggest challenges facing financial planners when advising clients about retirement is getting them to appreciate how many years they will spend in retirement and, as a result, how long their retirement

capital will have to provide an income. If you're married and there is a significant difference between your and your spouse's ages, this will extend your retirement-funding requirements.

"I struggle to get my clients who retire at 65 to appreciate that they will need an income until they are 100. If a man retires at 65, he has to fund about 35 years in retirement. If his wife is 10 years younger than him when she retires, she has to fund 45 years in retirement," says Janet Hugo, a director of the Sterling Group and the Financial Planner of the Year for 2018/19.

Typically, one spouse is older than the other and will retire first, so when does the difference in ages become a significant factor in retirement planning? Mark MacSymon, a wealth manager at Private Client Holdings and the 2017/18 Financial Planner of the Year, says that, as a "rule of thumb", it is when the age gap is 10 years. However, he points out that "a number of idiosyncratic characteristics determine whether or not the age gap does, in fact, have a significant bearing on a couple's successful retirement". These include the health status of both partners, whether the older or younger spouse is the primary income-generator, and whether they will have sufficient capital to meet their income requirements based on the life expectancy of the younger spouse.

The sooner an age-gap couple seek professional financial advice about their retirement, the better. The optimal solution is establish how much capital they need to accumulate by the time each partner reaches retirement age and to save accordingly.

Staggered retirements

Depending on the dynamics of the relationship, there can be financial and psychological advantages if one spouse retires earlier than the other. The younger spouse can continue to earn an income, taking the pressure off the family's drawdown of retirement capital. And there will be a tax benefit if the working spouse continues to contribute to a retirement fund.

Second, instead of both spouses having to adjust to retirement more or less simultaneously, one spouse can continue with a normal working life while the other gets used to not working.
However, Hugo and MacSymon say that retiring at different ages can place a strain on the relationship. The retired spouse may want to travel, or move to a retirement village or a sedate seaside town, whereas the younger spouse could still be at the peak of his or her career. The working spouse could feel resentment towards the retired spouse if she (it's invariably the wife) is putting in long day at the office, while the retired spouse "is sitting around at home" – and still expects to her do the household chores.

A financial planner can provide guidance with respect to the emotional and psychological challenges associated with this transition.

“Communication and compromise are key ingredients for a successful transition, but from the financial planner’s lens, offering recommendations and solutions about what has worked and what hasn’t worked in similar situations can help provide answers,” says MacSymon. “I have a family whom I advise that has an eight-year age gap. The wife continues to work to work as a psychologist, and the husband is a retired doctor. The tenuous balance at this stage is more around how and where their time is spent in that the wife is excelling within her practice, while the husband is looking to exit the pace of Cape Town.”

Retirement plan

Because income sustainability is linked to longevity, Hugo and MacSymon say the retirement plan should be based on the partner with the longest life expectancy, which, in the overwhelming majority of cases, means the forecast is based on the life expectancy of the wife.

Says MacSymon: “In scenarios where income and capital available from accumulated assets are likely to become completely exhausted based on a forecast period determined by the spouse with the longest life expectancy, we make suggestions about ways to extend the longevity of capital. This might include suggesting that the older spouse delays retirement for as long as possible to defer the drawdown of retirement savings, but we also may suggest a semi-retirement strategy or a lower income drawdown. In our experience, cash-flow models which help clients to attribute value to the decisions, such as working two or three years longer, or working part-time as part of a semi-retirement strategy, are particularly empowering.

They put both the planner and the family firmly in control of how best to smooth resources over their planned retirement. In the absence of such planning models, and especially when a large age gap exists between spouses, decisions to take early retirement or to prematurely sell a business are akin to a guessing game with punitive consequences.”

Hugo says the key to dealing with the longevity challenge exacerbated by an age gap is to base the retirement plan on the couple’s annual cash-flow needs in retirement. This exercise requires a detailed examination of the couple’s expenses and lifestyle aspirations.

Hugo says the common assumption that there will be a significant decrease in expenses in retirement is not borne out by reality. “At best, expenditure will remain the same.” Although savings will be accrued by not travelling to and from work, or eating out during lunch-hour, healthcare expenses tend to increase markedly as one gets older.

She says another false assumption is that downscaling to a smaller home or moving to a retirement village will result in a big saving and unlock a large amount of capital. An apartment in a sectional title scheme or a cottage in a retirement villages may be smaller, but it will not come cheap, plus this type of accommodation charges monthly levies.

Once the cash-flow requirement has been determined, Hugo says retirement capital should be invested using a time-weighted, or liability-matched, investment model. This means constructing an investment strategy that will ensure sufficient funds are available to meet each year's drawdown needs. The money that will be withdrawn over the next two to three years should be invested in low-risk money market or income funds. Capital that will be required to fund income requirements in five or six years' time should be in moderate-risk investments, such as balanced funds. Capital that will be needed in seven or more years should be in high-risk equity funds.

Hugo says the time-weighted investment model ensures that near-term cash requirements will be funded from conservative investments. "It means that my clients don't have sleepless nights and phone me up every time the market wobbles."

It also overcomes the common mistake made by many retirees: investing all their capital too conservatively because they fear they will lock in their losses if they have to draw down when equity markets are in a slump.

Life or living annuity?

With the extended longevity challenge in mind, which pension is better: a living annuity or a life (guaranteed) annuity?

MacSymon says that, in general, if there is little likelihood of a couple exhausting their retirement capital, under even the most conservative of assumptions, a living annuity is the default option. "These instruments need to be managed with care, and the combination of the income drawdown selected and asset allocation decision are the key drivers of the instrument's success." If, on the other hand, uncertainty about the longevity of capital is a concern, transferring that longevity risk to an assurer via a life annuity would be the better option.

"If the writing is on wall and the likelihood is high that retirement capital within a living annuity will be exhausted during the younger spouse's lifetime, switching to a life annuity sooner rather than later is preferable. If this decision is unnecessarily delayed, it is probable that the family or the surviving spouse will need to adapt to a much lower income derived from the life annuity, which will result in a difficult lifestyle shift that'll take some getting used to. The longer the delay, however, the more difficult the adjustment. The availability of additional discretionary capital and existence of passive income for instance will influence this decision."

Another solution, he says, is to split retirement capital between the two types of pension, with a life annuity ensuing there is sufficient income to meet "essential" expenditure, while a living annuity caters for "nice-to-haves".

“Whether a life or living annuity, or combination thereof is employed, the answer ultimately depends on the couple’s unique circumstances. But for those couple’s where a large age gap exists, a life annuity could be a useful tool to provide income security and certainty,” he says.

Hugo says she does not believe a life annuity is a viable solution for age-gap couples. In the current low-interest rate environment, the likely yields from life annuities do not match what you can earn from a living annuity with exposure to equity markets. Life annuity companies base their guaranteed rates on the Consumer Price Index (CPI), and many income-planning scenarios assume a thumb-suck average inflation rate of 6% a year. But, Hugo says, a retired couple’s personal inflation rate may be much higher – bearing in mind that they can expect medical scheme costs to increase at about 10% a year. Second, annuity rates are based on age and gender: the younger you at retirement, the lower the rate, and rates for women are lower than those for men. Thus, in the typical age-gap scenario of older husband and younger wife, the annuity rate will be even lower if they buy a joint-and-survivorship annuity.

Hugo says that, apart from the better yield, the advantages of living annuities are investment flexibility – recall the time-weighted investment model – and the fact that the capital reverts to the client on death. She says people approaching retirement can become too focused on their regular monthly income and overlook the crucial need for liquidity – free cash to meet major, often unforeseen, expenses. The bigger the age gap, the more important that funds are available to meet a number of these “balloon payments”. Here again, the advantage of a living annuity is that a major expense can be met by increasing the drawdown rate to the maximum of 17.5% a year.

Healthcare costs

One of the major expenses faced by retirees is medical costs. It is sometimes assumed that the younger, healthier spouse will be able to serve as primary caregiver if the older spouse falls ill. But this assumption underestimates the emotional and physical effort required to look after someone with an illness such as dementia. Therefore, age-gap couples’ budgets need to take account of the need for a caregiver or frail care, which, Hugo says, currently costs an average of R24 000 a month.

MacSymon says the timing of the decision to move into a retirement centre that offers frail care presents a dilemma for many retirees, particularly those with a substantial age-gap, because many retirement centres have extensive waiting lists. “To be premature or too late on the decision can create regret, and thus careful planning needs to be deliberated to accommodate both spouses’ well-being.”

Second marriages

Divorce followed by a second marriage is often a reason for a significant age difference between spouses at retirement. Hugo this can have unfortunate consequences for the younger spouse’s retirement if the estate planning is not handled properly. People forget that retirement fund beneficiary nominations are not set in stone. Ultimately, it is retirement fund trustees who decide how to allocate benefits. Your former spouse's divorce order takes precedence over current spouse in claims against the estate.

Also, financial settlements reached in terms of the divorce order not be the end of the matter. Trustees can allocate benefits to a spouse who can prove financial dependency – for example, by providing bank statements showing regular transfers for ad-hoc expenses. Therefore, it is important that previously married spouses fully disclose their financial commitments to their ex-spouses and children so that the planner can take these liabilities into account when drawing up a retirement plan.

Personal Finance | 26 February 2019 | Mark Bechard

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INTERNATIONAL NEWS

Big U.S. pension funds ask electric utilities for decarbonization plans

Top U.S. pension funds are asking electric utilities to accelerate efforts to cut carbon emissions but will not force the issue with proxy resolutions this spring, hoping market shifts and falling prices for renewable energy have already made executives and directors receptive to the goal.

Investors including New York City Comptroller Scott Stringer, who oversees retirement funds, and leaders of the California Public Employees' Retirement System are asking the 20 largest publicly traded electric generators in the United States for detailed plans for achieving carbon-free electricity by 2050 at the latest, according to material seen by Reuters.
They also seek other steps like board commitments and tying progress to executive pay.
Stringer termed decarbonization a "financial necessity" in a statement sent by a spokeswoman. "This initiative makes clear that mobilizing for the planet goes hand-in-hand with protecting our pensions, and we need these commitments now."

Making electricity carbon-free by 2050 will be key to meeting the goals of the 2015 Paris Agreement to constrain global warming, the investor group said in a separate statement. They praised a December announcement by Xcel Energy Inc that it will aim for carbon-free generation by 2050.

Large utilities receiving the letter include Duke Energy Corp and NRG Energy Inc. Each has already moved toward cutting emissions: Duke has set a goal of reducing carbon emissions by 40 percent by 2030 from its

2005 levels, and NRG aims to cut emissions in half by 2030 and by 90 percent by 2050 compared with 2014 levels.

Asked about the funds' request, Duke spokeswoman Catherine Butler noted the goal and said via email, "We continue to evaluate options to further reduce emissions beyond that date."

In a statement sent by a spokeswoman, NRG Vice President of Sustainability Bruno Sarda said the company agrees with the "urgency for decarbonization" and said it is reviewing its goals based on newly-available science.

Falling prices for wind and solar power will help the utilities' efforts, while the pace of coal-fired power plant closures has accelerated in the face of price competition. Funds involved in Stringer's effort collectively manage $1.8 trillion and also include Hermes Investment Management and money overseen by New York State Comptroller Thomas DiNapoli.
Technically the group is asking for "net-zero" carbon emissions by 2050, meaning the amount of carbon utilities release must equal the amount they remove.

Reuters News | 28 February 2019

OUT OF INTEREST NEWS

The BEE code and economic transformation

Do the black economic empowerment codes envisage the transformation of the economy – or do they have another agenda?

There is a very interesting clause in the practice note for the Youth Employment Service (YES) document that appears to defy any form of logic. The YES programme is now linked to the black economic empowerment (BEE) scorecard and promises to promote companies up to two levels if they employ unemployed black youth for a period of 12 months.

The clause states that exempted micro enterprises (EMEs) or 51% black-owned qualifying small enterprises (QSEs) that wish to claim this benefit need to get measured on the full scorecard before they can benefit from the YES promotion.

For the uninitiated, an EME turns over less than R10 million per year and a QSE between R10 million and R50 million. EMEs with less than 51% black ownership are level 4 BEE contributors, 51%+ black-owned EMEs are automatically level 2, and 100% black-owned businesses are level 1 – which is the top of the BEE pile. The same levels apply to 51% black-owned and 100% black-owned QSEs. All other QSEs need to go through the rigorous, onerous and expensive process of implementing a BEE scorecard and taking the level that this process delivers.

It must be stressed that the process is costly, complicated and unlikely to deliver great results if your company has little (10% or less) or no black ownership. In my experience, a level 8 (which is the entry level to the scorecard) is pretty much what most companies would have to settle for without black ownership.

Why?

This begs the question – why would an exempt micro enterprise that is automatically a level 4 go through a verification to get to a level 7 or 8 and then embark on the YES programme to be promoted to a level 5 when they are already a level 4?

Similarly, why would a 51% black-owned QSE want to get verified in the hope that they come up with a level 3 and then go through the YES process to get to a level 1, when they are automatically a level 2?

And why would a 100% black-owned company even bother with YES?

Herein lies the conundrum. Minister of trade and industry Rob Davies has been forced to exclude smaller businesses from his YES programme even though they are the most likely employers of black youth under the YES programme.

The only logical reason he has done this is because a level 4 can get to a level 2 within a year just by employing a number of people that the business might actually need. But then this would pose a threat to black-owned level 2 and 1 businesses when it comes to state procurement.

There is a five and six preference point advantage, depending on the value of the tender, between a level 4 and a level 2 under the 2017 Preferential Procurement Policy Frameworks Act (PPPFA) regulations. This perceived threat to smaller black-owned businesses has to be mitigated against by discouraging lesser owned competitors from reaching their own BEE levels through any programme that promises a promotion of a couple of levels.

The minister himself has tacitly confirmed the onerous nature of the revised BEE scorecard by publishing a proposition that all 51%+ black-owned companies should all be promoted to level 2 irrespective of their turnover. I have a 100% black-owned client that is over the R50 million turnover threshold that could not get better than a level 5 when we took them through the whole BEE scorecard. This company would have truly appreciated the instant promotion that would have come at a fraction of the cost and hassle.

Dubious motive

These developments have me questioning the motive behind the revised BEE codes.
The department of trade and industry (dti) crowed that these codes were more broad-based than ever, stating that they will touch more of the people who need this empowerment than its predecessor.

But if this is the case then surely all companies, irrespective of ownership levels, should be involved in the process? The more companies that hire black people, train them and buy from black-owned businesses and support the black poor, the greater the impact on the economy and society in general.

Yet 51% black-owned companies that turn over less than R50 million don't have to contribute to any of this because they aren't measured on it. I think the reasons behind this are simple, and I must confess that I have been unduly influenced by Institute of Race Relations CEO Dr Frans Cronje's arguments about the national democratic revolution.

Cronje argues that the National Democratic Revolution (NDR) led by the ANC strives to rid South Africa of all the vestiges of its colonial past. Part of this process would see 51% of the entire economy in black hands. The reward for those companies reaching 51% would be that they may never have to implement a BEE scorecard at all. Everyone would be a level two or higher. And the need to support black-owned businesses and charities would disappear because all businesses would be black-owned.

Punitive

To someone like Davies, a member of the South African Communist Party, this is the purest and cleanest form of transformation. But it is a very lofty ideal that is unlikely to be achieved in a free market economy. Those companies that do not wish to adhere to this ownership target will be forced to implement the complex BEE scorecard.

This is simply a punitive alternative. Its punitiveness is enhanced when you consider that the targets for elements like skills development, procurement and enterprise/supplier development are not only complex but extremely costly. It attempts to force smaller businesses to get to the 51% black ownership level in the quickest possible way. This pressure has resulted in many smaller white-owned businesses moving to 51% ownership through elaborate empowerment schemes that irritate BEE Commissioner Zodwa Ntuli because she is powerless to curtail them.

Once this concept is understood it becomes quite clear that the codes are less concerned about broad-based transformation and more concerned about giving black-owned businesses a massive competitive advantage over their lesser owned competitors, specifically in procurement that is subject to the PPPFA. To ensure that this advantage is maintained Davies has set up a series of codes that render it almost impossible to meet those levels when a company has to implement the BEE scorecard.

The exception that should be the rule

What is interesting though is that there is one sector code that is never expected to achieve 51% black ownership – the Financial Sector BEE Code (FSC). This is because of listed shareholding and the requirement of the Banks Act that any shareholder with more than a 15% stake in a bank must meet certain liquidity requirements in the event that the bank requires the shareholder to bail it out.

The FSC is the only BEE code that focuses on the transformation of the entire sector by encouraging those companies to embark a wide range of initiatives that reach the largest amount of people.

I would argue that it is truly a broad-based code.

As for the other codes – they are a smokescreen and if they actually achieve any form of transformation in the future it will be an unintended consequence. The transformation of South Africa will not come about as a result of those codes. Corporate South Africa needs to prepare to shoulder the blame from this fallout as it has for the government's failures in the last two decades.

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