RULES AND LEGISLATION

The Management Board manages the operations of SARAF based on the fund rules and the various legislation that applies.

RULES

The SARAF rules provide information pertaining to:

- Establishment and management of the Fund
- Financial provisions
- Participation and contributions
- Benefits on retirement, death, withdrawal and disability.

As a member of SARAF, you can obtain a copy of the rules from the Fund. Please note that a fee might be charged for sending you the Rules.

PENSION FUNDS ACT 24 OF 1956

The main legislation applicable to retirement funds – whether a pension, provident or retirement annuity fund is the Pension Funds Act of 1956 (as amended), including Regulations, Board Notices and Directives which can be obtained by accessing the Financial Sector Conduct Authority (FSCA) website.

Two important aspects of the Pension Funds Act ("the Act") that have an impact on members of SARAF are:

- S37C for the payment of death benefits, and
- Regulation 28 that regulates limiting the amount and the extent to which a retirement fund may invest in particular assets.

SECTION 37C: HOW IT AFFECTS THE MEMBER AND THEIR LOVED ONES

It is imperative that the Fund is informed of the member's death as soon as possible.

Should the member die whilst a member of SARAF or whilst receiving a pension from SARAF, section 37C of the Act expressly stipulates how the death benefit must be dealt with. As a result of the stipulation contained in section 37C of the Act, SARAF cannot deviate from the requirements of this section.

The broad aim of section 37C is to provide for financial relief to the member's legal and factual financial dependants now that they no longer have the member's income to provide for their daily maintenance needs.

Therefore, section 37C requires that the member's death benefit be allocated in a fair manner between all the member's dependants and/or nominated beneficiaries.

In terms of section 37C of the Act, the first duty placed on the Management Board is to investigate and identify all the legal and factual dependants of a deceased member. To assist the Management Board/Trustees with this, the member, should complete the Nomination of Dependants Form.

The Act defines dependants and has created three categories:

- A person who was dependent on the member for maintenance, where such dependency was as a result of a legal duty placed upon you, the member.
- A person who was not legally dependent on the member for maintenance, where such a person:
    - Was, in the opinion of the Board of Trustees of the Fund, in fact dependent on the member for maintenance at the time of death of the member
    - Is the spouse of the member
    - Is a child of the member, including a child born after the member's death, an adopted child and a child born out of wedlock.
- A person who would have become legally dependent on the member for maintenance, if the member had not died.

Members may nominate beneficiaries, and these persons will be considered along with the other qualifying dependants.

As the member's death benefit must be allocated in a fair way between the member's dependants and nominees, the Trustees need to investigate the personal and financial circumstances of all qualifying dependents and nominated beneficiaries. The information gathered from these investigations give the Trustees insight into a basket of factors - e.g. the extent to which the member was paying for the maintenance of a person, the future earning capacity of such person and other income such person may be receiving given that the member has passed away. The Trustees then carefully consider this basket of factors in relation to each dependant/nominee in order to arrive at an equitable or fair distribution of the member's death benefit.

The Pension Funds Adjudicator has listed what is known as a "basket of factors", which all Trustees - whether trustees of SARAF or any other retirement fund - should consider when deciding on the fair distribution of the member's death benefit. These are:

- The ages of the dependents,
- The relationship with the deceased member,
- The extent of dependency on the member at date of death,
- The financial affairs of the dependents,
- The ability to maintain themselves,
- The future earning potential and prospects of the dependents,
- The amount available for distribution,
- The wishes of the member,
- The health status of the dependents,
- Benefits received as a result of the member's death from other companies, retirement funds and/or the deceased member's estate, and
- As well as other relevant information.

All the above factors are considered together and not in isolation from each other.

It should be noted that the Trustees may deem it equitable to make a nil percent allocation to any dependent and/or nominee after taking into account the above factors and other relevant information.

REGULATION 28: AMOUNT AND TYPE OF ASSETS IN WHICH SARAF CAN INVEST

The Pension Funds Act limits the amount and type of assets in which a retirement fund can invest. An event that had a big impact on SARAF and most other retirement annuity funds was the amendment to Regulation 28 of the Pension Funds Act as from 1 July 2011.

The aim of the amendment was to promote sound and responsible investments by retirement fund trustees for their members. However, it also means that the choice of investment options for members themselves is more restricted than before.

Investments made before 1 April 2011: These will not be affected by the amendment, on condition that no changes are made to the contract terms, resulting in:

- An increase in premiums,
- A change to the frequency of premiums, or
- Switching between portfolios.

If any such change is made to a policy entered into before 1 April 2011, the investment has to be switched into a portfolio/s that complies with the amended regulation.

All new investments made after 1 April 2011: These can only be made in portfolios that are compliant with the provisions of the amended regulation.

Whether you have a pre-April 2011 policy or a new policy, please consult a financial adviser or broker before making any changes to your retirement annuity to ensure that your existing investment is protected.

INCOME TAX ACT 58 OF 1962

Benefit payments from and contribution to a retirement annuity Fund is subject to the provisions of the Income Tax Act. If you wish to view this Act, please refer to the South Africa Revenue Services' (SARS) website.

OTHER RELEVANT ACTS

Other Acts that also play a significant role for a retirement fund, are the following:

- The Financial Institutions (Protection of Funds) Act 28 of 2001
- Long Term Insurance Act 5 of 1998
- Divorce Act 70 of 1979
- Maintenance Act 99 of 1998