

ANNUAL REPORT 2016 | 2017



2014

2007



2004



2010



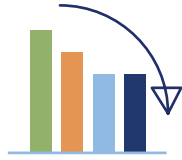
2001



1998

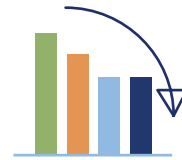


KEY FIGURES



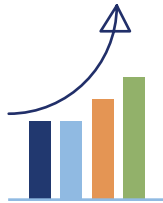
7 501

Complaints received



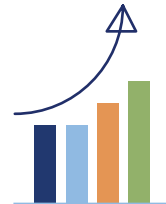
7 138

Total complaints disposed of



86%

complaints finalised within
six months



86%

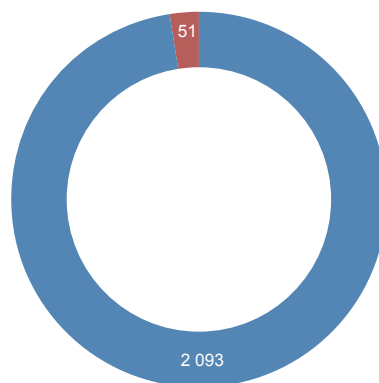
in favour of complainants



3 309

Formal determinations

Complaints carried over to 2017/18



■ Less than six months
■ More than six months

TABLE OF CONTENTS

Key figures	1
Message from the Minister of Finance	2
Message from the Chairman of the Financial Services Board	4
Statement of responsibility and confirmation of accuracy for the annual report	6
Message from the Pension Funds Adjudicator	7
Operational Report	8
Summary of important determinations	15
Corporate governance	32
Annual Financial Statements	35
Performance information	62



VISION

The Pension Funds Adjudicator is a specialist tribunal that aspires to be a respected institution that makes binding and final determinations in pension fund complaints submitted to it in terms of the ACT.

Values

- Professional and technical competence:
- Integrity
- Collaborate
- Stakeholder synergy
- Respect and dignity
- Impartially.

Mission

The mission of the OPFA is to resolve complaints in terms of the ACT in order to uphold the integrity of the pension fund industry and to protect the interests of pension fund members.

FOREWORD BY THE MINISTER OF FINANCE



MKN Gigaba, MP

“If it is any relief, the decision by the Pension Funds Adjudicator to levy monetary penalties against retirement funds that fail to conduct proper investigations into the dependants of a deceased member in order to effect an equitable distribution of a death benefit, must be hailed.”

I thank the Pension Funds Adjudicator and her team at the Office of the Pension Funds Adjudicator (OPFA) for another year of good performance against its mandate and strategic objectives as outlined in this report

All employees – irrespective of their geographic location and income levels – have an expectation that a time will come when they will be able to retire to enjoy some well-earned repose. State social security is a basic benefit, however it is your pension that can help you maintain a reasonably comfortable standard of living during retirement. Investing in a pension today is a way to guarantee a better tomorrow.

In order to provide a high standard of service, retirement funds must obey strict rules laid down by the regulator. However, there are cases of funds being badly run or mismanaged. The OPFA exists to regulate the retirement funds industry and investigate complaints from aggrieved members and beneficiaries.

To put the need for protection into perspective, the biggest proportion of investments of both black and white South Africans is held through mandated investments (indirect investment), not individuals. In 2013 mandated investments accounted for about 37% of total investment into the JSE's Top 100 companies, with the Public Investment Corporate being the largest single investor holding 12% of market capitalisation.

In the financial sector, retirement is big business. According to a report on the retirement sector by a large audit firm, around 100 retirement funds invest a total of R375 billion into the stock exchange. So, who is this indirect and often unaware investor? It is ordinary pensioners and working South Africans who have contributed throughout their working lives to retirement savings which easily can be lost if invested in businesses which ultimately fail.

The political transition from Apartheid to an era underpinned by the ideology of equal rights was not mirrored in the economic well-being of the citizens of South Africa: gross inequality in poverty levels still



characterises the economic landscape. It thus becomes obligatory on the part of retirement funds to invest wisely to ensure that those who have spent most of their lifetime working do not suffer the burden of poverty when they go on retirement.

Our inability to transform the economy has left the poor and unemployed particularly vulnerable to shocks to economic growth, so the cost to the broader economy of a business collapse that costs working South Africans their retirement savings would be devastating.

Thus the OPFA must be lauded for its efforts to protect the public.

From the OPFA's Operational Report, it is, however, cause for concern that of complaints relating to withdrawal benefits, non-payment of contributions by employers is a trend that continues unabated and flies in the face of regulatory prescripts.

If it is any relief, the decision by the Pension Funds Adjudicator to levy monetary penalties against retirement funds that fail to conduct proper investigations into the dependants of a deceased member in order to effect an equitable distribution of a death benefit, must be hailed. Such dereliction of duty can be a life or death matter for beneficiaries that suddenly find themselves without financial support and are condemned to live a destitute life whilst their breadwinner's funds lie idle in a retirement fund account, a fact attested to by the billions that remain unclaimed in retirement funds.

A wealth of knowledge has been created in the almost two decades of the existence of the OPFA. This body of knowledge developed through investigation of complaints, research and the drafting of determinations by seasoned

professionals headed by the Pension Funds Adjudicator is used to arbitrate disputes and guide the industry on best practice whilst proactively advising the regulator of adverse trends that may result in system failure.

I am confident that under the stewardship of Ms Muvhango Lukhaimane, the OPFA will sustain its stature as a respected and effective institution that provides a much needed service to the masses of workers who seek its services daily.

MKN Gigaba, MP
Minister of Finance

MESSAGE FROM THE CHAIRMAN OF THE FINANCIAL SERVICES BOARD



Abel Sithole

“Placing clients at the centre of the business and aiming to achieve the six TCF outcomes in the fullest sense ensures a win-win situation for everybody.”

It is gratifying that the OPFA is living up to its mandate “to ensure a procedurally fair, economical and expeditious resolution of complaints” in terms of the Pension Funds Act.

The Office of the Pension Funds Adjudicator is tasked to resolve complaints expeditiously. During the 2016/17 reporting period, a highlight of the operations of the OPFA is the extent to which this Tribunal has been able to finalise matters expeditiously as charged.

At least 75% of determinations were handed down within six months of the complaints being received, with the percentage increasing to 94% over a period of nine months. With regards to settlements, 90% were finalised within six months, with the percentage increasing to 97% over nine months.

It is heartening that the Office has undertaken that these turnaround times will improve even further in the next financial year as investigative processes improve.

Concomitantly, it is distressing that over 80% of responses from retirement funds are only received between two and three months of the request for such a response being made, thus delaying the resolution of members' complaints.

Retirement funds often wait for repeated letters before responding. It must be noted that this practice burdens the OPFA, both in terms of human and financial resources that could be better spent improving its services.

During the reporting period, 7 501 new complaints were received – a noticeable 22.41% reduction from the previous year. However, this is not a reflection on the public's confidence in the effectiveness of the OPFA.

The reduction is due to the OPFA coming down heavily on tracing agents. During late 2015/16, the OPFA decided to exclude incomplete complaints lodged with the office by tracing agents that were charging mostly former members of retirement funds, in the hope that there would be unclaimed benefits for them.



The OPFA regarded this as a misleading exercise and the tracing agents involved were warned to desist from this practice or face prosecution for carrying on businesses under false pretence as the complaints lodged in this manner mostly had insufficient information for the OPFA to investigate further. Thus complaints lodged by tracing agents dwindled.

Another matter worth noting is the identification of gaps measured from the Treating Customers Fairly (TCF) framework. TCF is an outcomes based regulatory and supervisory approach designed to ensure that specific, clearly articulated fairness outcomes for financial services consumers are delivered by regulated financial firms.

Placing clients at the centre of the business and aiming to achieve the six TCF outcomes in the fullest sense ensures a win-win situation for everybody.

The OPFA has reported that most of the complaints it received related to failure by the funds to provide members with sufficient and clear information that would enable them to make informed choices when acquiring financial products; post-sale barriers when a member wanted to transfer his/her retirement annuity to another financial institution; and the levying of causal event charges on the fund value.

The OPFA has found that 83.5% of the complaints involved the provision of clear information (outcome 3); 10.5% of the complaints related to investment performance (outcome 5); 4.2% of the complaints related to the advice or lack thereof provided at the time of contracting (outcome 4); 1.4% related to refusal to allow a transfer of funds (outcome 6); and 0.5% related to general dissatisfaction with service (outcome 1).

This supports the Pension Funds Adjudicator's conclusion that the TCF considerations point to a pension funds industry that is not in good health as far as governance and conduct are concerned.

The industry is urged to identify ways in which its members can integrate these principles in all areas of the business to ensure that the desired outcomes are achieved. This will also result in fewer complaints from clients. Clients who are treated fairly have less reason to feel hurt.

In the provision of these services, it is important that the OPFA prioritises the creation and maintenance of a conducive work environment that will allow its most valuable asset, i.e. human resources, to realise their potential in terms of performance and wellbeing.

Finally, I thank the Pension Funds Adjudicator, Ms Lukhaimane, and her team for all their hard work in positioning the OPFA as a shining beacon on the pension industry landscape.

A Sithole
Chairman of the FSB

STATEMENT OF RESPONSIBILITY AND CONFIRMATION OF ACCURACY FOR THE ANNUAL REPORT FOR THE YEAR ENDED 31 MARCH 2017

To the best of my knowledge and belief, I confirm the following:

All information and amounts disclosed in the annual report are consistent with the annual financial statements audited by the Auditor-General.

The annual report is complete, accurate and is free from any omissions.

The annual report has been prepared in accordance with the guidelines on the annual report as issued by National Treasury.

The Annual Financial Statements have been prepared in accordance with South African Standards of Generally Recognised Accounting Practice (GRAP) including any interpretations, guidelines and directives issued by the Accounting Standards Board.

The accounting authority is responsible for the preparation of the annual financial statements and for the judgments made in this information.

The accounting authority is responsible for establishing and implementing a system of internal control that has been designed to provide reasonable assurance as to the integrity and reliability of the performance information, the human resources information and the annual financial statements.


The external auditors are engaged to express an independent opinion on the annual financial statements.

In our opinion, the annual report fairly reflects the operations, the performance information, the human resources information and the financial affairs of the entity for the financial year ended 31 March 2017.

Yours faithfully



Mr AM Sithole
Chairperson (FSB)



Ms MA Lukhaimane
Pension Funds Adjudicator

31 July 2017

MESSAGE FROM THE PENSION FUNDS ADJUDICATOR



OPFA AWAITS THE
TREATING
CUSTOMERS
FAIRLY
FRAMEWORK

In a complaints Tribunal such as the Office of the Pension Funds Adjudicator (OPFA), the possibility is that over time employees may get used to the complaints and to some extent be desensitised to the plight of complainants requiring our service as there are always complaints.

This has certainly not been the case with the OPFA. With every complaint that we receive and must resolve, we are often confronted with the agony and despair of the complainant after having pleaded to no avail, with the administrator, fund or employer to resolve their complaint. Thereafter, we consider the response from the fund, administrator or employer, which is often less than satisfactory and discourteous to the complainant.

This inevitably means that the trust deficit between members on the one hand and funds, administrators and employers on the other, continues to grow, taking away from the role-players that provide a remarkable service to members for which the OPFA is thankful. It would not be possible for the OPFA to achieve its mandate without the cooperation of all role-players. In that respect, the OPFA awaits the implementation of the Treating Customers Fairly framework as this will improve the levels of service for members of retirement funds.

As evidenced by the nature of complaints received by the OPFA, the retirement funds industry continues to battle with basic compliance issues. These include non-compliance with section 13B of the Act – both employers not remitting contributions timeously and administrators not allocating contributions timeously; the reluctance of funds to commence section 13A non-compliance reporting procedures; non-provision of basic information to members and beneficiaries – especially benefit statements; and poor record keeping. Poor record keeping is also responsible for the increase in unclaimed benefits, which situation might necessitate legislation to compel funds to increase their efforts of tracing former members.

The reluctance of retirement funds to immediately recover contributions from defaulting employers on behalf of members poses a real risk to the benefits of members, as often by the time the OPFA is approached for relief, sometimes employers would be in liquidation or business rescue, making chances of any recovery non-existent.

The average period it takes retirement funds that are subject to complaints to pay out claims continues to be in excess of nine months from due date.

The service that the OPFA renders is people driven. Therefore, what happens in the operations environment without doubt can be gleaned in its human capital management space. The need to be able to respond to an ever-changing environment largely dictated by external stakeholders, requires people that are driven, energetic, selfless and resilient in addition to possessing the basic knowledge and skills.

Building on from last year, organisational development initiatives continued to be implemented towards achieving an organisation that cherishes high performance and teamwork. Halfway through this performance period, requirements were reviewed to ensure that the organisation meets its strategic objectives as a matter of routine. Investment was also directed at leadership and management interventions to ensure that the organisation navigates its internal and external landscape with less effort. These interventions will undoubtedly continue over the next three to five years in order to embed a culture of high performance.

Looking forward, the OPFA is geared to celebrate its 20th anniversary as an efficient and effective complaints' resolution Tribunal that also provides guidance to the retirement funds industry.

I, therefore, wish to thank the staff of the OPFA and the Management Committee for working tirelessly day after day to ensure that our mandate is fulfilled. My gratitude also goes out to the Board of the Financial Services Board which serves as the accounting authority for its continued guidance.

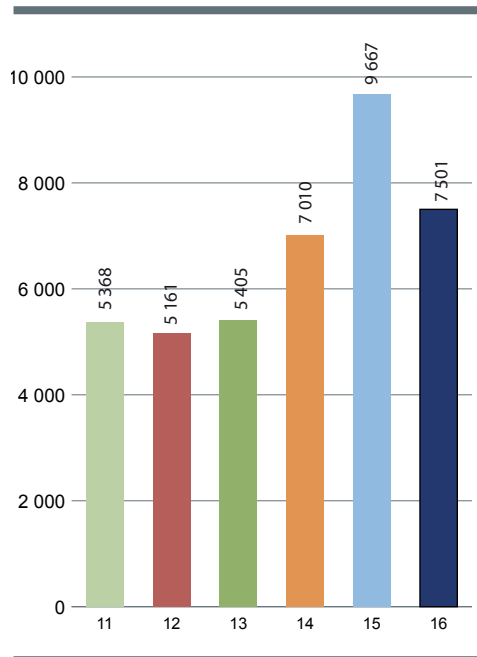
My appreciation also goes to the Registrar of Pension Funds, our colleagues at National Treasury, especially the staff in the Public Entities Oversight Unit, for their technical support and guidance.

Lastly, a word of appreciation to the media, who continue to educate the public by publishing our notable determinations and engaging with us on relevant public interest stories.

OPERATIONAL REPORT 2016/17

The 2016/17 financial year was again a busy year for the OPFA. We carried over 1 717 complaints from the 2015/16 financial year. During this period, 7 501 new complaints were received. This is a 22.41% reduction from the previous year.

New complaints



The reduction is due to the OPFA's decision late in 2015/16 to exclude incomplete complaints lodged with the office by tracing agents that were charging largely former members of retirement funds, in the hope that there would be unclaimed benefits for them. This practice was identified by the OPFA as being dishonest and the tracing agents involved were informed to desist from this practice or face prosecution for carrying on businesses under false pretence. This was substantiated by the fact that when the OPFA contacted the complainants directly

to provide more information in order to assess whether there could be a valid claim, no such details were forthcoming as in most instances, the complainants could not even identify a retirement fund against which their claim was being lodged.

Increased communication on the existence of the OPFA and its mandate also assisted with eliminating unscrupulous practices of these tracing agents. Some of these efforts were implemented in collaboration with the Registrar of Pension Funds ("Registrar") at the Financial Services Board ("FSB").

Of the 7 501 new complaints, 3 202 were received via electronic mail, 1 089 through the post office, 1 252 by facsimile, 73 through the OPFA website and 1 885 were walk-ins.

How complaints were received

Email	Letter	Fax	Website	Walk-in	Total
3 202	1 089	1 252	73	1 885	7 501

This illustrates that the investment in technology is increasingly making the office accessible, whilst its location also continues to serve those that prefer to lodge complaints in person. The minimal disruption caused by the relocation from Sandton has dissipated from the system.

Gauteng continues to lead with the number of complaints received. This is followed by KwaZulu-Natal, a distant second with just under a quarter of the complaints received from Gauteng, the Western Cape, Eastern Cape, Free State, Mpumalanga, Limpopo, North West and Northern Cape follow thereafter.

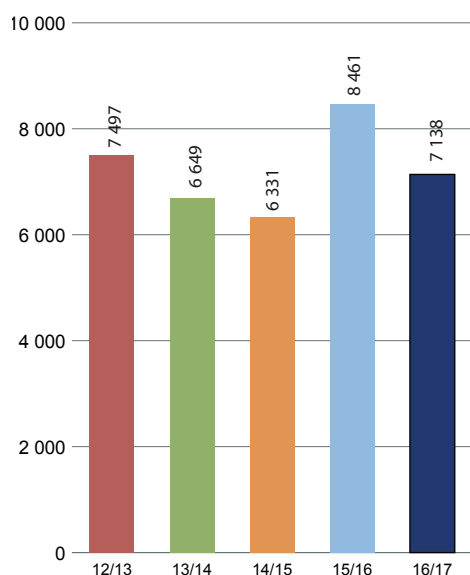
Whilst significant work has been done to improve the office's accessibility, a lot more work needs to be done in the coming year to go where complainants are and to register their complaints conveniently. The work done in ICT to improve remote access to systems will enable this.

7 138 complaints were finalised during the year in review, compared to 8 461 the previous year. This represents a reduction of 15.6%.



Masilo Maepa; Muvhango Lukhaimane; Lalita Jadoonandan; Charlson Raphadana; Jerry Buthane, Wilana Groenewald.

New complaints finalised

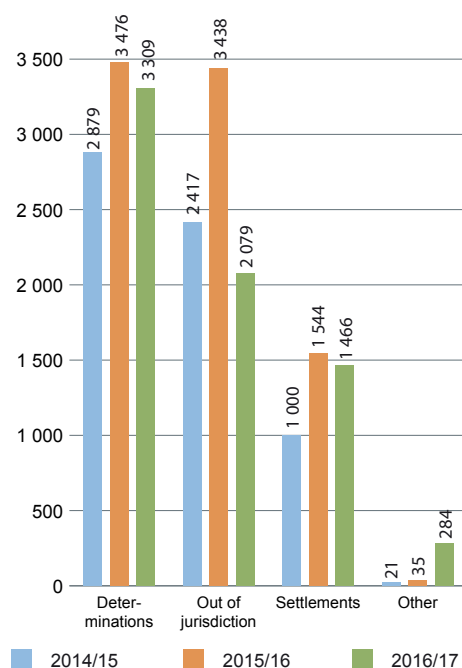


3 309 determinations were handed down, 1 466 matters settled, with 2 079 matters being deemed out of the jurisdiction of the OPFA.

The story of 2016/17 has largely been about how the office has been able to finalise matters expeditiously. 75% of the determinations were handed down within six months of the complaints being received with the percentage increasing to 94% over a period of nine months. With regards to settlements, 90% were finalised within six months with the percentage increasing to 97% over nine months.

These turnaround times will undoubtedly improve in the next financial year as our investigative processes improve. The biggest stumbling block remains the fact that over 80% of responses from retirement funds are only received between two and three months of the request for such a response being made. Although the OPFA endeavours to send out complaints within five days of receipt, retirement funds often wait for a follow-up letter after 30 days of being requested to file a response, plus another reminder. This practice costs the office resources, both human and financial, that can best be spent improving our services. Retirement funds also lodge incomplete responses. A case in point is the response lodged on behalf of the Municipal Employees Pension Fund that led to the OPFA issuing a determination requesting that the Registrar looks into the suitability of the fund's Principal Officer to hold office. Such pronouncements are regrettable, however forced upon the office by the sheer disdain with which retirement fund members are treated.

Complaints finalised per category



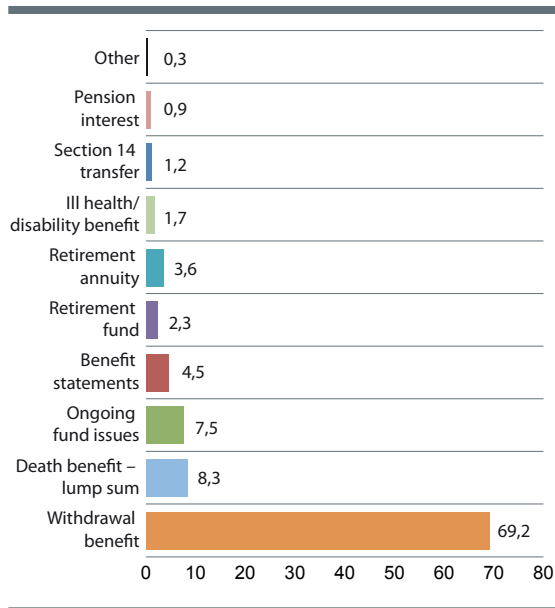
The change of administrators at the Private Security Sector Provident Fund (PSSPF) from Absa Consultants and Actuaries (Pty) Ltd to Salt Employee Benefits (Pty) Ltd (Salt) also caused significant delays as Salt now has to deal with two funds that are responsible for a high volume of complaints i.e. PSSPF and Road Freight and Logistics Industry Provident Fund. It was clear that Salt underestimated the capacity required to deal with the complaints and this caused a massive backlog of outstanding responses in the period to January 2017.

Despite these challenges, the OPFA was still able to improve on its turnaround times whilst also improving the quality of correspondence to parties and determinations handed down.

Complaints relating to withdrawal benefits continue to be the highest at almost 70% of total complaints finalised. They relate to non-compliance with section 13A of the Act by employers (non-payment of contributions) and retirement funds (failure to enforce employer non-compliance). This is a trend that has continued unabated, indicating levels of non-compliance that fly in the face of regulatory prescripts. It is clear that in this instance, lack of enforcement by the Registrar is compounded by the awareness by retirement funds of such lack of enforcement in that retirement funds do not even go through the prescribed legislative procedures of claiming outstanding contributions from employers. This behaviour often leaves members out-of-pocket when they claim their benefits. Commercial umbrella funds are also not faring any better in this regard.

OPERATIONAL REPORT 2016/17 continued

Complaints closed – nature of benefits (%)



Entities		%
Law Society	1	0.1
Department of Health	4	0.6
Telkom Pension Fund	3	0.4
Banking Ombudsman	1	0.1
CCMA	5	0.7
Department of Labour	18	2.6
FAIS	14	2
FSB	238	34.2
GEPF	261	37.5
Long-Term Insurance Ombudsman	81	11.6
Post Office	4	0.6
SARS	4	0.6
Transnet	61	9
Total	695	100

Although benefit statements feature at only 4.5% of complaints finalised, more than 80% of the complaints relating to withdrawal benefits, also decry the failure of retirement funds to issue members with benefit statements. This again points to a culture of non-compliance by retirement funds with basic legislative and regulatory prescripts. The failure to provide members with annual benefit statements deprives them of an opportunity to follow-up with their employers in instances of non-compliance with section 13A of the Act.

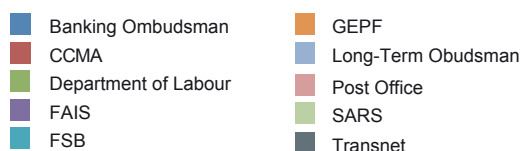
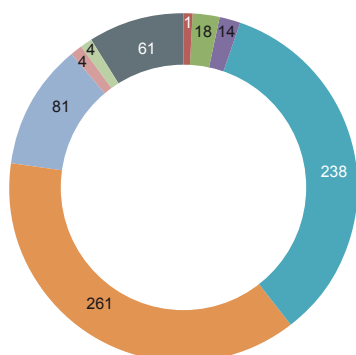
A complaints Tribunal of the OPFA's nature should be used as one of the reference points to assess the health of the industry it serves. If we look to Treating Customers Fairly as the end game, then the trend of complaints points to an industry that is not in good health as far as

governance and its conduct is concerned. The failure by retirement funds to enforce compliance with section 13A of the Act by following the prescribed procedures is of utmost concern. Retirement funds are obliged in terms of section 13A of the Act to recover outstanding contributions on behalf of members as soon as non-compliance occurs. However, this is not done except for an automated electronic mail generated from an administration system here and there. Even in instances where funds approach the OPFA for intervention in respect of employer non-compliance with section 13A, this is often the first and only step that they would have embarked on. In significant instances, by the time a member lodges a complaint with the OPFA, it is often too late as the employer might be under business rescue or undergoing voluntary liquidation. It is, therefore, imperative that the Registrar, in the least, sets up a reporting mechanism to keep track of non-compliance with section 13A of the Act. After all, without compliance to section 13A and enforcement thereof, we do not have a retirement industry.

Retirement funds continue to be plagued by the application of section 37C in respect of conducting a proper investigation into the dependants of a deceased member in order to effect an equitable distribution of a death benefit. This office in the matter of PJ Tsoeunyane v Masakhane Provident Fund and Another PFA/FC/00025008/2016/CMS – clarified the need for a retirement fund to conduct an investigation independent of the employer. In the matter of AJ Malinga v Ejoburg Retirement Fund and Others PFA/GP/00026006/2016/MD – noted the circumstances under which a DNA test is necessary to establish a biological relationship that would entitle a beneficiary to claim a benefit were clarified. Undue delays in the finalisation of section 37C investigations has led us to levy monetary penalties against retirement funds, in the hope that the message would become clear that fund business can be a life or death matter for beneficiaries that suddenly find themselves without financial support and are condemned to live a destitute life whilst their breadwinner's funds lie idle in a retirement fund account. For South Africans that are fortunate enough to belong to a retirement fund, this remains the biggest investment/savings in their lives and therefore, those tasked with managing these funds, especially when the member dies, must take the task seriously and discharge the responsibility with the necessary skills and care.

695 complaints were referred to other entities. The Government Employees Pension Fund (GEPF) accounts for almost 40% of these, closely followed by the FSB. Complaints referred to the FSB relate to section 15B surplus and values for section 14 transfers for which the OPFA has no jurisdiction. Complaints referred to the Long-Term Insurance Ombudsman mostly relate to underwritten disability benefits.

Complaints referred to other entities



Implementation of treating customers fairly (TCF)

The OPFA participates in the Market Conduct Regulatory Framework Steering Committee, which holds quarterly meetings at the Financial Services Board. The committee functions as a stakeholder consultation forum between the FSB (as regulator), the National Treasury (as policy maker) and the stakeholders represented by the Steering Committee members, in relation to the development and implementation of a market conduct legislative and regulatory framework.

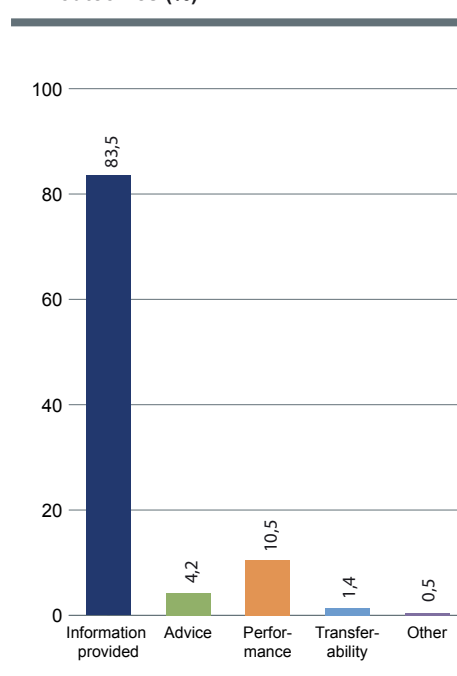
This Tribunal receives a number of complaints that allow us to gauge the implementation of some of the six TCF outcomes. Most of the complaints relate to failure by the funds to provide members with sufficient and clear information that will enable them to make informed choices when acquiring financial products, post-sale barriers when a member wants to transfer his/her retirement annuity to another financial institution and the levying of causal event charges on the fund value. Most retirement funds fail to comply with the following TCF outcomes:

- **Outcome 3:** Customers are given clear information and are kept appropriately informed before, during and after the time of contracting; and
- **Outcome 6:** Customers do not face unreasonable post-sale barriers to change product, switch provider, submit a claim or make a complaint.

This Tribunal records the number of complaints and TCF outcome related thereto. Our statistics for the period in question revealed that 83.5% of the complaints involved the provision of clear information (outcome 3), 10.5% of the complaints relate to investment performance (outcome 5: customers are provided with products that perform as firms have led them to expect), 4.2% of the complaints relate to the advice or lack thereof provided at the time of contracting (outcome 4: provision of suitable advice), 1.4% relate to refusal to allow a transfer of funds (outcome 6: post-sale barriers) and 0.5% relate to general dissatisfaction with service (outcome 1: fair treatment of customers).

This Tribunal remains concerned about the weaknesses in regulations in the retirement sector when viewed in light of the abovementioned TCF outcomes.

TCF outcomes (%)



OPERATIONAL REPORT 2016/17 continued

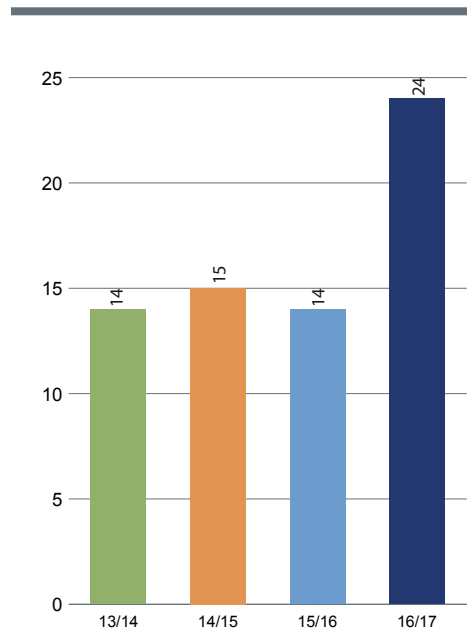


From left to right: Duma Lubando; Tinyiko Shihundla; Muvhango Lukhaimane; Tintswalo Shibambu; Henry Chelhango; Carmen Kotshoba.

Section 30P appeals

24 appeals were lodged against determinations handed down by the Adjudicator. One of these were lodged by Brinant Security Services, an employer in the private security sector, against a determination by the Adjudicator insisting that all outstanding contributions owing to the PSSPF in respect of its employees be paid instead of a lesser amount that the employer had tendered to pay in a settlement agreement with the fund. It is important that this matter be heard as it will clarify whether a fund can lawfully enter into a settlement agreement for outstanding contributions in violation of its rules and the Act.

Section 30P appeals



Stakeholder engagements

Meetings were held with the following stakeholders to facilitate the complaints management process; Metal Industries Benefit Funds Administrators, the Private Security Sector Provident Fund, Bosele National Provident Fund, Robson Savage fund administrators, Borwa Financial Services, Orion Security Services, Salt Employee Benefits, Auto Workers Provident Fund and Akani Retirement Fund Administrators. A meeting was also held with Legal Aid South Africa regarding the challenges that they encounter when assisting complainants to enforce determinations granted by the OPFA.

The Adjudicator attended the following stakeholder engagements; Financial Planning Institute VIP Gala Dinner, The Sunday Times Top 100 Companies Awards and launch of the Annual Report for the office of the FAIS Ombud.

The Adjudicator gave talks at the Batseta April Seminars in Johannesburg and Cape Town, the Batseta Winter Conference, the Actuarial Society of South Africa's Pension Conference, the FAIS Ombud Graduates Induction, the International Network of Financial Services Ombudsman Schemes 2016 Conference, the Pension Lawyers Association Conference and facilitated a workshop with the trustees of the Media 24 Retirement Funds.

She attended to the following interviews: radio interviews with Cape Talk, Classic FM, Phalaphala FM, RSG, SAFM, Ligwalagwala FM and Motswedding FM. She also attended to television interviews with Business Day TV and SABC 2.

The Adjudicator held meetings with the Trustees of the Municipal Employees Pension Fund, the Mineworkers Provident Fund, Swiss Re and the Department of Labour on PSSPF and other Sectoral determination funds (the department wants to extend compulsory funds to other sectors and needed feedback on the issues in existing funds). The Adjudicator also met with a representative of the Capital Market Regulator in Uganda, Old Mutual Life Assurance (SA) Limited, Liberty Group Limited and representatives of the Financial Planning Institute.



Tshepo Dooka-Rampedi (left); and Muvhango Lukhaimane (right)



Kurhula Masinge; Masilo Maepa

Human resources management

The OPFA firmly believes that to achieve its objectives and deliver on the mandate it is critical to have the right people at the right time with appropriate skills, energy and drive. In addition to this, a mindset of service delivery is crucial, whilst also focusing on a conducive climate and culture.

Organisational development

During this period more focus was placed on cultivating a culture that is conducive for all employees to perform to the best of their abilities. The climate survey follow up session was conducted with all the employees with the aim of identifying the progress made in implementing the initiatives that were identified in building a conducive climate that will result in a high performance culture within the organisation. Some of the initiatives implemented were regular team meetings, change management sessions, recognition of team and individual performance, strengthening of HR systems and review of policies, amongst others. Furthermore the organisation embarked on a team building exercise as part of organisational development where the code of conduct was enhanced. Management also held a session to identify key areas of focus in taking the organisation forward. More gaps identified will be implemented in the following year.

Performance management

The OPFA places emphasis on a culture of high performance. Individual and team feedback meetings are being held regularly to provide feedback on performance. It is crucial that performance remains on an upward trajectory as we deliver a service to the retirement funds industry.

OPERATIONAL REPORT 2016/17 continued



Lerato Mokoena; Bathabisile Khumalo; Wilana Groenewald; Tshepo Dooka-Rampedi; Siphokazi Cetyana

During the latter part of the year, the OPFA embarked on a performance improvement initiative for professionals to improve efficiency and accountability for work.

Employee wellness

Ten (10) employees resigned from the organisation during this period while key managerial positions were filled. As the OPFA strives to build a culture of high performance and team cohesion, at times this results in employees that are unable to fulfil the required performance expectations of the organisation, opting to leave the organisation. This also provides the organisation with the opportunity to revitalise the team with new ideas. Noting the need for employees to thrive in a demanding environment, a rigorous wellness plan was put in place to ensure that social support is provided to staff and their immediate family members to be able to cope with any potential life and work related challenges. Employees were also involved in wellness activities to encourage physical and mental well-being (there is a tennis team and a cardio/weights/aerobics team). Continuous emphasis is placed on the need to destress and equip oneself with coping/thriving skills.

People development

The organisation has made available opportunities to all the staff to participate in any meaningful training that will impact the employees positively. The team building exercise was also used to train staff on the behavioural requirements that are important to thrive in the organisation. Training on legal drafting, case management, Women in Leadership, Team effectiveness, Business administration, GRAP methodology, HR system, ICT Security and Strategic planning took place during this period. The organisation will keep on implementing any identified learning interventions that further the development and well-being of staff to better perform their roles within the organisation.

Training costs

Objective	Training expenditure (R)	Number of employees trained	Average training cost per employee (R)
Legal studies	6 500.00	1	6 500.00
Other skills training costs	377 676.48	51	7 405.42

Information and Communication Technology (ICT)

The OPFA continued to make advances in the maturity of its ICT environment during the year. Aligned with the organisation's approach to manage and mitigate its ICT environmental risks, the OPFA implemented further security measures over its ICT hardware and access controls. This was achieved through the tightening of monitoring controls and the implementation of additional encryption software on the environment.

In order to improve the performance and capabilities of the ICT environment, the organisation continued with its procurement programme to enhance its ICT infrastructure to achieve high availability of systems. This is required to support the growing dependency and reliance by business on its ICT environment.

SUMMARY OF IMPORTANT DETERMINATIONS

One of the advantages of a specialist tribunal such as the Office of the Pension Funds Adjudicator (OPFA) is that parties can rest assured that there is a repository of specialist pensions law knowledge that understands the nuances of the retirement funds industry. It is this knowledge that enables the tribunal to resolve disputes in an expeditious and economical manner, whilst at the same time adhering to the rule of law. Below follows a selection of determinations by Pension Funds Adjudicator, Muvhango Lukhaimane, which settled important areas of the law around pension funds administration during the year under review.

Non-payment of a withdrawal benefit

A defined benefit fund not appropriate for employees on TCTC

It is not true that the Income Tax Act compels all employees to be members of a fund which the employer contributes into, the Pension Funds Adjudicator has ruled.

Muvhango Lukhaimane said the Income Tax Act only regulates the treatment of contributions and benefits once a person joins such a fund.

Ms Lukhaimane was commenting following a complaint brought by TM Ramodula against the Free State Municipal Provident Fund (first respondent), Alexander Forbes Financial Services (Pty) Ltd (second respondent) and Mangaung Metro Municipality (third respondent).

The complainant was employed with the third respondent from August 2012. He voluntarily became a member of the first respondent on 1 January 2015.

On 4 September 2015, he requested a benefit statement from the third respondent. The benefit statement reflected his provident fund contributions in the amount of R6 060 instead of an amount of R7 575 as reflected on his pay slip.

The complainant further submitted that his provident fund contributions for January 2015, did not appear on the benefit statement. However, he was advised by the third respondent that provident fund contributions for January 2015 were paid.

The complainant said he was advised that he could not withdraw his membership while he remained in service. He submitted he had not received any policy documents confirming that his membership of the first respondent was a condition of employment and, therefore, compulsory.

The first respondent submitted that both employee and employer contributions were payable to the first respondent. The complainant contributed an amount of

R1 515.06 and the third respondent contributed an amount of R6 060.22. The total monthly contributions received by the first respondent in respect of the complainant was an amount of R7 575.28.

However, certain deductions were made from the third respondent's contributions. These included risk benefits, insurance, administration and consulting fees, ad hoc fees and funeral insurance.

The remainder of the third respondent's contribution together with the complainant's contributions were allocated and used towards the complainant's retirement funding.

The first respondent further asserted that the complainant joined as its member on 1 January 2015. An administrative error occurred which led to the contribution for January 2015 not being allocated to the complainant's record. This had since been rectified.

It attached a copy of the complainant's amended benefit statement in support of its submissions.

The first respondent further submitted that membership of the first respondent was compulsory since the conditions of employment required him to be a member of the fund in which his employer participated.

Therefore, since membership of the first respondent was a condition of employment and the complainant remained in service of the third respondent, he could not exit the former, the first respondent said.

The third respondent submitted that hard copies of benefit statements were distributed to members of the first respondent. Further, the complainant was remunerated on a total cost to company basis, which had the effect that the total provident fund contribution deduction to the first respondent was effected from his remuneration package.

SUMMARY OF IMPORTANT DETERMINATIONS **continued**

The third respondent used the same payroll system for all employees, hence, the contributions for all employees were shown as “employer contribution” and “employee contribution”. It submitted that employee contributions were 4.5% and employer contributions were 18.0% of pensionable salary.

The third respondent submitted that compulsory employee membership arose from the definition of pension fund and provident fund in the Income Tax Act 58 of 1962. This was a requirement of the South African Revenue Services. Further, that while a member remained in service, he or she was not allowed to withdraw from membership.

In her determination, Ms Lukhaimane said the complainant's conditions of employment provided that he may elect to become a member of the first respondent from the date on which he commenced employment. According to his contract of employment, membership of the first respondent was not compulsory.

“The facts in this matter indicate that the complainant's contract of employment does not make it compulsory for him to join the first respondent as this is not set as a condition of his service.

“The third respondent is also misguided in its assertion that the Income Tax Act makes it compulsory for all employees to be members of a fund the employer contributes in.

“The Income Tax Act only regulates the treatment of contributions and benefits to and from a retirement fund once a person who qualifies to be a member of a retirement fund joins such a retirement fund.

“In the complainant's instance, he is not compelled by his conditions of service to become a member of the first respondent. In addition to this, the complainant is remunerated on a total cost to employer basis.

“This meant that all the contributions made to the first respondent, were made by him and none can be attributed to the third respondent.

“The third respondent has so much as admitted that the only reason that the complainant's contributions are classified into employer and member contributions is owing to the fact that the complainant's remuneration aspects are managed on the same payroll system as that of its employees that are compelled to be members of the first respondent.

“Therefore, for administrative purposes of the payroll system, the third respondent has taken upon itself to regard a certain portion of the complainant's remuneration package as employer contributions which is manifestly unlawful.”

Ms Lukhaimane said it was a practice of local authorities to appoint skilled individuals to specific positions on a contract basis, normally spanning a period of up to five years.

These individuals enter into an employment contract with the local authorities which is based on a cost to employer package.

“As in the instance of the complainant, it was not a requirement for the third respondent to contribute to his retirement benefit. The first respondent's rules exclude part-time employees or employees appointed for a limited period from membership.

“It is the responsibility of the third respondent to ensure that its employees are well informed about their participation in a fund that would accommodate their remuneration structure and employment conditions.

“It is further the responsibility of the local authorities to ensure that employees appointed on a contract basis are provided with the appropriate fund in which their contributions will be invested for their benefit, thereby avoiding financial prejudice associated with defined benefit funds where membership is for a limited period of time.

“The third respondent must take the necessary precaution to ensure that its employees join a fund that is in line with their employment contracts.”

Ms Lukhaimane ordered the third respondent to refund the complainant the total amount of all the contributions made on his behalf; i.e. both deemed employer and employee/member contributions.

PFA reports Fund Principal Executive Officer to Registrar

The Pension Funds Adjudicator has taken the Principal Executive Officer of a pension fund to task for undue delay in the payment of a withdrawal benefit.,

Muvhango Lukhaimane has referred her determination following an investigation into a complaint to the Registrar of Pension Funds to enquire whether the Officer is a fit and proper person to serve in such a position.

B Ngoveni lodged a against the Municipal Employees Pension Fund (first respondent); Akani Retirement Fund Administrators (Pty) Ltd (second respondent) and City of Tshwane Metropolitan Municipality (third respondent) following the delay in the payment of a withdrawal benefit after her exit from service.

The complainant was employed with the third respondent from 1 July 2014 to 31 July 2015 when she became entitled to receive a withdrawal benefit in terms of the rules of the first respondent. However, no benefit was paid to the complainant despite submitting claim forms.

The complainant said she had communicated with several employees of the first respondent to no avail.

The second respondent confirmed it had received a complaint from the complainant. The complainant's file was before the board of management for approval. The second respondent also submitted it could not confirm the actual date of finalisation of the file and it would endeavour to expedite all files before the board.



Standing from left to right: Samuel Matjila; Carla van Pairen; Karabo Masekela; Bhekinkosi Sekgotho; Nomlindo Mpongo; Steven Kwinda; Khutso Mafokwane; Malesela Molefe. **Seated from left to right:** Jerry Buthane; Tshepo Dooka-Rampedi.

"It is trite law that the employer in a pension fund at the very least owes a duty of good faith to its employees.

"It is also essential for the employer to complete a withdrawal notification form indicating the cause of the termination of employment. This, in turn, allows the fund to determine which benefit is payable.

"Thus, in the absence a response from the third respondent, this Tribunal concludes that the third respondent failed to comply with its duty of good faith in terms of assisting the complainant to claim her withdrawal benefit within a reasonable period following her exit from service."

She said the first respondent's rules were silent with regard to the time period allowed before a benefit was paid to a member.

"The first respondent stated that the claim is awaiting the approval of the board of management. However, this is not a reasonable justification for the delay in making payment to the complainant having regard to the date the claim was submitted.

"That the first respondent's Principal Executive Officer can sign off responses like this to this Tribunal leads this Tribunal to question her fitness to discharge her duties as Principal Executive Officer.

"For this reason, this Tribunal is referring this determination to the Registrar of Pension Funds with a request that they consider an enquiry into whether the Principal Executive Officer is a fit and proper person to serve as such in terms of the Act.

"This Tribunal concludes that the delay in the payment of the complainant's withdrawal benefit since the submission thereof is unreasonably long. This is more so in that there is no reasonable justification for the delay.

"Therefore, the appropriate relief is for the first respondent to be ordered to pay the complainant's withdrawal benefit

without any further delay together with interest," Ms Lukhaimane said.

Fund must verify benefit recipient's identity

There is onus on the part of a pension fund to ensure that payment is being made to the correct person, says Pension Funds Adjudicator, Muvhango Lukhaimane.

She was commenting in a matter in which someone not entitled to a benefit, received a benefit of R753 549.46.

J Louw complained that Implats Pension Fund (first respondent); Sanlam Life Insurance Limited (second respondent) and Marula Platinum Mine (third respondent) had not paid him a withdrawal benefit.

He had commenced employment with the third respondent on 7 August 2006 until his resignation on 31 October 2013.

He submitted that on 31 October 2013, he travelled to the third respondent's site office to finalise his pension matter. However, a representative of the second respondent was not available to enable him to complete the necessary documents.

On 13 June 2016, he followed up on the payment of his benefit and was advised that it was paid on 10 July 2015 into his First National Bank (FNB) account.

He advised the payroll officer that he did not have an FNB account and the supporting documents were subsequently sent to him via electronic mail.

He stated that he noticed the following discrepancies in the supporting documents:

- the identity document was false, with a different photo and no watermark;
- the photo on the identity document was one of a white male, whereas he is coloured;

SUMMARY OF IMPORTANT DETERMINATIONS *continued*

- Suid Afrika was the country of birth on the complainant's identity document whereas the false identity document had South Africa as country of birth;
- the application was completed in two different handwritings, not that of the complainant;
- the signature was not that of the complainant;
- the address reflected Centurion as the complainant's address whereas he lived in Eesterus, Pretoria; and
- the banking details on the claim form reflected an FNB account although he only utilised a Standard Bank account which was on record with the third respondent.

The first respondent submitted that upon review of the documentation used to claim the benefits in 2015, it confirmed that the bank account was verified with FNB and was linked to the complainant's identity number.

It submitted that an investigation conducted by it indicated that there was no evidence of wrongdoing in the handling of the claim. Further, the second respondent informed it that there was no misconduct or fraud detected internally during the processing of the claim.

The second respondent confirmed that the complainant's tax directive was declined due to an outstanding 2013 Income Tax Return. It stated that this was communicated to the complainant on the email address provided. It would seem that the outstanding Income Tax Return was then completed and submitted to the South African Revenue Service (SARS) who duly approved the Tax Directive for payment.

It stated that it encouraged the complainant to report the matter to the various authorities as this seemed to be a case of identity fraud which would have far reaching effects on the complainant.

The second respondent submitted that the complainant was a member of the first respondent by virtue of his employment with the third respondent. It submitted that the complainant's personal details were provided by the third respondent when the complainant joined the first respondent.

The second respondent submitted that payment of R613 991.11 was made into an FNB bank account on 10 July 2015. It also submitted that it followed due process and was not negligent in processing the claim and making payment of the member's fund benefit.

In her determination, Ms Lukhaimane said payment made to a member should have required some verification by the first respondent to ensure that payment was being made to the person entitled thereto.

"The second respondent submitted that the complainant was paid a withdrawal benefit upon receipt of the relevant claim documents from the third respondent.

"However, the complainant disputes having an FNB account, the account into which the payment of the withdrawal benefit was made.

"It is also clear from the identity document provided by the second respondent and the complainant that it has been tampered with, as the pictures on the identity document differ, although the issue date of the document

remains unchanged.

"The second respondent indicated that the only difference in the Identity document was the country of issue.

"This, although a minor discrepancy, should have raised concern which would have prompted the second respondent to investigate the authenticity of the identity document and ultimately the claim documents and the information provided.

"It appears from the submissions of the second respondent that it relied solely on the information provided by the third respondent."

Ms Lukhaimane said a fund must keep records of all members joining, in order to cross check and verify the information in its possession upon the withdrawal of such members.

"It is common cause that the identity document used to claim the withdrawal benefit is not that of the complainant. Thus, the first respondent failed to verify the details of the person claiming such a withdrawal benefit and subsequently paid the benefit to an unknown person.

"This is an indication that the first respondent's controls are either weak or non-existent. The submissions indicate that fraud has been committed against the first respondent and not the complainant.

"This Tribunal finds that the complainant has suffered financial prejudice and his fund credit must be reinstated immediately."

Ms Lukhaimane said Section 7D(1)(b) of the Act provides that the duties of the board shall be to ensure that proper systems of control are employed by and on behalf of the board.

However, the second respondent had failed to perform these statutory duties, causing someone not entitled to a benefit, receiving a benefit of R753 549.46 from the first respondent.

"This money belongs to the first respondent. It is prudent for the first respondent to recover this money to safeguard the interests of its members. The first respondent lost this money as a result of the negligent conduct of the second respondent.

"Further this is not the first instance where the second respondent failed in its duties as administrator and paid a benefit to someone not entitled thereto.

"Therefore, the board of management of the first respondent is entitled to claim the amount directly from the second respondent. The complainant on the other hand is entitled to his benefit from the first respondent."

Ms Lukhaimane ordered first respondent to pay the complainant his withdrawal benefit, plus interest.



Standing from left to right: Thomas Maponya; Lerato Mokoena; Vuyiswa Mangeni; Nthabiseng Maleka; Tshepo Thulare; Mashudu Matovheke; Christian Seabela.
Seated from left to right: Yolande Van Tonder; Charlson Raphadana.

Cession of pension benefits not allowed

A pension fund has no right to cede pension benefits, the Pension Funds Adjudicator Ms Muvhango Lukhaimane has ruled.

Ms Y Strydom of Pretoria complained that RFS Umbrella Pension Fund (first respondent), administered by RFS Administrators (Pty) Ltd (second respondent) made a deduction from her withdrawal benefit following the termination of her service.

The complainant commenced employment with the second respondent from 1 August 2008 until 31 May 2016 when her services were terminated.

She had expected to receive her full withdrawal benefit from the first respondent. However the first respondent deducted a portion of her withdrawal benefit and paid it over to the second respondent.

The complainant submits that she resigned from her employ with the second respondent after having worked for it for a period of almost seven years. Part of her duties was to deal with members who resigned and claimed their pension benefits.

The complainant said the second respondent changed its administration system and during the migration to the new system, problems were encountered resulting in manual payments, which in turn, caused backlogs on exit claims. During this period employees were under immense pressure.

She said she received a claim for a particular member of the first respondent, a Mr Zulu, processed it and documents were handed over to her supervisor for approval. The said supervisor returned the documents with a note "Please redo the ID number", which she complied with and processed payment of the member's withdrawal benefit which amounted to R109 321.68 on 25 May 2015.

She submitted that in December 2015, she was contacted by the human resources manager of Glencore, a participating employer in the first respondent, who informed her that he received confirmation that Mr Zulu received his pension benefit from the first respondent. However, Mr Zulu was still employed by Glencore and, therefore, was not entitled to a pension benefit. It was only then that she realised that the incorrect member was exited on the system and paid his pension benefit.

She immediately informed her supervisor and a meeting was held on 22 January 2016 at which the CEO of the second respondent informed her and her supervisor that they were all guilty. He gave them a choice to either sign the acknowledgment of debt form, for the amount wrongfully paid over to be deducted from their pension benefits in the first respondent, or for them to resign.

The complainant said that according to the CEO, in terms of section 37D of the Act, the second respondent was entitled to enforce a cession agreement as it could not afford to write off another loss. She said she could not afford to lose her job and as a result, she signed the cession agreement.

In an attempt to rectify the problem, she contacted Mr Zulu, who received the payment incorrectly, by e-mail. Mr Zulu agreed to pay back the amount in monthly instalments of R1 000.

She said this arrangement was discussed with her supervisor who informed their manager of the arrangement. Their manager instructed that the money repaid by Mr Zulu be paid into the bank account of the second respondent and not the bank account of the first respondent. Mr Zulu started repaying the money on 4 April 2016.

She submits that when she resigned, only amounts of R500 of the R1 000 repaid by Mr Zulu were taken into account when an amount of R51 744.88 was deducted from her pension benefit. As far as she knew, Mr Zulu was still paying an amount of R1 000 into the bank account of the second respondent.

SUMMARY OF IMPORTANT DETERMINATIONS **continued**

She said the second respondent informed her that it would refund her an amount of R500 per month if Mr Zulu made payment to it. In this regard, she had not received any payment or further communication from the second respondent. She further said she did not know if any of the money was recovered from either the first respondent's or the second respondent's insurers.

She contended that the CEO had acted wrongfully in forcing her to sign a cession agreement, which she claimed to be illegal as it did not comply with the requirements as set out in the Act. She said she did not sign the document freely and voluntarily, but rather as a result of undue pressure from the CEO in that she had only two choices, i.e. either to resign from employment, which she could not afford to do, or to sign the agreement.

She further said she was of the view that the document was a cession agreement to cede her pension benefit that did not comply with the requirements as set out in the Act. The document did not refer to a liability in terms of the Act.

Further, the document did not refer to a statement made by her that the loss caused to the second respondent was through theft, fraud, dishonesty or misconduct that involved dishonesty, or that the second respondent was entitled to any compensation, as a consequence of her causing it damage as a result of theft, fraud, dishonesty or misconduct. She further submitted that she did not acknowledge any guilt.

She contended that on the facts of the matter, she was of the view that the action that she was accused of, could only be negligence and not in any way be theft, fraud, dishonesty or misconduct that involved dishonesty, as was required in section 37D(1)(b)(ii)(aa) of the Act.

The first respondent said in its response it was provided with the cession agreement, duly signed by the complainant, the minutes of a disciplinary hearing held on 22 January 2016 and a statement of acknowledgement of debt. On the strength of the aforementioned documentation, it deducted the debt from the complainant's benefit upon withdrawal.

It stated that two amounts were deducted from the complainant's withdrawal benefit, namely, an amount of R51 744.88 which was the basis of the complaint and an amount of R61 073.75 with regards to a personal loan granted by the second respondent as the employer of the complainant.

In her determination, Ms Lukhaimane said that as a general rule, section 37A of the Act provided that pension benefits shall not be reducible, transferable or executable and ceded. The object of section 37A was to protect members' pension benefits.

However, there were exceptions to this principle in certain circumstances. For example, a registered fund may deduct any amount due by a member to his employer on the date of his retirement or on which he ceases to be a member of the fund, in respect of compensation in respect of any damage caused to the employer by reason of any theft, dishonesty, fraud or misconduct by the member, and in respect of which the member has in writing admitted liability to the employer.

"What is evident from the provisions of section 37A of the Act is that cession of pension benefits is one of the acts which is prohibited therein.

"It appears that the second respondent interprets the cession agreement signed between it and the complainant to amount to an acknowledgement of liability in terms of section 37D(1)(b)(ii)(aa) of the Act, which is highly misplaced.

"This Tribunal further notes that the conduct upon which the complainant's withdrawal benefit was attached by the first respondent stems from a negligent act of processing a withdrawal benefit to a wrong party, Mr Zulu, who according to the complainant, is repaying the amount that was incorrectly paid to him.

"Evidently, the said conduct by the complainant does not relate to damage suffered by the second respondent due to any theft, dishonesty, fraud or misconduct perpetrated by the complainant as envisaged in terms of section 37D(1)(b)(ii) of the Act.

"Therefore, the first respondent could not attach the complainant's withdrawal benefit under the current circumstances.

"In the circumstance, the first respondent must be ordered to pay the complainant's withdrawal benefit which is equivalent to the amount deducted and paid over to the second respondent, together with interest."

Ms Lukhaimane was also critical of the first respondent's submission that it deducted the complainant's benefit with respect to a personal loan.

"This deduction also does not appear to be consistent with the provisions of section 37D(1)(b)(ii) of the Act.

"As administrators in the retirement fund industry, the respondents should have known better and desisted from what appears to be abuse of the Act and taken advantage of their positions.

"As a result of this conduct, the respondents' act will be brought to the attention of the Registrar of Pension Funds for an inspection and remedial action," she said.

Withholding of a withdrawal benefit

PFA orders payment of withdrawal benefit

The Pension Fund Adjudicator has found that withholding a withdrawal benefit for three years to be too long after the complainant was dismissed for fraud and criminal or civil proceedings against her had yet to be instituted.

Muvhango Lukhaimane ordered the Consolidated Retirement Fund for Local Government to pay Ms NL Mdlalo the R300 000 that was withheld from her withdrawal benefit following the termination of her employment at the Nkonkobe Local Municipality (third respondent).

The complainant was employed by the third respondent from 1 August 2001 until 15 January 2013 when her services were terminated when the third respondent was in the process of investigating the complainant for alleged theft and fraud.



Standing from left to right: Phumudzo Sadiki; Neo Mashigo; Lalita Jadoonandan; Mfundo Daki; Siphokazi Cetyana; Busisiwe Tjale; Urisha Maharaj; Sibongile Jamekwane; Caswell Ritshuri. **Seated from left to right:** Kgomotso Matsi; Busisiwe Dhlamini; Silas Mothupi.

The complainant said there was no legal basis for withholding her withdrawal benefit. She said section 37D(1)(b) of the Pension Funds Act provided that a registered fund may deduct any amount due by a member to his employer on the date of his retirement or on which he ceased to be a member of the fund, in respect of compensation (including any legal costs recoverable from the member in respect of any damage caused to the employer by reason of any theft, dishonesty, fraud or misconduct by the member, and in respect of which the member has in writing admitted liability to the employer; or judgment had been obtained against the member in any court.

The complainant said that on 11 July 2013, the Grahamstown High Court, had issued an interdict against the first respondent barring it from paying a sum of R300 000 to her until all criminal investigations and judicial processes had been finalised.

She said the first respondent was neither in possession of a written admission of liability nor had court proceedings been instituted to confirm her liability. She stated that the third respondent had no intention of instituting any civil or criminal proceedings against her, as after two years and 11 months from the date of her dismissal, no legal proceedings had been instituted against her.

She further contended that the third respondent had not made out a prima facie case against her and as a result, it was illegally withholding her benefit.

The second respondent, Verso Financial Services (Pty) Ltd, filed a response in its capacity as the administrator of the first respondent. It submitted that the first respondent had received a letter from the third respondent's attorneys informing it that the third respondent would be applying for an interdict barring the first respondent from paying the complainant's withdrawal benefit, following the financial loss sustained by it as a result of the complainant's misconduct.

It further submitted that on 24 April 2013, the first respondent was presented with a founding affidavit from the Municipal Manager of the third respondent wherein it was stated that the loss of money was discovered in the Budget and Treasury Office. Subsequently, a disciplinary enquiry was instituted and the complainant was found guilty of misappropriating the said funds and dismissed.

On 10 May 2013, the first respondent was served with a court order issued on 9 May 2013 by the High Court, interdicting it from paying the complainant's withdrawal benefit until criminal investigations and relevant judicial processes had been finalised.

On 13 August 2013, the first respondent was served with a final court order handed by the High Court on 11 July 2013, in terms of which the first respondent was barred from paying a sum of R300 000 of the complainant's pension benefits until criminal investigations and relevant judicial processes had been finalised. It averred that on the strength of the said court order, it calculated and paid the balance of the complainant's withdrawal benefit.

Ms Lukhaimane said in her determination that as a general rule, section 37A of the Act provided that pension benefits shall not be reducible, transferable or executable. The object of section 37A was to protect members' pension benefits. However, there were exceptions to this principle in certain circumstances.

"On a plain reading of the provision, section 37D(1)(b)(ii) does not authorise the withholding of a member's benefit where he is potentially liable for theft, fraud or misconduct against the employer.

"The lacuna in this provision would have rendered it abortive in circumstances where the fund is not already in possession of a court order by the time the member terminates his membership.

SUMMARY OF IMPORTANT DETERMINATIONS **continued**

"As a result, the court gave the section a purposive interpretation and found that, to give it efficacy, section 37D(1)(b)(ii) must be read to confer a discretion on the fund to withhold the member's withdrawal benefit pending the finalisation of the proceedings against him.

"The second respondent submits that the first respondent's inability to pay the complainant's benefit stems from the interdict of the High Court which bars it from paying an amount of R300 000 to her pending the finalisation of all judicial processes.

"In this regard, it is important to note that the purpose of the said interdict was to afford the third respondent an opportunity to exhaust all the possible legal avenues to recover the alleged loss from the complainant, within a reasonable time.

"It could not have been the intention of the court to allow the third respondent to sit idly for more than three years from the date of the complainant's termination of service and not pursue either criminal or civil proceedings against her.

"A point must also be made that the interdict did not traverse the merits of whether or not the complainant is guilty of any charge and therefore, this Tribunal has the necessary authority to step in and ensure that justice prevails."

Ms Lukhaimane said that from the onset, her Tribunal had requested the third respondent, on more than one occasion, to provide it with information and proof of whether or not it has instituted any civil or criminal proceedings against the complainant. However, it had failed to do so.

On the other hand, the second respondent confirmed that according to the information at its disposal, no legal proceedings had been instituted by the third respondent against the complainant.

"The complainant stated that she vehemently disagrees with the accusations made by the third respondent and mentioned that for over three years from the date of termination of her service, she has been left in limbo with regards to when her benefit will be paid, considering that no legal proceedings have been instituted by the third respondent.

"This Tribunal finds a period of over three years withholding a complainant's withdrawal benefit to be too long after she was dismissed for fraud.

"This Tribunal notes with concern the passive role played by the board of the first respondent in resolving this matter. This is evidenced by its willingness to allow the third respondent to sit idly and not institute legal proceedings against the complainant if it has any prima facie case against her.

In the circumstance, the inescapable conclusion that this Tribunal comes to is that the third respondent appears not to have a prima facie case against the complainant judging by its conduct which appears to be motivated by malice and vindictiveness, as no justifiable reasons have been advanced why no legal proceedings have been instituted against the complainant for more than three

years from the date on which her service was terminated.

"Thus, the first respondent must be ordered to pay the complainant's withdrawal benefit plus interest without any further delays," Ms Lukhaimane ruled.

Registrar asked to probe retirement fund

The Pension Funds Adjudicator has requested the Registrar of Pension Funds to investigate the conduct of a retirement fund and its administrators for failing to comply with the Pension Funds Act and the rules of the fund on more than one occasion.

Muvhango Lukhaimane said it was perturbing that her Tribunal had previously addressed the matter of unlawful deductions with Bokamoso Retirement Fund (first respondent) and Akani Retirement Fund Administrators (Pty) Ltd (second respondent) but the respondents had refused to take cognisance of the concerns raised.

Ms AM Ngobeni of Hammanskraal had complained she was not paid her full withdrawal benefit. She had been in the employ of the second respondent

from March 2006 until her service was terminated on 11 March 2016.

The complainant submitted that she was dissatisfied with the quantum of her withdrawal benefit. She indicated that her benefit had decreased and such reduction was due to an alleged error in paying a death benefit whilst she was still in employment.

The complainant annexed a copy of her benefit statement dated 31 October 2015, reflecting a fund credit of R684 106.80. She stated further that she was not paid her overtime and her long service payment by the second respondent.

The first respondent submitted that the complainant was charged with misconduct in that she breached the second respondent's operational procedure in paying a death benefit. Her actions resulted in the second respondent incurring financial loss.

The first respondent stated that the complainant appeared before a disciplinary committee on 10 March 2016 and was charged with gross negligence and misconduct. It stated the complainant pleaded guilty and apologised for her actions. It attached a copy of the letter signed by the complainant apologising for the incident and providing an explanation for her actions.

The first respondent submitted that the complainant's service was terminated on 11 March 2016 by the second respondent. In support thereof it attached a copy of a letter addressed to the complainant advising that she was found guilty of charges of misconduct. The letter further provided that all monies owed to the second respondent would be recovered. It further stipulated that the complainant signed the documents and acknowledged the content of the letter. The letter was signed by the complainant on 11 March 2016.

The first respondent submitted that the complainant was subsequently paid a withdrawal benefit in terms of section 37 of its rules. It provided a breakdown of the benefit as follows:

Gross benefit	R633 513.53
Add late payment interest	R4 760.05
Less SARS tax	R109 532.43
Less directive admin fee	R75.00
Less advance bonus	R6 875.00
Less Mahlebe's death benefit	R139 504.51
Nett benefit	R396 036.64

It indicated that an amount of R139 504.51 was deducted in terms of Section 37D(1)(b)(ii) of the Act, wherein the second respondent recovered financial loss suffered due to the complainant's misconduct.

In her determination, Ms Lukhaimane said as a general rule, section 37A of the Act provided that pension benefits shall not be reducible, transferable or executable. The object of section 37A was to protect members' pension benefits.

However, she said, there were exceptions to this principle in certain circumstances. A registered fund may deduct any amount due by a member to his employer on the date of his retirement or on which he ceases to be a member of the fund, as compensation for "any damage caused to the employer by reason of any theft, dishonesty, fraud or misconduct by the member and in respect of which the member has in writing admitted liability to the employer; or judgment has been obtained against the member in any court, including a magistrate's court".

"In the present matter, it appears that the first respondent relies on the complainant's apology letter and the signed dismissal letter as an admission of liability by the complainant.

"However, in the case of a deduction based on written admission of liability, the admission must be clear in its terms, must be signed by the member, and must contain the following:

- An admission by the member that she or he caused the loss
- A statement as to the amount of the loss; and
- A statement that the loss was caused through theft, fraud, dishonesty or misconduct that involved dishonesty.

"It is clear that the letter relied upon by the first respondent as an admission of liability does not meet the requirements in that, she did not admit to causing the loss through theft, fraud, dishonesty or misconduct.

"It is imperative that a written acknowledgement of liability should be clear and must amount to an unequivocal admission of guilt to the employer. The first and second respondents failed to provide this Tribunal with any submissions indicating that either civil or criminal proceedings have commenced against the complainant for the recovery of the loss it incurred as a result of the complainant's dishonesty or theft.

"It is common cause that the first respondent deducted an amount of R139 504.51 which it indicated was the loss the second respondent suffered as a consequence of the complainant not following procedure in paying a death benefit and a further amount of R6 875 in respect of an advance bonus it had paid. These deductions do not meet the criteria for the deductions permissible and are, therefore, unlawful."

Ms Lukhaimane ordered the first respondent to pay the complainant her outstanding withdrawal benefit plus interest.

"In the instance, the conduct of the first and second respondents cast a very negative light on the capability of the respondents to perform their duties and obligations in terms of the Act and the rules of the first respondent.

"The first respondent in effecting the deductions that were not permissible from the complainant's withdrawal benefit appears to have disregarded or ignored its responsibilities and obligations, to the detriment of its member.

"What further exacerbates the issue at hand is the fact that this Tribunal has previously addressed these deductions with the respondents however, the respondents refused to take cognisance of the concerns raised.

"In casu, the respondents failed to comply with the Act and the rules of the first respondent on more than one occasion. It is on this basis that this matter is referred to the Registrar of Pension Funds to conduct an inspection in terms of section 24 and/or 25 of the Act, regarding the first respondent's compliance with the Act and its rules.

"It is further recommended that the Registrar initiate a thorough investigation into the conduct and licensing conditions of the second respondent," Ms Lukhaimane said.

PFA hits fund with punitive damages payment

A provident fund has been ordered by the Pension Funds Adjudicator to pay a withdrawal benefit plus punitive damages for its failure to satisfy itself that withholding the benefit was allowable, thus resulting in the complainant not being paid his benefit.

Muvhango Lukhaimane ordered RFS Umbrella Provident Fund (first respondent) to pay A Pillay of Durban (complainant) the sum of R542 926.48 plus interest as the withholding of the complainant's benefit was not authorised in terms of Section 37D of the Pension Funds Act.

The complainant was employed by Kintetsu World Express South Africa (Pty) Ltd (third respondent) from 1 May 2006 until 11 November 2013. He was a member of the first respondent by virtue of his employment. The first respondent was administered by RFS Administrators (Pty) Ltd (second respondent).

The complainant submitted that he resigned in November 2013 and was advised by the third respondent that he would be paid his benefit. He was subsequently told by the third respondent that he would be charged. He received summons which he was currently defending. He stated that he was being prejudiced by the first and second respondents as they refused to effect payment of his withdrawal benefit.

SUMMARY OF IMPORTANT DETERMINATIONS *continued*



Standing from left to right: Tonny Kedikilwe; Pamela Mpofu; Wilana Groenewald; Dolly Sibanda; Evah Mokwape
Seated from left to right: Bathabisile Khumalo; Madumetja Mogale.

The first respondent submitted that its procedure entailed that a withdrawal form be completed and signed by the employee and the employer. The third respondent refused to sign and release the withdrawal form.

The second respondent confirmed the third respondent had refused to sign the withdrawal form.

The second respondent had record of court proceedings by means of summons issued against the complainant by the third respondent. It submitted that the civil matter between complainant and the third respondent had been placed on the court roll for 13 to 17 February 2017.

The first respondent submitted that the complainant must be paid what is due to him for the following reasons:

- there was no judgment against the fund or the complainant to withhold any benefit in terms of section 37D;
- enough time was allowed for the third respondent to provide the judgment for damages and the member was now being prejudiced by withholding his payment; and
- the court matters were civil proceedings between the employee and his employer.

The third respondent submitted there was a pending case against the complainant which was set down for trial on 17 February 2017. It provided the Tribunal with a copy of the Notice of Set Down and a copy of the summons. It stated that the case against the complainant was opened in 2014. However, due to the seriousness of the matter, it was still on-going.

In her determination, Ms Lukhaimane said as a general rule, section 37A of the Act provided that pension benefits shall not be reducible, transferable or executable. The object of section 37A was to protect members' pension benefits.

However, she said, there were exceptions to this principle in certain circumstances. A registered fund may deduct any amount due by a member to his employer on the date of his retirement or on which he ceases to be a member of the fund, as compensation for "any damage caused to the employer by reason of any theft, dishonesty, fraud or misconduct by the member and in respect of which the member has in writing admitted liability to the employer; or judgment has been obtained against the member in any court, including a magistrate's court".

She said the third respondent indicated that the complainant committed breach of contract by failing to fulfil his obligations in terms of his employment contract. It stated that the complainant used information obtained during his employment with it for his own benefit, despite his employment contract providing for such restraint.

"The critical issue to be examined and determined by this Tribunal is whether or not the deduction as contemplated by the third respondent is permissible in terms of section 37D of the Act.

"It is common cause that the civil action instituted against the complainant relates to the breach of his employment contract. It is alleged as per the summons that the complainant breached his obligations in his employment contract for his own benefit.

"In the present case, the deduction relating to a breach of contract is not permissible in terms of the categories of section 37D of the Act. Furthermore, the fact that the third respondent has instituted civil action against the complainant does not justify the withholding of the complainant's withdrawal benefit.

"This Tribunal notes with concern the passive role adopted by the first respondent by failing to request reasons or documentary proof for the withholding of the benefit.



From left to right: Fortunate Rathagane; Katleho Molapo; Kwanda Ngcobo.

"If the first respondent made this simple request at the onset, it would be in a better position to assess the claim based on the merits, thus preventing the complainant from incurring prejudice," Ms Lukhaimane said.

She added three years had passed and the complainant had not been paid his withdrawal benefit. Section 7C(2) (a) of the Act provided that the board shall take all reasonable steps to ensure that the interests of members in terms of the rules of the fund and provisions of the Act were protected at all times.

"As a result of the first respondent's negligent conduct, the complainant suffered prejudice in that he has potentially been denied access to benefits which would have become available upon exit from the third respondent."

Apart from ordering the first respondent to pay the complainant the withdrawal benefit plus interest, Ms Lukhaimane also ordered the first respondent to pay the complainant punitive damages in the amount of five percent of his benefit for its failure to satisfy itself as to whether or not the contemplated deduction was allowable, thus resulting in the complainant not being paid his benefit timeously.

Death benefit

Police Service must be educated about pension fund rules

The failure by an employer – in this case the South African Police Service – to submit death claim documents timeously resulted in life assurance benefit claims by two families being repudiated.

The Pension Funds Adjudicator Muvhango Lukhaimane said this placed an unnecessary burden on taxpayers as the SAPS would have to pay the amount to beneficiaries that would have normally been paid by the insurer.

She ordered the pension fund to educate the SAPS of its role and responsibility in terms of the fund rules.

Two widows – Ms GS Shongwe and Mrs BC Kubeka – complained that the South African Local Authorities Pension Fund (first respondent) and the SAPS (second respondent) were responsible for the repudiation of the death claims.

Ms Shongwe's husband EM Buthelezi passed away on 26 July 2012. He worked for the SAPS all his life.

Following his demise, a death benefit was paid to the deceased's dependants. However, a life assurance benefit claim was repudiated by the insurer on grounds of late lodging of the requisite claim documents by the second respondent.

The complainant was dissatisfied with the quantum of the death benefit paid to her. She submitted that the deceased was a loyal employee of the second respondent for 30 years and thus believed she was entitled to a greater benefit.

The first respondent submitted that although the deceased died on 26 July 2012, the death notification form was stamped 2 October 2013.

It stated that its administrator confirmed that the Group Life Assurance was not paid to the beneficiaries as it was declined by the insurer due to late notification of more than 12 months. It submitted that the second respondent failed to submit the claim in time in terms of rule 9.1.1 of its rules.

The second respondent failed to provide a response to the complaint.

Ms Kubeka said following the death of her husband P Kubeka, a death benefit was paid to the deceased's

SUMMARY OF IMPORTANT DETERMINATIONS **continued**

dependants. However, a life assurance benefit claim was repudiated by the insurer on grounds of late lodging of the requisite claim documents by the second respondent.

She said she submitted all the relevant information to the second respondent in time. However, the fact that the second respondent then failed to forward the necessary claim documents to the insurer in time shocked her.

She said she was thrown from “pillar to post” since 2012, as a result of which she was struggling to take care of the needs of her family.

She and her children no longer had medical aid cover as it was terminated and she could not afford to pay for her children’s schooling as she was unemployed.

The first respondent submitted that having investigated the matter, it established that claim documentation was received from the second respondent on 25 September 2013 despite the date of the deceased’s death being 1 October 2011, meaning that claim documents were only received after 23 months of the deceased’s demise.

The second respondent again failed to provide a response to the complainant.

In her determination, Ms Lukhaimane said the entitlement to and payment of a death benefit was governed by the first respondent’s rules.

In this instance, the death benefit claim had been repudiated by the insurer on the basis that the insurer was informed about the deaths after the required time had lapsed.

“Had the second respondent submitted the death claim documents timeously, the dependants in both cases would have been entitled to a benefit as provided for in rule 6.1.2.

“Thus, the beneficiaries and dependants ought to be placed in the position they would have been had the second respondent submitted all the required and necessary documents pertaining to the death benefit claim in time.

“It is imperative for the first respondent to educate the second respondent of its role and responsibility in terms of the former’s rules.

“The unwarranted payment of the death benefit by the second respondent would presumably be funded from the budget allocation of the second respondent from the fiscus.

“This amounts to a waste of tax payers’ funds as the death claim was an insured benefit that would have been settled by the registered insurer and premiums were paid duly.

“It is not the first instance where a division of the second respondent failed to timeously lodge a death claim resulting in its repudiation.

“Therefore, in order to prevent a recurrence of this nature, the first respondent must ensure that the second respondent is aware and kept abreast of its obligations in terms of the former’s rules.”

Ms Lukhaimane ordered the second respondent to pay the beneficiaries in both matters the outstanding death benefit plus interest.

PFA orders Fund to pay death benefit to nominees

Where a deceased is survived by no dependants and there are only nominees, the death benefit, less the deficit of the estate, shall accrue to the nominees, the Pension Funds Adjudicator Muvhango Lukhaimane has ruled.

T Jacoby had complained that the Metal Industries Provident Fund (first respondent) and Metal Industries Benefit Funds Administrators (second respondent) had failed to pay a death benefit to her 12 months after the deceased’s demise.

The complainant was the partner of DL West who passed away on 17 February 2015. The deceased was an employee of Circuit Breaker Industries Limited and a member of the first respondent at the time of his demise.

On 16 July 2014, the deceased completed a beneficiary form nominating the complainant to receive 90% of the death benefit and his friend, Toni Sanderson, to receive 10% of the death benefit.

Upon the deceased’s demise, a death benefit in the amount of R7 125 118.04 became available for distribution amongst his beneficiaries.

The complainant said she was a factual and legal dependant of the deceased. She said she was aggrieved with the decision of the first respondent to pay the entire death benefit into the deceased’s late estate.

The second respondent said the deceased’s wife MD Graham passed away on 30 September 2013. The complainant was in a relationship with the deceased from February 2014 until his death, “which is just a year”.

It stated that it is still investigating and is awaiting information on how the complainant was dependent on the deceased. It received a few affidavits confirming the relationship but no information regarding the complainant’s dependency.

The second respondent stated that the information received from the complainant did not indicate that she was dependent on the deceased in any way nor did her bank statement prove otherwise. Further, proof of the complainant’s dependency had been requested numerous times during its investigation process, however, it had not received sufficient proof of dependency from the complainant or Sanderson.

There had also been several disputes brought forward by Sanderson regarding the relationship between the complainant and the deceased. Even though Sanderson and the complainant were listed on the nomination form, Sanderson confirmed that neither of them were dependent on the deceased financially or in any other way.

The second respondent said the deceased's wife passed away in 2013 and they had no children. The deceased was an orphan and had no surviving siblings. The deceased was the only member on his medical aid and there were no dependants.

The first respondent's board awarded both the complainant and Sanderson a nil benefit. The benefit was paid into the deceased's late estate.

Regarding the complainant's claim that she was a factual and legal dependant of the deceased, Lukhaimane said the complainant could not produce any proof that she was in fact financially dependent on the deceased for her reasonable maintenance needs.

Further, Sanderson, who was a friend and a nominee of the deceased, could not confirm the complainant's dependency on the deceased.

In order to constitute maintenance, the deceased needed to have made regular payments to the beneficiary who claims to be a factual dependant. Expressed differently, the payments should not have been once off and should have been made until the end of the deceased's life in order to constitute maintenance.

"Without any evidence to the contrary, it is the finding of this Tribunal that the complainant was not a factual dependant of the deceased," said Ms Lukhaimane.

However, she added that section 37C(1)(b) of the Act stated that where the deceased was not survived by any dependants and had completed a valid nomination form, the benefit or such portion of the benefit shall be paid to such nominee.

Ms Lukhaimane said the board of the first respondent had misdirected itself by paying the entire death benefit into the deceased's late estate. It had placed too much emphasis on the irrelevant factor such as the duration of the relationship between the complainant and the deceased from February 2014 until his demise, implying that the relationship was short.

It also placed too much reliance on the irrelevant factor of the several disputes brought forward by Mr Sanderson regarding the relationship between the complainant and the deceased.

She said where the deceased is survived by no dependants and there are only nominees, subject to the assets of the deceased's late estate exceeding the liabilities or where there is a deficit, the value of the death benefit less the deficit of the estate shall accrue by right to the nominees.

The board of the first respondent had failed to take into consideration that where there were no dependants and there were nominees, the death benefit did not automatically fall to be paid into the deceased's late estate.

The first respondent should have investigated the liquidity of the deceased's late estate first before deciding on paying the entire death benefit to the late estate.

Ms Lukhaimane ordered that the decision of the board of the first respondent to pay the entire death benefit into the deceased's late estate be set aside.

The first respondent was ordered to investigate if the aggregate amount of the debts in the deceased's late estate exceeded the aggregate amount of the assets.

The first respondent was directed to pay the benefit that was equal to the difference between the aggregate amount of debts and aggregate amount of assets into the deceased's late estate and the balance thereof (if any) to the nominees as specified in the nomination form.

Pension fund must conduct its own investigation to identify dependants

A pension fund must conduct its own independent investigation to identify the dependants of a deceased member.

The duty is not on eligible dependants to come forward and prove their dependency, says Pension Funds Adjudicator, Muvhango Lukhaimane.

She was commenting in a determination following a complaint brought by PJ Tsoeunyane against V Masakhane Provident Fund (first respondent) and its administrator, Sanlam Life Insurance Limited (second respondent).

The complainant was the sister of the late RJ Tsoeunyane who passed away on 25 July 2015. The deceased was a member of the first respondent by virtue of his employment with Lonmin Plc.

Following the deceased's demise, a death benefit in the amount of R653 520.78 became available for distribution to his beneficiaries and dependants.

On 18 February 2016, the board of the first respondent resolved to allocate the death benefit as follows: SM Mogano, life partner: 80%; MI Tsoeunyane, mother: 10%; and SP Tsoeunyane, father: 10%.

The complainant was aggrieved with the allocation of a portion of the death benefit to the deceased's partner, Ms Mogano. She stated that the deceased was a breadwinner in the family.

She stated that when her father claimed the death benefit, he was informed that Ms Mogano has already claimed the death benefit as a life partner of the deceased. The family was surprised as they had no knowledge of Ms Mogano who was not even present during the deceased's burial.

She said that the deceased had been supporting her family since 1993. Together with her siblings, they were dependent on the deceased for their daily needs, including education and transport. She was still in grade 10 and her brother was in grade 12, with no form of income except for her father's monthly pension of R500 which was not enough to meet the family's needs.

The second respondent said that on 18 February 2016, the board resolved that 50% of the benefit will be withheld for 12 months from the date of death and will be paid on receipt of an affidavit from the deceased's family or third parties confirming that Ms Magano was in a relationship with the deceased and the duration of the relationship.

SUMMARY OF IMPORTANT DETERMINATIONS **continued**

It stated that affidavits were received from Diteboho Motshoeneng, Marry Letlape and Simon Mataboge, confirming their knowledge of the relationship between the deceased and Ms Magano.

In her determination, Ms Lukhaimane said when making an “equitable distribution” amongst dependants, the board of management of a fund has to consider the following factors:

- the age of the dependants
- the relationship with the deceased
- the extent of dependency
- the wishes of the deceased placed either in the nomination form and/or his last Will; and
- financial affairs of the dependants, including their future earning capacity potential.”

She said where it was found that the board failed to conduct a proper investigation or to take into account relevant factors, or took into account irrelevant factors, its decision shall be reviewable on the grounds that it exceeded its powers or that the decision constituted an improper exercise of its powers.

She said the complainant was aggrieved with the allocation of a portion of the death benefit to Ms Magano. Whether or not Ms Magano was a de facto dependant on the deceased was a factual inquiry.

According to the investigation report attached to the response, Ms Magano confirmed that she took care of the deceased when he was sick and since his death she was struggling financially.

A supporting affidavit was received from the neighbour, a Mr Msimanga, confirming that the deceased was staying with Ms Magano in Wonderkop and they were in a relationship from 2003. In 2007 they moved to Rustenburg.

The investigation report further indicated that the deceased's father mentioned on his claim form that the deceased had a house that he was sharing with his life partner.

However, there was no confirmation from the family confirming the relationship between Ms Magano and the deceased.

The submissions therefore, indicate that Ms Magano was factually dependent on the deceased.

On the other hand, the complainant submitted that the deceased was the breadwinner in her family. She stated that together with her sibling, they relied on the deceased for their maintenance needs, including education and transport.

The submissions, therefore, indicated that the complainant and her family were also factually dependent on the deceased.

“However, in allocating the death benefit, it seems that the board of the first respondent did not take this factor into consideration. Hence the board of the first respondent allocated 80% of the death benefit to Ms Magano compared to the 20% allocated to the complainant's family,” said Ms Lukhaimane.

“The first respondent submitted that in allocating the death benefit, it relied on the employer, the benefit administrator as well as potential beneficiaries to provide the necessary information.

“It would seem that the first respondent did not conduct its own independent investigation to identify the dependants of the deceased.

“It is trite law that the duty is on the fund to conduct an independent investigation to identify the beneficiaries of the deceased.

“The duty is not on eligible dependants to come forward and prove their dependency as implied by the first respondent.

“Had the first respondent conducted its own independent investigation, chances are that it would have identified the complainant and her sibling as potential dependants of the deceased.”

Ms Lukhaimane ordered the decision of the board of the first respondent in allocating the death benefit, to be set aside.

The board of the first respondent was ordered to re-exercise its discretion in terms of section 37C of the Act, in particular to determine the complainant and her sibling's dependency on the deceased.

A pension fund must consider personal factors

A pension fund must take into account the personal circumstances of beneficiaries when distributing the proceeds of a death benefit, says Pension Funds Adjudicator, Muvhango Lukhaimane.

She said the board of a pension fund may not unduly fetter its discretion by following a rigid policy that takes no account of the personal circumstances of each beneficiary.

Her comments came in the wake of a complaint by A Marais against Sasol Pension Fund (first respondent) and Alexander Forbes Financial Services (Pty) Ltd (second respondent) over the allocation of a death benefit following the death of his father MJ Marais who was a member of the first respondent on 19 July 2015.

The deceased and his former spouse, Ms V Marias, were divorced on 10 May 2007.

Upon the death of the deceased, his fund credit in the amount of R2 958 348.14 was used to purchase his co-habiting partner, Ms Needham, a monthly pension in the amount of R14 581.90. The deceased's insured portion (three times annual salary) was in the amount of R1 063 853.64. From the insured portion, an amount of R735 641.77 was used to pay the deceased's former spouse in terms of the divorce order. From the balance in the amount of R328 211.87, an amount of R60 000 was paid to Ms Needham as an advanced payment. The remaining balance in the amount of R268 211.87 was allocated to the complainant and his sister in equal portions.

The complainant was aggrieved with the board's decision to allocate a portion of the deceased's death benefit to his co-habiting partner. He submitted that the deceased's co-habiting partner was not financially dependent on him and, therefore, not entitled to a portion of the death benefit.

The deceased and Ms Needham entered into a cohabiting agreement which provided that each party would remain the owner of his/her own assets and would be responsible for his/her own liabilities.

The complainant submitted that the circumstances of the cohabitation and the financial dependency of Ms Needham were not considered by the board of the first respondent.

The first respondent submitted that its rules defined a qualifying spouse as a member's legal spouse or partner. This included a union under customary law, union recognised as a marriage under any religion or a person who cohabited with the member and shared a reciprocal duty of support as if they were married.

Therefore, the board was of the view that Ms Needham qualified as a factual dependant and also a qualifying spouse. Further, Ms Needham's financial needs were considered to be greater than those of the deceased's children.

The first respondent said the complainant and Ms B Marias were both employed and were not financially dependent on the deceased. The board considered the financial position of each beneficiary and concluded that Ms Needham was financially worse off than the deceased's children as she now had to pay for all the household expenses without the deceased's contribution.

The first respondent submitted that the board considered the beneficiaries' ages and future earning potential and concluded that the deceased's children were significantly younger than Ms Needham. Moreover, they also had a greater future earning potential compared to her.

The board considered the fact that the deceased's children were both his nominated beneficiaries. Although they were nominated beneficiaries, Ms Needham had a greater need than the children. As a result, a greater portion of the death benefit was allocated to her. The deceased's children were allocated a portion of the death benefit as they were legal dependants and nominated to receive a portion of the death benefit.

In her determination, Ms Lukhaimane said although the deceased and Ms Needham were cohabiting, they entered into a cohabiting agreement which provided that each party had their own assets and liabilities and that no universal partnership existed between them. Therefore, the extent of dependency was non-existent beyond the provision of daily necessities, if at all.

"As such, Ms Needham was not worse off given the extent of her dependency on the deceased. The board misdirected itself by not pegging Ms Needham's benefit to her actual financial dependency that she can prove, which based on the cohabitation agreement would significantly be lower than what was allocated to her (if at all).

"The deceased's children were his nominated beneficiaries and not financially dependent on him. The board considered their ages and future earning potential and resolved to allocate them a portion of the death benefit.

"However, the deceased's children were majors and his nominees. This is a case in point where a board has misdirected its investigation efforts and seeks to prejudice nominees by not limiting the extent of a beneficiary not nominated by the deceased to their actual loss of maintenance." Ms Lukhaimane said.

She ordered the board to reconsider the allocation of the death benefit, bearing in mind the cohabitation agreement between the deceased and Ms Needham and her very limited financial dependency, if any, on the deceased.

"Just as a spouse married in community of property cannot rely on her marriage regime to claim 50% of a death benefit that must be allocated in terms of section 37C of the Act, a person in the position of Ms Needham cannot claim financial dependency beyond that which she has lost as it would be more than what she is lawfully entitled to.

"The decision of the board of the first respondent is hereby set aside. The first respondent is ordered investigate the allocation of the death benefit in respect of Ms Needham in terms of section 37C of the Act, considering the extent of her financial dependency in terms of the cohabitation agreement.

"The first respondent is ordered to proceed with the distribution of the death benefit, within two weeks from completing its investigation," said Ms Lukhaimane.

Causal event charge

PFA lambastes fund over exit fee misstatement

The Pension Funds Adjudicator ordered the Discovery Retirement Annuity Fund to refund a member R16 740.65 that was unlawfully deducted as an early exit fee.

Muvhango Lukhaimane said in her determination that while the imposition of causal event charges was a lawful practice, it was unacceptable for the fund (first respondent) and Discovery Life Investment Services (Pty) Ltd (second respondent) to wilfully disregard the rights of the complainant to be provided with accurate information.

SUMMARY OF IMPORTANT DETERMINATIONS **continued**

She looked forward to proposed legislation which would do away with commission payments which strangled consumers when they terminated their policies or effected changes thereto.

E Steyn of Fish Hoek complained to the Office of the Pension Funds Adjudicator of misstatement by the first respondent in relation to the payment of a causal event charge.

The complainant applied for and was admitted to the membership of the first respondent on 23 September 2014. In July 2016, the complainant requested to be transferred in terms of section 14 of the Act from the first respondent to the Allan Gray Retirement Annuity Fund.

The complainant submitted that an instruction letter of intent was sent on his behalf by the Allan Gray Retirement Annuity Fund to the first respondent on 25 July 2016. He said in the letter he requested the first respondent to provide any penalties or unrecouped costs associated with the section 14 transfer in order for him to make an informed decision.

He said the first respondent provided him with a Client Declaration Form which reflected a zero penalty or zero unrecouped costs. Based on the information supplied by the first respondent, he proceeded with the transfer and signed the said Client Declaration Form.

He further submits that his financial advisor received a copy of a form signed by the Principal Officer of the first respondent, reflecting a transfer value amounting to R119 058.87 with no penalties reflected on the Client Declaration Form.

However, when the Allan Gray Retirement Annuity Fund received the transfer value, there was a discrepancy between the transfer value received and the amount reflected on the Client Declaration Form. On investigation, he discovered that a penalty charge of R13 949.90 had been levied.

The complainant said when his financial advisor approached the first respondent to query the penalty, the latter admitted to having made an error and failing to disclose the penalty as he had requested on his instruction letter of July 2016.

The complainant said the first respondent asserted that despite the error it made, it was entitled to charge a penalty for prematurely terminating the policy.

The complainant said he took the decision to proceed with the transfer on the basis of the information supplied to him by the first respondent and he was of the view that he was prejudiced due to the first respondent's administrative error.

The second respondent submitted that the early exit fee disclosure was made in several documents presented to the complainant.

It stated the penalty fee was in accordance with the provisions of the Long-Term Insurance Act, 52 of 1998 and in accordance with accepted actuarial principles.

It submitted that as a result of an administrative oversight, an early exit fee was not noted on the Client Declaration Form.

It further submitted that in terms of the provisions of section 14A of the Act, any member of a retirement fund was only entitled to his or her minimum individual reserve. It said the complainant's minimum individual reserve was R119 058.87, less early exit fees of R16 740.65 which totalled R102 318.22.

In her determination, Ms Lukhaimane said the second respondent conceded that the first respondent had made an administrative error in informing the complainant that no early exit fees were to be deducted from his fund value.

"The critical question for determination is whether or not the misstatement made to the complainant constituted a delict.

"The complainant indicated that upon receipt of information that no early exit fees were applicable, he decided to proceed with the transfer.

"He further explained that had it not been for the information provided to him, he would perhaps not have proceeded with the transfer."

Ms Lukhaimane said the complainant spelt out in his letter to the first respondent that he wanted to be presented with all charges and penalties to be applied in the event that he continued with the transfer.

"He also made it clear in the said letter that, upon receipt of the said information, he will determine the desirability of continuing with the transfer.

"Thus, the complainant's decision whether to proceed with the transfer or not, hinged on the response of the first respondent.

"Therefore, the first respondent's response in providing him with a Client Declaration Form containing zero early exit fees and the signing of section 14 documentation containing a zero exit fee transfer value by the Principal Officer of the first respondent motivated the complainant to proceed with the transfer.

"The negligent misstatement by the first respondent caused the complainant to act to his prejudice. Therefore, there is a causal link between the administrative error made by the first respondent and the prejudice that the complainant suffered."

Ms Lukhaimane said while the imposition of the causal event charges was a lawful practice governed by the LTI Act, it was unacceptable for the respondents to wilfully disregard the rights of the complainant to be provided with accurate information.



Standing from left to right: Malakia Raedani; Lufuno Balibali; Wonder Dila
Seated from left to right: Gomotsegang Magaseng; Sylvia Arendse.

“The respondents have not explained why they failed to inform the complainant of the administrative error that had been committed and ask him if he indeed wanted to proceed with the transfer in light of the new developments.

“This Tribunal has noted that the National Treasury has published the Retail Distribution Review (RDR), which is meant to be legislation aimed at increasing transparency and improve financial advice standards in the financial services arena.

“The RDR which fosters Treating Customers Fairly (TCF) principles proposes a significant regulatory reform meant to regulate the conduct of business in the financial services space for the benefit of consumers.

“One of the proposed changes under the RDR is to do away with commission payments which strangle consumers when they want to exercise their right and terminate their policies or effect changes thereto.

“The expedited implementation of RDR regulations will extricate consumers from the shackles of out-dated policies which are attached to the imposition of excessive and obscure charges,” said Ms Lukhaimane.

She said the respondents’ actions were inconsistent with the principles espoused by the TCF initiative and they breached their duty of care towards the complainant.

She ordered the first respondent to refund the complainant the amount of R16 740.65 unlawfully deducted from him as an early exit fee, together with 10.5% interest.

CORPORATE GOVERNANCE

FSB Board



AM (Abel) Sithole
Chairperson



HS (Hilary) Wilton
Deputy Chairperson



Jabu Mogadime
Non-executive



Zarina Bassa
Non-executive



Francois Groepe
SARB representative



Diana Turpin
Non-executive



Hamilton Ratshefola
Non-executive



Philip Sutherland
Non-executive



Olano Makhubela
National Treasury representative



Dudu Msomi
Non-executive



Ismail Momoniat
National Treasury representative

Commitment

The Board is responsible for monitoring standards of sound corporate governance and fully endorses the application of the recommendations of the King Report on Governance (King III). The Board is committed to governance processes that give assurance to stakeholders that the operations of the Office of the Pension Funds Adjudicator (OPFA) are conducted ethically within prudent risk parameters in pursuit of best practice.

To the best of the Board's knowledge, information and belief, the OPFA complied with applicable legislation, policies and procedures, and codes of governance in the financial review period.

Composition of the Board and its role

The Board is the designated accounting authority and governs the OPFA in accordance with the provisions of the Pension Funds Act, No 24 of 1956 (the Act), the Public Finance Management Act, 1999 (PFMA) and good corporate governance principles.

The Board comprises of 11 (eleven) non-executive Board members from diverse backgrounds appointed by the Minister of Finance with due regard to experience, technical skills, and the interests of users and providers of financial services, including financial intermediaries and the public interest.

The Board remains primarily responsible for the leadership of the OPFA and for strategic direction and policy, operational performance, financial matters, risk management and compliance. The Board of the Financial Services Board (FSB) was, with effect from 1 April 2010, the accounting authority of the OPFA. The Board generally exercises leadership, integrity and judgement in directing the OPFA in a manner based on transparency, accountability and responsibility. The Board is also the focal point of the corporate governance system within the OPFA. Authority for the day-to-day management of the activities of the OPFA is delegated to the management team (the mandate, role and responsibilities of the Board are set out in the Board Charter).

Delegation of authority

The Board has the authority to lead, control and manage the business of the OPFA. The Board has developed a governance structure of Board committees and has delegated through a comprehensive delegation-of-authority framework some of its authority to the Adjudicator and to MANCO to manage the day-to-day business affairs of the OPFA. The delegation of authority assists decision-making and delivery of strategic objectives without exonerating the Board of its accountability and responsibilities for the OPFA.

Materiality and significant framework

The Board approved a framework of acceptable levels of materiality and significance in accordance with the PFMA.

Board meetings

Board meetings are held at least once a quarter and special Board meetings are convened whenever necessary. During the review period, four scheduled Board meetings were held and no extraordinary Board meetings were convened. Details of attendance by each Board member are set out in the table below.

Name of Board member	27/07/2016	19/10/2016	01/12/2016	28/03/2017
A Sithole (Chairperson)	^	^	^	^
H Wilton (Deputy Chairperson)	A	^	^	^
Z Bassa	A	^	^	^
F Groepe	^	A	^	A
O Makhubela	^	A	A	^
J Mogadime	A	^	^	^
I Momoniat	^	A	A	A
D Msomi	^	A	A	^
H Ratshefola	^	^	^	A
PJ Sutherland	^	A	^	^
D Turpin	^	^	^	^

^ Attendance

A Apologies

Board Secretary

All Board members and governance committee members have access to the advice and services of the board secretariat business unit, which is responsible for ensuring proper governance of the board and assisting board members to discharge their responsibilities under the enabling legislative framework. The acting Financial Services Board Chief Operations Officer had assumed the management of the board secretariat business unit.

CORPORATE GOVERNANCE continued

Committees of the Board

The Board exercises oversight over the OPFA's operations through a governance structure comprising various sub-committees. The committees are responsible for ensuring that the OPFA complies with, *inter alia*, relevant legislation, codes of good corporate governance and practices. Each committee has its own terms of reference, which are reviewed annually in line with best practice.

Audit Committee

The committee is a statutory sub-committee of the Board and assists the Board with its responsibility of safeguarding assets, maintaining effective and efficient internal controls, reviewing the financial information and overseeing the preparation of the annual financial statements. The committee meets at least four times a year. Details of attendance of meetings by each committee member are set out in the table that follows.

Name of member	27/05/2016	21/07/2016	02/09/2016	03/11/2016	17/03/2017
J Mogadime (Chairperson)	^	^	^	^	^
D Msomi	^	^	^	^	^
PJ Sutherland	^	^	^	^	^
H Wilton	A	A	A	A	A

^ Attendance

A Apologies

Risk Management Committee

The committee's function is to evaluate and advise the Board on the adequacy of risk-management processes and strategies. The committee ensures that identified risks are monitored and appropriate measures are put in place and implemented to manage such risks. The committee meets at least four times a year. Details of attendance of meetings by each committee member are set out in the table that follows.

Name of member	01/06/2016	31/08/2016	01/11/2016	01/03/2017
H Wilton (Chairperson)	A	A	^	^
Z Bassa	^	A	^	^
J Mogadime	A	^	A	^
H Ratshefola	^	^	^	^
D Turpin	^	^	^	^

^ Attendance

A Apologies

Human Resources Committee

This committee's function is to ensure that the OPFA's human resources strategy and policies are implemented. It meets four times a year. The members of the committee and a record of attendance of meetings during the year are reflected in the table below.

Name of member	01/06/2016	20/09/2016	01/12/2016	01/03/2017
Z Bassa (Chairperson)	^	^	^	^
H Wilton	^	^	^	^
A Sithole	^	A	A	^

^ Attendance

A Apologies

Remuneration Committee

The committee ensures that the OPFA's remuneration strategy and policies are implemented. It reviews compensation matters, benchmarks salaries of staff and makes recommendations to the Board. It meets four times a year. The members of the committee and a record of attendance of meetings during the year are reflected in the table below.

Name of member	01/06/2016	20/09/2016	01/12/2016	01/03/2017
H Wilton (Chairperson)	^	^	^	^
A Sithole	^	A	A	^
Z Bassa	^	^	^	^

^ Attendance

A Apologies

Strategic plan and budget

Management of the OPFA prepares the strategic plan and budget of the OPFA for Board consideration and approval. The strategic plan and budget are duly submitted to National Treasury for consideration and approval. Quarterly reports are submitted to National Treasury as per the requirements of the PFMA and Treasury Regulations.

ANNUAL FINANCIAL STATEMENTS

CONTENTS

The reports and statements set out below comprise the annual financial statements presented to the parliament:

	Page
Accounting Authority's responsibilities and approval	37
Audit Committee report	38
Report of the Auditor-General to the Accounting Authority on Office of the Pension Funds Adjudicator	39
Annexure – Auditor-General's responsibility for the audit	41
Statement of financial position	43
Statement of financial performance	43
Statement of changes in net assets	44
Statement of cash flow	45
Statement of comparison of budget and actual amounts	46
Accounting policies	47
Notes to the annual financial statements	54
Performance information	62
Useful information about other offices	64

GENERAL INFORMATION

Country of incorporation and domicile	South Africa
Registered office	Block A; 4th Floor, Riverwalk Office Park 41 Matroosberg Road Ashlea Gardens Pretoria 0181
Postal address	PO Box 580 Menlyn 0063
Bankers	Standard Bank South African Reserve Bank
Auditors	Auditor-General of South Africa

ACCOUNTING AUTHORITY'S RESPONSIBILITIES AND APPROVAL

The Accounting Authority is required by the Public Finance Management Act (Act 1 of 1999), to maintain adequate accounting records and are responsible for the content and integrity of the annual financial statements and related financial information included in this report. It is the responsibility of the Accounting Authority to ensure that the annual financial statements fairly present the state of affairs of the entity as at the end of the financial year and the results of its operations and cash flows for the period then ended. The external auditors are engaged to express an independent opinion on the annual financial statements and was given unrestricted access to all financial records and related data.

The annual financial statements have been prepared in accordance with Standards of Generally Recognised Accounting Practice (GRAP) including any interpretations, guidelines and directives issued by the Accounting Standards Board.

The annual financial statements are based upon appropriate accounting policies consistently applied and supported by reasonable and prudent judgements and estimates.

The Accounting Authority acknowledge that they are ultimately responsible for the system of internal financial control established by the entity and place considerable importance on maintaining a strong control environment. To enable the Accounting Authority to meet these responsibilities, the entity sets standards for internal control aimed at reducing the risk of error or deficit in a cost effective manner. The standards include the proper delegation of responsibilities within a clearly defined framework, effective accounting procedures and adequate segregation of duties to ensure an acceptable level of risk. These controls are monitored throughout the entity and all employees are required to maintain the highest ethical standards in ensuring the entity's business is conducted in a manner that in all reasonable circumstances is above reproach. The focus of risk management in the entity is on identifying, assessing, managing and monitoring all known forms of risk across the entity. While operating risk cannot be fully eliminated, the entity endeavours to minimise it by ensuring that appropriate infrastructure, controls, systems and ethical behaviour are applied and managed within predetermined procedures and constraints.

The Accounting Authority is of the opinion, based on the information and explanations given by management, that the system of internal control provides reasonable assurance that the financial records may be relied on for the preparation of the annual financial statements. However, any system of internal financial control can provide only reasonable, and not absolute, assurance against material misstatement.

The Accounting Authority has reviewed the entity's cash flow forecast for the year to 31 March 2018 and, in the light of this review and the current financial position, they are satisfied that the entity has or has access to adequate resources to continue in operational existence for the foreseeable future.

The external auditors are responsible for independently reviewing and reporting on the entity's annual financial statements. The annual financial statements have been examined by the entity's external auditors and their report is presented on pages 39 to 40.

The audited annual financial statements set out on pages 42 to 61, which have been prepared on the going concern basis, were approved by the accounting authority on 31 July 2017 and were signed on its behalf by:



Mr AM Sithole
Chairperson



Ms MA Lukhaimane
Pension Funds Adjudicator

AUDIT COMMITTEE REPORT

We are pleased to present our report for the financial year ended 31 March 2017. The committee is a sub-committee of the Board of the Financial Services Board formed in terms of section 77(c) of the Public Finance Management Act, Act No 1 of 1999 and consists of only non-executive Board members.

The committee is a statutory sub-committee of the board and does not perform any management functions or assume any management responsibilities. The committee's role is to assist the Board in its responsibility of safeguarding assets and operating control systems and also evaluates and advises the Board on the adequacy of risk management processes and strategies. The committee ensures that identified financial risks are monitored and appropriate measures are put in place and implemented to manage such risks. Members of the OPFA Management, internal auditors and Auditor-General attend these meetings by invitation. We are pleased to present our report for the financial year ended 31 March 2017.

AUDIT COMMITTEE MEMBERS AND ATTENDANCE

The audit committee consists of the members listed hereunder and should meet 4 (four) times per annum as per its approved terms of reference. During the current year 5 (five) meetings were held.

Name of member	Number of meetings attended
J Mogadime (Chairperson)	5/5
D Msomi	5/5
PJ Sutherland	5/5
H Wilton	0/5

AUDIT COMMITTEE RESPONSIBILITY

The audit committee reports that it has complied with its responsibilities arising from section 55(1)(a) of the PFMA and Treasury Regulation 27.1.

The audit committee also reports that it has adopted appropriate formal terms of reference as its audit committee charter, has regulated its affairs in compliance with this charter and has discharged all its responsibilities as contained therein.

THE EFFECTIVENESS OF INTERNAL CONTROL

The system of internal controls applied by the entity over financial and risk management is effective, efficient and transparent. In line with the PFMA and the King III Report on Corporate Governance requirements, Internal Audit provides the audit committee and management with assurance that the internal controls are appropriate and effective. This is achieved by means of the risk management process, as well as the identification of corrective actions and suggested enhancements to the controls and processes. From the various reports of the Internal Auditors, the Audit Report on the annual financial statements, and the management report of the Auditor-General South Africa, it was noted that, except for what has already been highlighted, no other matters were reported that indicate any material deficiencies in the system of internal control or any deviations therefrom. Accordingly, we can report that the system of internal control over financial reporting for the period under review was efficient and effective.

EVALUATION OF ANNUAL FINANCIAL STATEMENTS

The audit committee has:

- reviewed and discussed the audited annual financial statements to be included in the annual report, with the Auditor-General and the Accounting Authority;
- reviewed the Auditor-General of South Africa's management report and management's response thereto;
- reviewed changes in accounting policies and practices;
- reviewed the entities compliance with legal and regulatory provisions; and
- reviewed significant adjustments resulting from the audit.

The audit committee concurs with and accepts the Auditor-General of South Africa's report on the annual financial statements, and are of the opinion that the audited annual financial statements should be accepted and read together with the report of the Auditor-General of South Africa.

INTERNAL AUDIT

The audit committee is satisfied that the internal audit function is operating effectively and that it has addressed the risks pertinent to the entity and its audits.

AUDITOR-GENERAL OF SOUTH AFRICA

The audit committee has met with the Auditor-General of South Africa to ensure that there are no unresolved issues.



J Mogadime
Chairperson: Audit committee

31 July 2017

REPORT OF THE AUDITOR-GENERAL TO THE ACCOUNTING AUTHORITY ON OFFICE OF THE PENSION FUNDS ADJUDICATOR

REPORT ON THE AUDIT OF THE FINANCIAL STATEMENTS

Unqualified opinion

1. I have audited the financial statements of the Office of the Pension Funds Adjudicator set out on pages 42 to 61, which comprise the statement of financial position as at 31 March 2017, the statement of financial performance, statement of changes in net assets and cash flow statement and statement of comparison of budget and actual information for the year then ended, as well as the notes to the financial statements, including a summary of significant accounting policies.
2. In my opinion, the financial statements present fairly, in all material respects, the financial position of the Office of the Pension Funds Adjudicator as at 31 March 2017, and its financial performance and cash flows for the year then ended in accordance with Standards of Generally Recognised Accounting Practice (GRAP) and the requirements of the Public Finance Management of South Africa, 1999 (Act No 1 of 1999).

Basis for opinion

3. I conducted my audit in accordance with the International Standards on Auditing (ISAs). My responsibilities under those standards are further described in the auditor-general's responsibilities for the audit of the financial statements section of my report.
4. I am independent of the public entity in accordance with the International Ethics Standards Board for Accountants' Code of ethics for professional accountants (IESBA code) together with the ethical requirements that are relevant to my audit in South Africa. I have fulfilled my other ethical responsibilities in accordance with these requirements and the IESBA code.
5. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my opinion.

Responsibilities of accounting authority for the financial statements

6. The accounting authority is responsible for the preparation and fair presentation of the financial statements in accordance with GRAP and the requirements of the PFMA, and for such internal control as the accounting authority determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error.
7. In preparing the financial statements, the accounting authority is responsible for assessing the Office of the Pension Funds Adjudicator's ability to continue as a going concern, disclosing, as applicable, matters relating to going concern and using the going concern basis of accounting unless the intention is to liquidate the public entity or cease operations, or there is no realistic alternative but to do so.

Auditor-general's responsibilities for the audit of the financial statements

8. My objectives are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes my opinion. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit conducted in accordance with ISAs will always detect a material misstatement when it exists. Misstatements can arise from fraud or error and are considered material if, individually or in aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of these financial statements.
9. A further description of my responsibilities for the audit of the financial statements is included in the annexure to the auditor's report.

REPORT ON THE AUDIT OF THE ANNUAL PERFORMANCE REPORT

Introduction and scope

10. In accordance with the Public Audit Act of South Africa, 2004 (Act No 25 of 2004) (PAA) and the general notice issued in terms thereof, I have a responsibility to report material findings on the reported performance information against predetermined objectives for selected objectives presented in the annual performance report. I performed procedures to identify findings but not to gather evidence to express assurance.
11. My procedures address the reported performance information, which must be based on the approved performance planning documents of the public entity. I have not evaluated the completeness and appropriateness of the performance indicators included in the planning documents. My procedures also did not extend to any disclosures or assertions relating to planned performance strategies and information in respect of future periods that may be included as part of the reported performance information. Accordingly, my findings do not extend to these matters.
12. I evaluated the usefulness and reliability of the reported performance information in accordance with the criteria developed from the performance management and reporting framework, as defined in the general notice, for the following selected objective presented in the annual performance report of the public entity for the year ended 31 March 2017:

Objectives	Pages in the annual performance report
Strategic objective 1 – dispose of complaints received	62 – 63

REPORT OF THE AUDITOR-GENERAL TO THE ACCOUNTING AUTHORITY ON OFFICE OF THE PENSION FUNDS ADJUDICATOR continued

13. I performed procedures to determine whether the reported performance information was properly presented and whether performance was consistent with the approved performance planning documents. I performed further procedures to determine whether the indicators and related targets were measurable and relevant, and assessed the reliability of the reported performance information to determine whether it was valid, accurate and complete.
14. I did not raise any material findings on the usefulness and reliability of the reported performance information for the following objective:
 - Strategic objective 1 – dispose of complaints received.

REPORT ON AUDIT OF COMPLIANCE WITH LEGISLATION

Introduction and scope

15. In accordance with the PAA and the general notice issued in terms thereof, I have a responsibility to report material findings on the public entity's compliance with specific matters in key legislation. I performed procedures to identify findings but not to gather evidence to express assurance.
16. I did not identify any instances of material non-compliance with specific matters in key legislation, as set out in the general notice in terms of the PAA.

Other information

17. The public entity's accounting authority is responsible for the other information. The other information comprises the information included in the annual report. The other information does not include the financial statements, the auditor's report thereon and those selected objectives presented in the annual performance report that have been specifically reported on in the auditor's report.
18. My opinion on the financial statements and findings on the reported performance information and compliance with legislation do not cover the other information and I do not express an audit opinion or any form of assurance conclusion thereon.
19. In connection with my audit, my responsibility is to read the other information and, in doing so, consider whether the other information is materially inconsistent with the financial statements and the selected objectives presented in the annual performance report or my knowledge obtained in the audit, or otherwise appears to be materially misstated. If, based on the work I have performed on the other information obtained prior to the date of this auditor's report, I conclude that there is a material misstatement of this other information, I am required to report that fact. I have nothing to report in this regard.

Internal control deficiencies

20. I considered internal control relevant to my audit of the financial statements, reported performance information and compliance with applicable legislation; however, my objective was not to express any form of assurance thereon. I did not identify any significant deficiencies in internal control.

Other reports

21. I draw attention to the following engagements conducted by various parties that had, or could have, an impact on the matters reported in the public entity's financial statements, reported performance information, compliance with applicable legislation and other related matters. These reports did not form part of my opinion on the financial statements or my findings on the reported performance information or compliance with legislation.
22. The Office of the Public Protector South Africa is currently conducting an investigation into allegations of undue delay by the Office of the Pension Funds Adjudicator to finalise a matter between an employer and its former employees. The former employees' complaint relates to an amount of money that is delayed to settle and finalise the case. The public entity has commenced its own internal investigation into this matter. The investigation and its impact on the audit will be followed up in the 2017-18 audit cycle.

Auditor - General

Pretoria

31 July 2017

ANNEXURE – AUDITOR-GENERAL'S RESPONSIBILITY FOR THE AUDIT

1. As part of an audit in accordance with the ISAs, I exercise professional judgement and maintain professional scepticism throughout my audit of the financial statements, and the procedures performed on reported performance information for selected objectives and on the public entity's compliance with respect to the selected subject matters.

Financial statements

2. In addition to my responsibility for the audit of the financial statements, as described in the auditor's report, I also:
 - identify and assess the risks of material misstatement of the financial statements whether due to fraud or error, design and perform audit procedures responsive to those risks, and obtain audit evidence that is sufficient and appropriate to provide a basis for my opinion. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations or the override of internal control.
 - obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the public entity's internal control.
 - evaluate the appropriateness of accounting policies used and the reasonableness of accounting estimates and related disclosures made by the accounting authority.
 - conclude on the appropriateness of the accounting authority's use of the going concern basis of accounting in the preparation of the financial statements. I also conclude, based on the audit evidence obtained, whether a material uncertainty exists relating to events or conditions that may cast significant doubt on the public entity's ability to continue as a going concern. If I conclude that a material uncertainty exists, I am required to draw attention in my auditor's report to the related disclosures in the financial statements about the material uncertainty or, if such disclosures are inadequate, to modify the opinion on the financial statements. My conclusions are based on the information available to me at the date of the auditor's report. However, future events or conditions may cause a public entity to cease operating as a going concern.
 - evaluate the overall presentation, structure and content of the financial statements, including the disclosures, and whether the financial statements represent the underlying transactions and events in a manner that achieves fair presentation.

Communication with those charged with governance

3. I communicate with the accounting authority regarding, among other matters, the planned scope and timing of the audit and significant audit findings, including any significant deficiencies in internal control that I identify during my audit.
4. I also confirm to the accounting authority that I have complied with relevant ethical requirements regarding independence, and communicate all relationships and other matters that may reasonably be thought to have a bearing on my independence and, where applicable, related safeguards.

STATEMENT OF FINANCIAL POSITION

as at 31 March 2017

Figures in Rand	Note(s)	2017	2016
Assets			
Current assets			
Receivables from exchange transactions	7	110 644	94 027
Receivables from non-exchange transactions	8	3 315 055	1 166 077
Prepayments	6	567 114	633 501
Cash and cash equivalents	9	1 997 801	1 572 792
		5 990 614	3 466 397
Non-current assets			
Property, plant and equipment	3	3 536 357	5 730 862
Intangible assets	4	2 045 174	2 215 176
		5 581 531	7 946 038
Total assets		11 572 145	11 412 435
Liabilities			
Current liabilities			
Payables from exchange transactions	10	2 967 569	3 141 931
Total liabilities		2 967 569	3 141 931
Net assets		8 604 576	8 270 504
Accumulated surplus		8 604 576	8 270 504

STATEMENT OF FINANCIAL PERFORMANCE

for the year ended 31 March 2017

Figures in Rand	Note(s)	2017	2016
Revenue			
Non-exchange transactions		52 315 934	47 136 955
Other income			
Interest received	12	16 387	13 182
Gains on disposal of assets		–	7 342
		16 387	20 524
Expenses			
Auditors remuneration – External	14	(1 340 932)	(993 098)
Auditors remuneration – Internal		(461 816)	(276 337)
Consulting and professional fees		(902 786)	(946 430)
Depreciation and amortisation		(3 544 994)	(3 500 738)
Foreign exchange loss		(678)	(546)
Information technology maintenance and support		(4 083 276)	(3 495 121)
Legal fees		(926 942)	(643 485)
Operating lease rentals		(4 929 016)	(4 870 944)
Other operating expenses		(6 687 578)	(6 031 543)
Personnel costs		(29 112 038)	(27 025 335)
		(51 990 056)	(47 783 577)
Operating surplus/(deficit)		342 265	(626 098)
Finance costs	13	(8 193)	–
Surplus/(deficit) for the year		334 072	(626 098)

STATEMENT OF CHANGES IN NET ASSETS

for the year ended 31 March 2017

Figures in Rand	Accumulated surplus	Total net assets
Opening balance as previously reported	8 511 434	8 511 434
Adjustments		
Correction of errors (refer note 22)	385 168	385 168
Balance at 1 April 2015 as restated*	8 896 602	8 896 602
Changes in net assets		
Deficit for the year	(626 098)	(626 098)
Total changes	(626 098)	(626 098)
Opening balance as previously reported	8 003 782	8 003 782
Adjustments		
Correction of errors (refer note 22)	266 722	266 722
Balance at 1 April 2016 as restated	8 270 504	8 270 504
Changes in net assets		
Surplus for the year	334 072	334 072
Total changes	334 072	334 072
Balance at 31 March 2017	8 604 576	8 604 576

STATEMENT OF CASH FLOW

for the year ended 31 March 2017

Figures in Rand	Note(s)	2017	2016
Cash flows from operating activities			
Receipts			
Finance income		16 387	13 182
Cash received from Financial Services Board		50 216 726	47 383 065
		50 233 113	47 396 247
Payments			
Cash paid to personnel		(29 112 039)	(27 025 335)
Finance costs		(8 193)	–
Cash paid to suppliers		(19 507 386)	(17 754 044)
		(48 627 618)	(44 779 379)
Net cash flows from operating activities	16	1 605 495	2 616 868
Cash flows from investing activities			
Purchase of property, plant and equipment	3	(640 130)	(1 004 216)
Proceeds from sale of property, plant and equipment	3	–	12 586
Purchase of intangible assets	4	(540 357)	(1 423 632)
Net cash flows from investing activities		(1 180 487)	(2 415 262)
Net increase/(decrease) in cash and cash equivalents		425 008	201 606
Cash and cash equivalents at the beginning of the year		1 572 792	1 371 185
Cash and cash equivalents at the end of the year	9	1 997 800	1 572 791

STATEMENT OF COMPARISON OF BUDGET AND ACTUAL AMOUNTS

for the year ended 31 March 2017

Budget on cash basis

Figures in Rand	Approved and final budget	Actual amounts on comparable basis	Difference between final budget and actual	Reference
Statement of financial performance				
Revenue				
Revenue from exchange transactions				
Interest received – investment	10 201	16 387	6 186	
Revenue from non-exchange transactions				
Transfer revenue				
Contributions from the Financial Services Board	52 315 934	52 315 934	–	
Total revenue	52 326 135	52 332 321	6 186	
Expenditure				
Personnel costs	(33 296 172)	(29 112 038)	4 184 134	28
Auditors remuneration – External	(1 200 000)	(1 340 932)	(140 932)	28
Auditors remuneration – Internal	(472 946)	(461 816)	11 130	
Consulting and professional fees	(1 126 000)	(693 336)	432 664	28
Depreciation and amortisation	(3 900 000)	(3 544 994)	355 006	28
Information technology maintenance and support	(4 123 572)	(4 083 276)	40 296	
Intangible asset acquisitions	(1 100 000)	(1 015 125)	84 875	
Legal fees	(930 000)	(926 942)	3 058	
Operating lease rentals	(4 933 734)	(5 313 787)	(380 053)	28
Property, plant and equipment acquisitions	(1 350 000)	(640 130)	709 870	28
Other operating expenses	(6 727 634)	(6 364 744)	362 890	28
Total expenditure	(59 160 058)	(53 497 120)	5 662 938	
Deficit	(6 833 923)	(1 164 799)	5 669 124	
Actual amount on comparable basis as presented in the budget and actual comparative statement				
	(6 833 923)	(1 164 799)	5 669 124	
Reconciliation				
Basis difference				
Acquisition of property, plant and equipment and intangible assets		1 180 487		
Straight-lining of lease rentals		384 771		
Prepayments		(66 387)		
Actual amount in the statement of financial performance		334 072		

ACCOUNTING POLICIES

1. BASIS OF PREPARATION AND PRESENTATION

The Office of the Pension Funds Adjudicator (OPFA) is a National Public Entity as specified in Schedule 3A of the Public Finance Management Act (PFMA), Act No 1 of 1999 (as amended by Act 29 of 1999). The principal accounting policies applied in preparation and presentation of these financial statements are set out below. These policies have been consistently applied to the years presented, unless otherwise stated.

The annual financial statements have been prepared in accordance with the South African Standards of Generally Recognised Accounting Practice (SA Standards of GRAP) including any interpretations, guidelines and directives issued by the Accounting Standards Board in accordance with section 55 and 89 of the Public Finance Management Act, Act No 1 of 1999 (as amended by Act 29 of 1999).

These annual financial statements have been prepared on an accrual basis of accounting and are in accordance with historical cost convention as the basis of measurement, unless specified otherwise. They are presented in South African Rand.

In the absence of an issued and effective Standard of GRAP, accounting policies for material transactions, events or conditions were developed in accordance with paragraphs 8, 10 and 11 of GRAP 3 as read with Directive 5.

A summary of the significant accounting policies, which have been consistently applied in the preparation of these annual financial statements, are disclosed below.

1.1 Going concern assumption

These annual financial statements have been prepared based on the expectation that the entity will continue to operate as a going concern for at least the next 12 months. The Board is of the view that the pending changes related to the proposed Twin Peaks regulation model will not impact on the future funding of the entity or the future operations of the entity.

1.2 Significant judgements and sources of estimation uncertainty

In preparing the annual financial statements, management is required to make estimates and assumptions that affect the amounts represented in the annual financial statements and related disclosures. Use of available information and the application of judgement is inherent in the formation of estimates. Actual results in the future could differ from these estimates which may be material to the annual financial statements. Estimates and underlying assumptions are reviewed on an ongoing basis. Revision to accounting estimates are recognised in the period in which the estimate is revised and in any future periods affected. Significant judgements include:

Receivables from exchange and non-exchange transactions

The entity assesses its receivables from exchange and non exchange transactions for impairment at the end of each reporting period. In determining whether an impairment loss should be recorded in surplus or deficit, the OPFA makes judgements as to whether there is observable data indicating a measurable decrease in the estimated future cash flows from a financial asset.

The impairment for receivables from exchange and non exchange transactions is calculated individually, when assets are individually significant, and individually or collectively for financial assets that are not individually significant. Where no objective evidence of impairment exists for an individually assessed asset (whether individually significant or not), an entity includes the assets in a group of financial assets with similar credit risk characteristics and collectively assesses them for impairment.

Impairment testing for non-financial assets

The entity reviews and tests the carrying value of assets when events or changes in circumstances suggest that the carrying amount may not be recoverable. If there are indications that impairment may have occurred, OPFA determines the recoverable service amount. The recoverable service amount is the higher of fair value less costs to sell and value in use. These calculations require the use of estimates and assumptions.

Amortisation – Useful lives and residual values

The OPFA reassesses the useful lives and residual values of intangible assets on an annual basis. In reassessing the useful lives and residual values of intangible assets, management considers the condition and the use of the individual assets to determine the remaining period over which the asset can and will be used.

Depreciation

The entity assesses at each reporting date whether there is any indication that the entity expectations about the residual value and the useful life of an asset have changed since the preceding reporting date. If any such indication exists, the entity revises the expected useful life and/or residual value accordingly. The change is accounted for as a change in an accounting estimates.

1.3 Property, plant and equipment

Property, plant and equipment is carried at cost less accumulated depreciation and any impairment losses. Where an asset is acquired through a non-exchange transaction, its cost is its fair value as at date of acquisition. Depreciation is recognised in surplus or deficit on the straight line basis over their expected useful lives to their estimated residual values.

ACCOUNTING POLICIES continued

1. BASIS OF PREPARATION AND PRESENTATION continued

1.3 Property, plant and equipment continued

Depreciation commences when the asset is ready for its intended use. The annual depreciation rates are based on the following estimated average asset lives:

Item	Average useful life
Machinery	10 years
Furniture and fixtures	5 to 10 years
Motor vehicles	5 years
Office equipment	3 to 7 years
IT equipment	3 to 5 years
Leasehold improvements	Lease period
Library books	4 to 8 years
Paintings and sculptures	5 to 10 years
Signage	Lease period

The entity assesses at each reporting date whether there is any indication that the entity expectations about the residual value and the useful life of an asset have changed since the preceding reporting date. If any such indication exists, the entity revises the expected useful life and/or residual value accordingly. The change is accounted for as a change in an accounting estimate.

Items of entity are derecognised when the asset is disposed of or when there are no further economic benefits or service potential expected from the use of the asset.

The gain or loss arising from the derecognition of an item of property, plant and equipment is determined as the difference between the net disposal proceeds, if any, and the carrying amount of the item. Such difference is recognised in the surplus or deficit when the item is derecognised.

1.4 Intangible assets

Intangible assets are carried at cost less any accumulated amortisation and any impairment losses.

The amortisation period and the amortisation method for intangible assets are reviewed at each reporting date.

Amortisation is provided to write down the intangible assets, on a straight line basis, to their residual values as follows:

Item	Useful life
Computer software	3 to 5 years

Computer software licenses and costs associated with the development or maintenance of computer software programs are recognised as an expense as incurred.

Intangible assets are derecognised:

- on disposal; or
- when no future economic benefits or service potential are expected from its use or disposal.

The gain or loss arising from the derecognition of an intangible assets is included in surplus or deficit when the asset is derecognised.

1.5 Financial instruments

Classification

The entity classifies financial assets and financial liabilities into the following categories:

- Financial assets measured at amortised cost which comprise of receivables from exchange and non-exchange transactions and cash and cash equivalents.
- Financial liabilities measured at amortised cost which comprise of trade and other payables from exchange transactions.

Classification depends on the purpose for which the financial instruments were obtained/incurred and takes place at initial recognition. Classification is re-assessed on an annual basis, except for derivatives and financial assets designated as at fair value through surplus or deficit, which shall not be classified out of the fair value through surplus or deficit category.

Initial recognition and subsequent measurement

Financial instruments are recognised initially when the OPFA becomes a party to the contractual provisions of the instruments.

The OPFA classifies financial instruments, or their component parts, on initial recognition as a financial asset, a financial liability or an equity instrument in accordance with the substance of the contractual arrangement.

Transaction costs are included in the initial measurement of the financial instrument.

Purchases of financial assets are accounted for at trade date.

Receivables from exchange and non-exchange transactions

These financial assets at amortised cost are subsequently measured at amortised cost, using the effective interest method, less accumulated impairment losses.

The carrying amount of the asset is reduced through the use of an allowance account, and the amount of the loss is recognised in the surplus or deficit. When a receivable is uncollectable, it is written off against the allowance account for receivables. Subsequent recoveries of amounts previously written off are recognised in surplus or deficit.

Cash and cash equivalents

These financial assets at amortised cost are subsequently measured at amortised cost, using the effective interest method, less accumulated impairment losses.

Cash and cash equivalents comprise of cash at bank and cash on hand that are readily convertible to a known amount of cash and are subject to an insignificant risk of changes in value. These are initially measured at fair value, and subsequently at amortised cost using the effective interest method.

Trade and other payables from exchange transactions

These financial liabilities at amortised cost are subsequently measured at amortised cost, using the effective interest method.

Fair value determination

Fair value information for trade and other receivables is determined as the present value of estimated future cash flows discounted at the effective interest rate computed at initial recognition.

Impairment of financial assets

At each end of the reporting period the OPFA assesses all financial assets, to determine whether there is objective evidence that a financial asset or group of financial assets has been impaired.

For amounts due to the entity, significant financial difficulties of the debtor, probability that the debtor will enter bankruptcy and default of payments are all considered indicators of impairment.

Impairment losses are recognised in surplus or deficit.

Impairment losses are reversed when an increase in the financial asset's recoverable amount can be related objectively to an event occurring after the impairment was recognised, subject to the restriction that the carrying amount of the financial asset at the date that the impairment is reversed shall not exceed what the carrying amount would have been had the impairment not been recognised.

1.6 Leases

A lease is classified as a finance lease if it transfers substantially all the risks and rewards incidental to ownership. A lease is classified as an operating lease if it does not transfer substantially all the risks and rewards incidental to ownership.

Operating leases

Operating lease payments are recognised as an expense on a straight-line basis over the lease term. The difference between the amounts recognised as an expense and the contractual payments are recognised as an operating lease asset or liability.

1.7 Prepayments

Prepayments are payments made in advance for services that have not been delivered for which the OPFA expects the delivery in the next financial period. Prepayments are recognised as current assets and are not discounted as the discounting effect thereof is considered immaterial.

ACCOUNTING POLICIES continued

1. BASIS OF PREPARATION AND PRESENTATION continued

1.8 Impairment of non-cash-generating assets

Cash-generating assets are assets managed with the objective of generating a commercial return. An asset generates a commercial return when it is deployed in a manner consistent with that adopted by a profit-oriented entity.

Non-cash-generating assets are assets other than cash-generating assets.

Identification

When the carrying amount of a non-cash-generating asset exceeds its recoverable service amount, it is impaired.

The entity assesses at each reporting date whether there is any indication that a non-cash-generating asset may be impaired. If any such indication exists, the entity estimates the recoverable service amount of the asset.

This impairment test is performed at the same time every year. If an intangible asset was initially recognised during the current reporting period, that intangible asset was tested for impairment before the end of the current reporting period.

1.9 Employee benefits

Short-term employee benefits

The cost of short-term employee benefits, (those payable within 12 months after the service is rendered, such as paid vacation leave and sick leave, bonuses, and non-monetary benefits such as medical care), are recognised in the period in which the service is rendered and are not discounted.

The expected cost of compensated absences is recognised as an expense as the employees render services that increase their entitlement or, in the case of non-accumulating absences, when the absence occurs.

The expected cost of surplus sharing and bonus payments is recognised as an expense when there is a legal or constructive obligation to make such payments as a result of past performance.

Retirement benefits

Payments to defined contribution retirement benefit plans are charged as an expense as they fall due.

Payments made to industry-managed retirement benefit schemes are dealt with as defined contribution plans where the entity's obligation under the schemes is equivalent to those arising in a defined contribution retirement benefit plan.

1.10 Provisions and contingencies

Provisions are recognised when:

- the entity has a present obligation as a result of a past event;
- it is probable that an outflow of resources embodying economic benefits or service potential will be required to settle the obligation; and
- a reliable estimate can be made of the obligation.

The amount of a provision is the best estimate of the expenditure expected to be required to settle the present obligation at the reporting date.

Where the effect of time value of money is material, the amount of a provision is the present value of the expenditures expected to be required to settle the obligation.

The discount rate is a pre-tax rate that reflects current market assessments of the time value of money and the risks specific to the liability.

Where some or all of the expenditure required to settle a provision is expected to be reimbursed by another party, the reimbursement is recognised when, and only when, it is virtually certain that reimbursement will be received if the entity settles the obligation. The reimbursement is treated as a separate asset. The amount recognised for the reimbursement does not exceed the amount of the provision.

Provisions are reviewed at each reporting date and adjusted to reflect the current best estimate. Provisions are reversed if it is no longer probable that an outflow of resources embodying economic benefits or service potential will be required, to settle the obligation.

Where discounting is used, the carrying amount of a provision increases in each period to reflect the passage of time. This increase is recognised as an interest expense.

A provision is used only for expenditures for which the provision was originally recognised.

Provisions are not recognised for future operating losses.

If an entity has a contract that is onerous, the present obligation (net of recoveries) under the contract is recognised and measured as a provision.

Contingent assets and contingent liabilities are not recognised. Contingencies are disclosed in note 18.

1.11 Commitments

Items are classified as commitments when an entity has committed itself to future transactions that will normally result in the outflow of cash.

Disclosures are required in respect of unrecognised contractual commitments.

Commitments for which disclosure is necessary to achieve a fair presentation should be disclosed in a note to the financial statements, if both the following criteria are met:

- Contracts should be non-cancellable or only cancellable at significant cost; and
- Contracts should relate to something other than the routine, steady, state business of the entity.

1.12 Revenue from exchange transactions

Revenue is the gross inflow of economic benefits or service potential during the reporting period when those inflows result in an increase in net assets, other than increases relating to contributions from owners.

An exchange transaction is one in which the entity receives assets or services, or has liabilities extinguished, and directly gives approximately equal value (primarily in the form of goods, services or use of assets) to the other party in exchange.

Measurement

Revenue is measured at the fair value of the consideration received or receivable, net of trade discounts and volume rebates.

Interest

Revenue arising from the use by others of entity assets yielding interest, royalties and dividends or similar distributions is recognised when:

- It is probable that the economic benefits or service potential associated with the transaction will flow to the entity, and
- The amount of the revenue can be measured reliably.

Interest is recognised, in surplus or deficit, using the effective interest rate method.

1.13 Revenue from non-exchange transactions

Revenue comprises gross inflows of economic benefits or service potential received and receivable by an entity, which represents an increase in net assets.

Control of an asset arises when the entity can use or otherwise benefit from the asset in pursuit of its objectives and can exclude or otherwise regulate the access of others to that benefit.

Non-exchange transactions are transactions whereby the entity either receives value from another entity without directly giving approximately equal value in exchange, or gives value to another entity without directly receiving approximately equal value in exchange.

Non-exchange revenue consists of funding transferred from Financial Services Board to the Office of the Pension Funds Adjudicator.

Recognition

An inflow of resources from a non-exchange transaction recognised as an asset is recognised as revenue, except to the extent that a liability is also recognised in respect of the same inflow.

As the entity satisfies a present obligation recognised as a liability in respect of an inflow of resources from a non-exchange transaction recognised as an asset, it reduces the carrying amount of the liability recognised and recognises an amount of revenue equal to that reduction.

Measurement

Revenue from a non-exchange transaction is measured at the amount of the increase in net assets recognised by the entity.

When, as a result of a non-exchange transaction, the entity recognises an asset, it also recognises revenue equivalent to the amount of the asset measured at its fair value as at the date of acquisition, unless it is also required to recognise a liability. Where a liability is required to be recognised it will be measured as the best estimate of the amount required to settle the obligation at the reporting date, and the amount of the increase in net assets, if any, recognised as revenue. When a liability is subsequently reduced, because the taxable event occurs or a condition is satisfied, the amount of the reduction in the liability is recognised as revenue.

ACCOUNTING POLICIES continued

1. BASIS OF PREPARATION AND PRESENTATION continued

13. Revenue from non-exchange transactions continued

Transfers

Apart from Services in kind, which are not recognised, the entity recognises an asset in respect of transfers when the transferred resources meet the definition of an asset and satisfy the criteria for recognition as an asset.

The entity recognises an asset in respect of transfers when the transferred resources meet the definition of an asset and satisfy the criteria for recognition as an asset.

Transferred assets are measured at their fair value as at the date of acquisition.

Gifts and donations, including goods in-kind

Gifts and donations, including goods in kind, are recognised as assets and revenue when it is probable that the future economic benefits or service potential will flow to the entity and the fair value of the assets can be measured reliably.

1.14 Translation of foreign currencies

Foreign currency transactions

A foreign currency transaction is recorded, on initial recognition in Rands, by applying to the foreign currency amount the spot exchange rate between the functional currency and the foreign currency at the date of the transaction.

At each reporting date:

- foreign currency monetary items are translated using the closing rate.

Exchange differences arising on the settlement of monetary items or on translating monetary items at rates different from those at which they were translated on initial recognition during the period or in previous annual financial statements are recognised in surplus or deficit in the period in which they arise.

1.15 Fruitless and wasteful expenditure

Fruitless expenditure means expenditure which was made in vain and would have been avoided had reasonable care been exercised.

All expenditure relating to fruitless and wasteful expenditure is recognised as an expense in the statement of financial performance in the year that the expenditure was incurred. The expenditure is classified in accordance with the nature of the expense, and where recovered, it is subsequently accounted for as revenue in the statement of financial performance.

1.16 Irregular expenditure

Irregular expenditure as defined in section 1 of the PFMA is expenditure other than unauthorised expenditure, incurred in contravention of or that is not in accordance with a requirement of any applicable legislation, including:

- (a) this Act; or
- (b) the State Tender Board Act, 1968 (Act No 86 of 1968), or any regulations made in terms of the Act; or
- (c) any provincial legislation providing for procurement procedures in that provincial government.

All expenditure relating to irregular expenditure is recognised as an expense in the statement of financial performance in the period that the expenditure was incurred. The expenditure is classified in accordance with the nature of the expense, and where recovered, it is subsequently accounted for as revenue in the statement of financial performance.

1.17 Segment information

A segment is an activity of an entity:

- that generates economic benefits or service potential (including economic benefits or service potential relating to transactions between activities of the same entity);
- whose results are regularly reviewed by management to make decisions about resources to be allocated to that activity and in assessing its performance; and
- for which separate financial information is available.

Reportable segments are the actual segments which are reported on in the management report. They are the segments identified above or alternatively an aggregation of two or more of those segments where the aggregation criteria are met.

1.18 Budget information

Entity are typically subject to budgetary limits in the form of appropriations or budget authorisations (or equivalent), which is given effect through authorising legislation, appropriation or similar.

The approved budget is prepared on a cash basis and presented by economic classification linked to performance outcome objectives. The annual financial statements are prepared on the accrual basis while the budget is prepared on a cash basis of accounting therefore a comparison and reconciliation with the budgeted amounts for the reporting period have been included in the Statement of comparison of budget and actual amounts and a reconciliation between financial performance and the budgeted cash flows have been detailed in note 26.

The approved budget covers the fiscal period from 01/04/2016 to 31/03/2017.

The budget for the economic entity includes all the entities approved budgets under its control.

1.19 Related parties

The entity operates in an economic sector currently dominated by entities directly or indirectly owned by the South African Government. As a consequence of the constitutional independence of the three spheres of government in South Africa, only entities within the national sphere of government are considered to be related parties.

Management are those persons responsible for planning, directing and controlling the activities of the entity, including those charged with the governance of the entity in accordance with legislation, in instances where they are required to perform such functions.

Close members of the family of a person are considered to be those family members who may be expected to influence, or be influenced by, that management in their dealings with the entity.

Only transactions with related parties not at arm's length or not in the ordinary course of business are disclosed.

NOTES TO THE ANNUAL FINANCIAL STATEMENTS

as at 31 March 2017

2. NEW STANDARDS AND INTERPRETATIONS

2.1 Standards and interpretations issued, but not yet effective

The entity has not applied the following standards and interpretations, which have been published and are mandatory for the entity's accounting periods beginning on or after 1 April 2017 or later periods:

Standard/Interpretation	Effective date: Years beginning on or after	Expected impact
GRAP 20: Related Parties	No effective date	Application of the disclosure requirements are allowed through Directive 5 before its effective date. Disclosure has been aligned to the requirements in note 19
GRAP 32: Service Concession Arrangements: Grantor	No effective date	It is expected that the requirements of the standard would not be applicable to the entity and the effect on the financial statements is not yet determinable.
GRAP 34: Separate Financial Statements	No effective date	It is expected that the requirements of the standard would not be applicable to the entity and the effect on the financial statements is not yet determinable.
GRAP 35: Consolidated Financial Statements	No effective date	It is expected that the requirements of the standard would not be applicable to the entity and the effect on the financial statements is not yet determinable.
GRAP 36: Investments in Associates and Joint Ventures	No effective date	It is expected that the requirements of the standard would not be applicable to the entity and the effect on the financial statements is not yet determinable.
GRAP 37: Joint Arrangements	No effective date	It is expected that the requirements of the standard would not be applicable to the entity and the effect on the financial statements is not yet determinable.
GRAP 38: Disclosure of Interests in Other Entities	No effective date	It is expected that the requirements of the standard would not be applicable to the entity and the effect on the financial statements is not yet determinable.
GRAP 108: Statutory Receivables	No effective date	It is expected that the requirements of the standard would not be applicable to the entity and the effect on the financial statements is not yet determinable.
GRAP 109: Accounting by Principals and Agents	No effective date	It is expected that the requirements of the standard would not be applicable to the entity and the effect on the financial statements is not yet determinable.
GRAP 110: Living and Non-living Resources	No effective date	It is expected that the requirements of the standard would not be applicable to the entity and the effect on the financial statements is not yet determinable.
IGRAP 17: Service Concession Arrangements where a Grantor Controls a Significant Residual Interest in an Asset	No effective date	It is expected that the requirements of the standard would not be applicable to the entity and the effect on the financial statements is not yet determinable.

3. PROPERTY, PLANT AND EQUIPMENT

	2017			2016		
	Cost/ valuation	Accumulated depreciation and accumulated impairment	Carrying value	Cost/ valuation	Accumulated depreciation and accumulated impairment	Carrying value
Machinery	276 849	(113 046)	163 803	276 849	(85 362)	191 487
Furniture and fixtures	1 607 029	(1 181 464)	425 565	1 577 217	(874 342)	702 875
Motor vehicles	195 849	(115 849)	80 000	195 849	(110 056)	85 793
Office equipment	783 552	(693 600)	89 952	770 996	(610 148)	160 848
IT equipment	6 198 823	(4 575 246)	1 623 577	5 651 511	(3 333 191)	2 318 320
Leasehold improvements	5 538 343	(4 497 426)	1 040 917	5 492 657	(3 376 318)	2 116 339
Library books	310 956	(206 191)	104 765	306 192	(167 948)	138 244
Paintings and sculptures	2 581	(2 187)	394	2 581	(1 871)	710
Signage	39 877	(32 493)	7 384	39 877	(23 631)	16 246
Total	14 953 859	(11 417 502)	3 536 357	14 313 729	(8 582 867)	5 730 862

Reconciliation of property, plant and equipment – 2017

	Opening balance	Additions	Depreciation	Total
Machinery	191 487	–	(27 684)	163 803
Furniture and fixtures	702 875	29 812	(307 122)	425 565
Motor vehicles	85 793	–	(5 793)	80 000
Office equipment	160 848	12 556	(83 452)	89 952
IT equipment	2 318 320	547 312	(1 242 055)	1 623 577
Leasehold improvements	2 116 339	45 686	(1 121 108)	1 040 917
Library books	138 244	4 764	(38 243)	104 765
Paintings and sculptures	710	–	(316)	394
Signage	16 246	–	(8 862)	7 384
Total	5 730 862	640 130	(2 834 635)	3 536 357

Reconciliation of property, plant and equipment – 2016

	Opening balance	Additions	Disposals	Depreciation	Total
Machinery	219 172	–	–	(27 685)	191 487
Furniture and fixtures	899 143	102 779	–	(299 047)	702 875
Motor vehicles	108 963	–	–	(23 170)	85 793
Office equipment	288 146	14 502	–	(141 800)	160 848
IT equipment	2 756 500	843 225	(5 244)	(1 276 161)	2 318 320
Leasehold improvements	3 189 995	29 909	–	(1 103 565)	2 116 339
Library books	161 356	13 801	–	(36 913)	138 244
Paintings and sculptures	1 025	–	–	(315)	710
Signage	25 108	–	–	(8 862)	16 246
Total	7 649 408	1 004 216	(5 244)	(2 917 518)	5 730 862

	2017	2016
Repairs and maintenance		
Expenditure incurred to repair and maintain property, plant and equipment	102 454	–

NOTES TO THE ANNUAL FINANCIAL STATEMENTS

continued

as at 31 March 2017

4. INTANGIBLE ASSETS

	2017			2016		
	Cost/ valuation	Accumulated amortisation and accumulated impairment	Carrying value	Cost/ valuation	Accumulated amortisation and accumulated impairment	Carrying value
Computer software	4 656 962	(2 611 788)	2 045 174	4 116 605	(1 901 429)	2 215 176

Reconciliation of intangible assets – 2017

	Opening balance	Additions	Amortisation	Total
Computer software	2 215 176	540 357	(710 359)	2 045 174

Reconciliation of intangible assets – 2016

	Opening balance	Additions	Amortisation	Total
Computer software	1 374 764	1 423 632	(583 220)	2 215 176

	2017	2016
5. EMPLOYEE BENEFIT OBLIGATIONS		
Defined contribution plan		
It is the policy of the entity to provide retirement benefits to all its employees. The entity utilises the Allan Gray Retirement Annuity Fund, which is subject to the Pensions Fund Act, for this purpose.		
The entity is under no obligation to cover any unfunded benefits.		
The amount recognised as an expense for defined contribution plans is	3 651 912	3 379 197
6. PREPAYMENTS		
Prepayments consist of annual payments for expenses amortised over the period to which that service is to be utilised. These expenses primarily consist of subscription fees, membership fees and computer licences and warranties.		
7. RECEIVABLES FROM EXCHANGE TRANSACTIONS		
Study assistance	110 644	94 027
All accounts receivable are due within 12 months from the reporting date.		
Receivables do not contain any items that need to be impaired at year end. The maximum exposure to credit risk at the reporting date is the fair value of each class of receivable mentioned above. The entity does not hold any collateral as security.		
8. RECEIVABLES FROM NON-EXCHANGE TRANSACTIONS		
Accounts receivable – Financial Services Board	3 315 055	1 166 077
All accounts receivable are due within 12 months from the reporting date.		
Receivables do not contain any items that need to be impaired at year end. The maximum exposure to credit risk at the reporting date is the fair value of each class of receivable mentioned above. The entity does not hold any collateral as security.		
9. CASH AND CASH EQUIVALENTS		
Cash and cash equivalents consist of:		
Cash on hand	4 025	4 414
Cash at bank	1 993 776	1 568 378
	1 997 801	1 572 792

The cash and cash equivalents held by the OPFA may only be used in accordance with its mandate.

10. PAYABLES FROM EXCHANGE TRANSACTIONS

	2017	2016
Trade payables	579 663	497 357
Leave accrual	1 596 250	1 411 326
Operating lease accrual	696 931	1 081 701
Sundry payables	94 725	151 547
	2 967 569	3 141 931

Trade and other payables from exchange transactions principally comprise amounts outstanding for trade purchases and ongoing costs. The OPFA considers that the carrying amount of trade and other payables from exchange transactions approximates the fair value.

Included in payables from exchange transactions is an accrual for leave pay. Employees entitlement to annual leave is recognised when it accrues to the employee. An accrual is recognised for the estimated liability for annual leave due as a result of services rendered by employees up to reporting date.

11. REVENUE

Interest received – investment	16 387	13 182
Non-exchange transactions	52 315 934	47 136 955
	52 332 321	47 150 137

The amount included in revenue arising from exchanges of goods or services are as follows:

Interest received	16 387	13 182
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The amount included in revenue arising from non-exchange transactions is as follows:

Transfer revenue

Contributions from the Financial Services Board	52 315 934	47 136 955
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12. INVESTMENT REVENUE

Interest revenue		
Bank	16 387	13 182

13. FINANCE COSTS

Trade and other payables	8 193	–
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14. AUDITORS' REMUNERATION

Current year fees	1 340 932	993 098
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15. TAXATION

The Office of The Pension Funds Adjudicator (OPFA) is exempt from income tax in terms of section 10(1)(cA)(i)(bb) of the Income Tax Act, 1962.

16. CASH GENERATED FROM OPERATIONS

Deficit for the year	334 072	(626 098)
Adjustments for		
Depreciation and amortisation	3 544 994	3 500 738
Loss on sale of assets and liabilities	–	(7 342)
Movements in operating lease assets and accruals	(199 846)	97 923
Changes in working capital		
Receivables from exchange transactions	(16 617)	94 722
Other receivables from non-exchange transactions	(2 148 978)	210 907
Prepayments	66 387	(59 519)
Payables from exchange transactions	25 483	(594 463)
	1 605 495	2 616 868

NOTES TO THE ANNUAL FINANCIAL STATEMENTS

continued

as at 31 March 2017

17. COMMITMENTS

	2017	2016
Authorised capital expenditure		
Already contracted for but not provided for		
Intangible assets	317 075	123 710
Total capital commitments		
Already contracted for but not provided for	317 075	123 710
Operating leases – as lessee (expense)		
Minimum lease payments due		
– within one year	5 191 923	5 293 893
– in second to fifth year inclusive	59 324	5 242 817
	5 251 247	10 536 710

Operating lease payments represent rentals payable by the entity for certain of its office properties and printers. Leases are negotiated for an average term of three to five years and escalations of 0% to 8% per annum (2016: 0% to 8% per annum) have been included in the lease agreement. No contingent rent is payable. The cost for the current year amounted to R5 313 786 (2016: R4 873 875).

18. CONTINGENCIES

Litigation is in process against the entity relating to a dispute of unfair dismissal by a previous employee. The entity's lawyers and management consider the likelihood of the action against the entity being successful as unlikely, and the case should be resolved within the next year.

A Notice of Motion was served on the entity by a security company to recover counsel cost in dispute of a complaint finding. The entity's lawyers and management consider the likelihood of the action against the entity being successful as unlikely, and the case should be resolved within the next year.

A demand for payment of R2 236 696 for secretarial and corporate governance services was issued against the entity. Management believes there is no possibility of the demand being successful if taken on litigation.

19. RELATED PARTIES

	2017	2016
Relationships		
Financial Services Board Schedule 3A – Public Entity		
Related party balances		
Amounts included in trade receivable regarding related parties		
Financial Services Board	3 315 055	1 166 077
Related party transactions		
Contributions received		
Financial Services Board	(52 315 934)	(47 136 955)
Shared services costs paid		
Financial Services Board	3 734 800	3 000 000

20. KEY MANAGEMENT REMUNERATION

Executive management

2017	Emoluments	Incentive bonus	Leave commutation	Total
M Lukhaimane, PFA	2 219 068	390 467	267 223	2 876 758
C Raphadana, SAA	1 252 609	–	–	1 252 609
C Seabela, SAA (transferred 1 July 2016)	282 761	–	30 368	313 129
S Mothupi, SAA (transferred 1 September 2016)	486 962	–	–	486 962
L Jadoonandan, SAA (appointed 1 July 2016)	727 938	–	–	727 938
J Joni, SAA (appointed 1 August 2016, resigned 31 January 2017)	505 000	–	–	505 000
R Segers, CFO	1 109 078	182 437	–	1 291 515
M Maepa, HR Manager (appointed 1 July 2016)	750 925	–	–	750 925
	7 334 341	572 904	297 591	8 204 836

2016	Emoluments	Incentive bonus	Leave commutation	Total
M Lukhaimane, PFA	2 091 915	586 379	246 642	2 924 936
C Raphadana, SAA	1 180 515	87 123	–	1 267 638
C Seabela, SAA	1 083 029	62 243	–	1 145 272
S Mothupi, SAA	1 119 095	73 504	33 832	1 226 431
R Segers, CFO	999 074	165 852	–	1 164 926
T Ramara, HR Manager (resigned, 29 February 2016)	606 834	–	40 005	646 839
	7 080 462	975 101	320 479	8 376 042

Employees of the OPFA are paid on a total cost to company basis, where applicable, salaries include retirement fund contributions, medical aid contributions and travel allowances.

PFA – Pension Funds Adjudicator

SAA – Senior Assistant Adjudicator

CFO – Chief Financial Officer

HR – Human Resources

Non-executive members' fees

The table below discloses the non executive members' fees per the board sub committees and the board members' fees are paid by the FSB.

Non-executive members appointed to Board sub-committees were remunerated as follows:

Non-executive members' fees

2017	Committees fees	Total
A Sithole	8 243	8 243
H Wilton	27 026	27 026
Z Bassa	32 296	32 296
F Groepe	–	–
O Makhubela	–	–
J Mogadime	37 566	37 566
I Momoniat	–	–
D Msomi	26 688	26 688
H Ratshefola	21 418	21 418
PJ Sutherland	26 688	26 688
D Turpin	21 418	21 418
Mr A Sithole	–	–
	201 343	201 343

2016

Non-executive members' fees were remunerated by the Financial Services Board for Board sub-committee.

21. CHANGE IN ESTIMATE

Property, plant and equipment

The useful life of certain property, plant and equipment was reassessed in the current period and management has revised their estimate. The effect of this revision has decreased the depreciation charge for the current period and increased the depreciation charges for future periods by R240 855.

22. PRIOR PERIOD ERRORS

During the current year it was identified that certain items of property, plant and equipment and intangible assets that carried at a zero value in prior years were still in use. Management assessment of the future economical benefits of these assets and their expected useful lives had been inappropriate.

The correction of the error results in adjustments as follows:

	2017	2016
Statement of financial position		
Property, plant and equipment	–	87 406
Intangible assets	–	179 316
Opening accumulated surplus or deficit	–	(385 168)
Statement of financial performance		
Depreciation expense	133 360	118 446

NOTES TO THE ANNUAL FINANCIAL STATEMENTS

continued

as at 31 March 2017

23. FINANCIAL RISK MANAGEMENT

Financial risk management

In the course of the OPFA's operations it is exposed to credit, liquidity and market risk. The OPFA has developed a comprehensive risk strategy in order to monitor and control these risks. Internal Audit reports quarterly to the Audit and Risk Management Committee, an independent committee that monitors risks and policies implemented to mitigate risk exposures. The risk management process relating to each of these risks is discussed under the headings below.

Liquidity risk

Prudent liquidity risk management implies maintaining sufficient liquid resources and the ability to settle debts as they become due. In the case of the entity, liquid resources consist mainly cash and cash equivalents. The entity maintains adequate resources by monitoring rolling cash flow forecasts of the cash and cash equivalents on the basis of expected cash flow.

The table below analyses the entity's financial liabilities and net-settled derivative financial liabilities into relevant maturity groupings based on the remaining period at the statement of financial position to the contractual maturity date. The amounts disclosed in the table are the contractual undiscounted cash flows. Balances due within 12 months equal their carrying balances as the impact of discounting is not significant.

	Less than one year	Between one and two years	Between two and five years	Over five years
At 31 March 2017				
Trade and other payables	1 371 319	–	–	–
At 31 March 2016				
Trade and other payables	1 730 605	–	–	–

Credit risk

Credit risk consists mainly of cash and cash equivalents and receivables from exchange and non exchange transactions. The entity only deposits cash with financial institutions approved by National Treasury.

Receivables from non-exchange transactions consist of monies owed by the Financial Services Board. Credit risk is limited as the OPFA is a regulatory body and levies are charged in terms of legislation.

The OPFA investment policy limits investments to A1 rated banks and the Corporation for public Deposits (CPD). The table below shows the total cash invested with A1 rated banks and CPD. No investment limits were exceeded during the reporting period, and management does not expect any losses from non-performance by these counterparties.

Financial institutions	2017	2016
Standard Bank Limited	1 762 144	1 353 133
Corporation for Public Deposits	231 632	215 245

Market risk

Interest rate risk

As the entity has no interest bearing borrowings or significant interest-bearing assets, the entity's income and operating cash flows are substantially independent of changes in market interest rates. Should the balances held in cash and cash equivalents remain constant, the entities income would fluctuate R9 969 (2016: R7 842) per annum for every 50 basis point fluctuation in the prime interest rate.

Foreign exchange risk

The entity does not hedge foreign currency exposure.

The entity reviews its foreign currency exposure, including commitments on an ongoing basis.

24. EVENTS AFTER THE REPORTING DATE

The Accounting Authority is not aware of any matters or circumstances arising since the end of the financial year to the date of this report in respect of matters which would require adjustment to or disclosure in the annual financial statements.

25. IRREGULAR EXPENDITURE

	2017	2016
Opening balance	–	1 776 515
Less: Amounts condoned	–	(1 776 515)
	–	–

Irregular expenditure incurred relates to legitimate expenditure classified as irregular owing to non-compliance with Supply Chain Management practise. The expenditure relates to remuneration for the conciliator and legal costs mainly towards section 30P appeals.

26. RECONCILIATION BETWEEN BUDGET AND CASH FLOW STATEMENT

Reconciliation of budget surplus/deficit with the net cash generated from operating, investing and financing activities:

	2017	2016
Operating activities		
Actual amount as presented in the budget statement	1 761 879	2 620 278
Basis differences	(474 768)	(52 467)
Timing differences	318 384	49 058
Net cash flows from operating activities	1 605 495	2 616 869
Investing activities		
Actual amount as presented in the budget statement	(1 655 255)	(2 467 729)
Basis differences	474 768	52 467
Net cash flows from investing activities	(1 180 487)	(2 415 262)
Net cash generated from operating, investing and financing activities	425 008	201 607

27. SEGMENT INFORMATION

General information

Identification of segments

The entity is organised and reports to management on the basis of its core mandated business as set out in the Pension Funds Act, 1956. The function of the mandate is to dispose of complaints lodged with the entity. Due to the nature and service of the organisation management reviews and evaluates the entity as a whole, as all risks, resources and financial matters of the entity are directed to the deliver of its core mandate.

The entity's operations are located in Pretoria, its only office in the country. Although the office services the public of South Africa, its risks and financial costs are limited to this single location.

It is on this basis that management views the entity as a single segment to which adequate disclosure has been made in these annual financial statements.

28. BUDGET DIFFERENCES

Material differences between budget and actual amounts

Personnel costs

During the period vacant posts costs exceeded the budgeted vacancy rate while posts which were filled were done so at the lower end of the salary scale below what was budgeted for.

Auditors remuneration – external

Due to nature and size of the entity the Auditor-General did not perform an interim audit in 2016 resulting in full audit fee being recognised in the current financial year.

Consulting and professional fees

Aligned with cost containment measures to reduce consultant costs, budgeted advance billing costs for business continuity were only billed in the subsequent financial year.

Depreciation and amortisation

The underspend relates to budgeted acquisitions planned early on in the year only being acquired and brought into use near the end of the financial year.

Operating lease rentals

The budgeted cost provided for the straight lining of leases in comparison to actual costs.

Property, plant and equipment

The underspend to budget stems from Information and Technology infrastructure upgrades being shared and implemented by service level agreement with the Financial Services Board.

Other operating expenses

The underspend relates to an over budget in travel and accommodation costs and promotional material for the entity's Stakeholder outreach programmes, placed on hold during the year due to resignation of Communications and Outreach manager and an undertaking to work with Financial Services Board consumer education programme in the next financial year.

PERFORMANCE INFORMATION

Strategic objective	Measurable objective	Measurable indicator	Strategic plan target
1. Dispose of complaints received	To dispose of complaints through determinations, conciliation and settlements	1.1 Number of complaints resolved on the case management system.	Case management teams to finalise 80% of complaints within six months of receipt, 95% within nine months of receipt and 100% within eleven months of receipt. A minimum of 350 cases to be disposed per month.
	To allocate and resolve complaints received by the New Complaints Unit within the required timelines	1.2 Complaints closed as out of jurisdiction or reformulations, and allocated to case management teams within the workflow document time lines	New Complaints Unit to finalise all matters within 3 months
		1.3 Administration of case management and adherence to the required timelines.	Compliance, monitoring and review of cases within set timelines
	Percentage of determinations taken on review to the High Court	1.4 Number of applications as a percentage of the number of determinations issued for the year.	Not more than 1% of determinations taken on review
2. Achieve Operational Excellence	To remain within budget, and comply with all regulatory prescripts applicable to the OPFA including the PFMA and Treasury Regulations	Audit opinion	Unqualified audit opinion and submission of all required reports in line with Public Finance Management Act and Treasury Regulations
	To ensure that appropriate talent is recruited, developed and retained to support the execution of the PFA's mandate whilst complying with employment legislation and human resource policies.	Recruitment of key staff as and when required	Recruitment within the prescribed timeline
		Wellness program implemented as per annual plan	100% achievement of the Wellness Operational plan
		Implementation of HR operational plan	HR Strategy implemented as per operational plan
	To maintain and align ICT systems to support business needs and overall objectives of the OPFA	An approved ICT and implementation plan	Alignment of the ICT plan to the overall OPFA risk management strategy
	To ensure business continuity in the event of a disaster	An approved BCM Plan/policy and implementation plan	Alignment of the BCM plan to the overall OPFA risk management strategy
3. Stakeholder Engagement	To collaborate and build relationships with stakeholders	Annual implementation plan	Honour invitations, feedback from stakeholders and collaboration with regulatory bodies and conduct annual roadshows through identified provinces of the country

Annual target 2016/2017	Performance results 31 March 2017	Comments
Case management teams to finalise 80% of complaints within six months of receipt, 95% within nine months of receipt and 100% within eleven months of receipt. A minimum of 350 cases to be disposed per month.	Exceeded In 11 out of 12 months, the monthly target was met. 3 309 determinations finalised, three complaints conciliated, 350 complaints deemed out of jurisdiction and 1466 complaints settled. 80.16% of complaints within six months of receipt, 95.14% within nine months of receipt and 98.50% within eleven months of receipt.	The December monthly target was not met as the office closes for two weeks in December. During March 2017, there was a correction for matters previously closed under a different category. In addition, matters previously held back pending an appeal were finalised.
Three months. All matters resolved within three months or allocated to case management teams as per approved timelines.	Achieved Complaints at the New Complaints Unit were finalised within three months or allocated to case management teams within two working days except in minimal instances where further particulars were required. 1 729 complaints were deemed out of jurisdiction, 22 complaints were closed as reformulations, whilst 32 were duplicates and 192 were abandoned and 35 withdrawn.	Achieved
Quarterly compliance reports	Achieved Quarterly compliance reports generated, audited with the system administrator and submitted to National Treasury.	Achieved
One percent	Achieved 0.7% determinations were taken on appeal to the High Court in terms of s30P of the Act	Achieved
Unqualified opinion and submission of all required reports in line with Public Finance Management Act and Treasury Regulations	Not achieved Financially unqualified with findings.	Qualification made based on non-compliance with section 2(a) of the Preferential Procurement Policy Framework Act and Treasury Regulations 16A6.3(b).
All key posts filled within six months	80% of the target was achieved.	The position of the Deputy Pension Funds Adjudicator proved difficult to fill as no suitable candidate could be found from the internal and external recruitment attempts. The candidate is currently being sourced through a search firm.
100 percent of annual Wellness Operational plan	Not achieved 77.8% of the planned activities were undertaken.	The HR Manager was appointed on 1 July 2016, hence some of the planned activities could not be implemented due to lack of capacity.
Strategy and plan reviewed by 31 March 2017	Not achieved 85% of the planned interventions carried out.	The HR Manager was only appointed on 1 July 2016 hence some of the HR activities could not be implemented due to lack of capacity.
100 percent achievement of milestones within the ICT plan	Not achieved 75% Achievement of set milestones within the ICT plan	Unreasonable over costing on vendor proposals resulted in procurement delays.
Maintain and comply 100% with the annual BCM Plan	Not achieved Complied 85% with the annual BCM Plan.	The Business Impact Analysis was still in progress at year end.
100 percent implementation of approved annual stakeholder plan and four roadshows conducted during the year	Not achieved 84.6% achievement of all other milestones except roadshows.	Roadshows were suspended whilst considering a proposal to procure a mobile van in order to improve reach whilst containing costs.

USEFUL INFORMATION ABOUT OTHER OFFICES

The Ombudsman for Long-term Insurance

Private Bag x45, Claremont 7735
Telephone: +27 21 657 5000
Sharecall: 0860 662 837
Fax: +27 21 674 0951
Email: info@ombud.co.za

The Ombud for Financial Service Providers

PO Box 74571, Lynnwoodridge, 0040
Telephone: +27 12 470 9080
Sharecall: 086 032 4766
Fax: +27 12 348 3447
Email: info@faisombud.co.za

The Financial Services Board

PO Box 35655, Menlo Park, 0102
Toll-free: 0800 110 443 or 0800 202 087
Telephone: +27 12 428 8000
Sharecall: 086 032 4766
Fax: +27 12 346 6941
Email: info@fsb.co.za

The Ombudsman for Banking Services

PO Box 87056, Houghton, 2041
Telephone: +27 11 712 1800
Sharecall: 086 080 0900
Fax: +27 11 483 3212
Email: info@obssa.co.za

The National Consumer Commission

Private Bag x84, Pretoria
Telephone: +27 12 761 3200
Email: complaints@thence.org.za

Motor Industry Ombudsman of South Africa

Suite 156, Private Bag x025, Lynnwood Ridge, 0040
Telephone: +27 12 841 2945
Fax: 086 630 6145
Email: johan@miosa.co.za

Office of Tax Ombud

PO Box 12314, Hatfield, 0028,
Telephone: 0800 662 837/+27 12 431 9105
Fax: +27 12 452 5013
Email: complaints@taxombud.gov.za

Financial Ombudsman Callcentre | Sharecall: 0860Ombuds/086 066 2837

The Credit Ombud

PO Box 805, Pinegowrie, 2123
Call Centre: 086 162 2837
Fax: 086 683 4644
Email: ombud@creditombud.org

The Ombudsman for Short-term Insurance

PO Box 32334, Braamfontein, 2017
Telephone: +27 11 726 8900
Sharecall: 086 726 890
Fax: +27 11 726 5501
Email: info@osti.co.za

The Statutory Ombudsman

PO Box 74571, Lynnwoodridge, 0040
Telephone: +27 12 470 9080
Sharecall: 086 032 4766
Fax: +27 12 348 3447
Email: info@faisombud.co.za

Public Protector

Private Bag x677, Pretoria, 0001
Telephone: +27 12 366 7000
Fax: +27 12 362 3473
Toll Free: 0800 112 040

The National Credit Regulator

PO Box 2209, Halfway House, Midrand, 1685
Telephone: +27 11 554 2600
Call Centre: 086 062 7627
Fax: +27 11 805 4905
Email: complaints@ncr.org.za

The Consumer Goods and Services Ombud

Associated House, Bond Office Park, Cnr Bond and Kent, Randburg
Telephone: +27 11 781 2607
Fax: 0866 818 621
Email: info@cgsso.org.za



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