



The Unclaimed Benefit

momentum
corporate

What is an unclaimed benefit?

Unclaimed benefits refer to any monies due to a person that remain unpaid or unclaimed.

Unpaid retirement fund monies are defined in terms of the South African Pensions Funds Act as unclaimed benefits. Two years after a member leaves a fund but the benefit is unpaid or unclaimed, that benefit becomes an unclaimed benefit.

Unclaimed benefits refer to any monies due to a person that remain unpaid or unclaimed.

Unclaimed benefits pose a difficult problem for trustees of retirement funds. How do you continue to shoulder the responsibility of consistently trying to trace these members and ensure that the unclaimed retirement savings are secured and keeping up with inflation – whilst ensuring that your existing fund members aren't prejudiced by the time and monetary constraints of managing unclaimed benefits?

The unclaimed benefit fund solution

Many trustees either keep unclaimed benefits in the occupational fund or transfer them to a regular bank account. Both of these approaches can severely hamper the growth of members' unclaimed benefits due to inappropriate investment vehicles for the general long term investment nature of these types of benefits. In addition, bank accounts leave benefits open to a high risk of fraud. According to the Pension Funds Act, unclaimed benefit funds are specialised preservation funds – approved by the registrar – designed to safeguard and grow members' unclaimed benefits until they are claimed.

They are a valuable and cost-effective way to:

- Fulfill your responsibility of safeguarding members' unclaimed benefits without unnecessarily increasing your administrative load.
- Ensure that the additional administration and governance burden of managing unclaimed benefits doesn't negatively impact your primary focus of growing the savings of your existing members.
- Protect the value of unclaimed benefits from inflation and have the funds easily accessible at the time, by investing them prudently until they are paid out.

Why choose the Momentum Unclaimed Preservation Funds?

- **World-class governance and compliance**

The board of trustees, responsible for the governance of both the pension and provident preservation fund, has been carefully selected to ensure that all unclaimed benefits transferring into these preservation funds comply with all governance and legal requirements. Each trustee was selected for their particular expertise and brings a wealth of experience to the two funds.

There are a total of four trustees, of which two are independent trustees, and two are employees of MMI Holdings. Both funds are audited by PricewaterhouseCoopers.

- **Excellent administration**

The funds are administered by the award winning Momentum Retirement Administrators (MRA) on the MRA Benchmark Retirement Administration System (Benchmark). Benchmark is owned and developed by MRA and currently administers retirement benefits for more than 500 000 members.

- **Administrative risk management**

The integrated administration and accounting platforms ensure that accounting is done accurately and on time. A dedicated investment accounting department ensures that assets and liabilities are matched and that investment returns are accurately accounted for and passed on to members.

- **Continued tracing of members and beneficiaries**

As custodians of members' unclaimed benefits, our trustees are committed to successfully tracing members and/or their beneficiaries to pay them the money that is due to them. Partnering closely with tracing agents, we conduct a search for members.

Where members have been in the funds to over two years and their benefits are in excess of R10 000, the next step is an in-depth search, which can extend as far as physical tracing. This is a costly approach though.

- **A wealth-building investment view**

According to statistics from our unclaimed benefit fund, cases can remain untraced for anywhere from one month

to 25 years, with the average being traced in just less than 3 years. This demonstrates the need for a blended investment strategy that addresses the need for long term preservation but also allows accessibility of funds should a member be traced sooner.

In addition, with limited member data available for unclaimed benefits, we cannot develop a risk profile for the fund and members' tolerance for risk and the risk is therefore reduced.

We believe that the chosen default investment vehicle, the Momentum Multi-Manager Smooth Growth Fund, needs to:

- Be appropriate for the long term – preserve savings and beat inflation (4% p.a.).
- Allow for suitable liquidity – where members are traced in the short term.
- Allow for capital protection – to safeguard members' money from market ups and downs.
- Have no downside volatility.

The Momentum Multi-Manager Smooth Growth Fund provides members with security via its capital protection and has consistently beaten inflation since its inception a decade ago. It also provides suitable liquidity.

In addition to the default investment vehicle, transferor funds can also opt to transfer their unclaimed benefits to either the Momentum Enhanced Factor 4 or the Momentum Money Market Portfolio.

Our fees are clearly disclosed to you and consist of **4 types of charges**, each paid to the provider independently.

1. Administration fees
2. Tracing fees
3. Investment fees
4. Other expenses – such as fidelity cover and audit fees

Momentum Unclaimed Pension and Provident Preservation Fund contact details:

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Trustee profiles

Meet the trustees

The board of trustees responsible for the governance of both the pension and provident preservation fund has been carefully selected to ensure that all unclaimed benefits transferring into these preservation funds comply with all governance and legal requirements. Each trustee was selected for their particular expertise and brings a wealth of experience to the two funds.

Teresa Bender

Sponsor appointed (chairperson of the board)

Teresa is a Chartered Accountant who has held various roles within Metropolitan Employee Benefits, having headed up both the fund accounting and corporate accounting departments. Since the merger of Metropolitan and Momentum, she took up a business role, heading up the Momentum Commercial unit, and more recently managing the Client Insights function of Momentum Corporate.

Reinhard Voigt

Independent trustee (deputy chairman of the board)

Reinhard qualified as an actuary in 1993. He holds a Bachelor of Commerce degree and is a Fellow of both the Actuarial Society of South Africa and the Institute of Actuaries. Reinhard has a qualification in commercial and civil mediation from the University of Stellenbosch. He has been involved in the employee benefits environment as a valuator, actuary, consultant and independent trustee. He is currently self-employed and has been a professional trustee to retirement funds for the past 8 years. Reinhard provides consulting actuarial services to retirement funds in Namibia only.

Robert Young

Independent trustee

Robert has more than 40 years' experience in the retirement funds industry of which he spent 24 years at Old Mutual Employee Benefits, rising to the level of General Manager: Smoothed Investments Division. He has been a professional independent retirement fund consultant for the last 16 years. He has also been a director of independent financial planning company, HO de Villiers for the last 15 years. He holds a post graduate diploma in Financial Planning and is a Certified Financial Planner (CFP®).

Lynne van Zijl

Trustee

Lynne has 35 years' experience in the Employee Benefits industry of which 17 years were spent at Commercial Union where she fulfilled various strategic roles, amongst which included Sales and Service Consulting and Branch Manager of the Sandton / Randburg sales and administration teams. The past 18 years she spent at Momentum spanning across various aspects of Group Risk and Retirement administration. Currently she manages the Cape Town Group risk administration which includes underwriting administration, group risk scheme administration and Affinity business. In addition to Lynne's wealth of operations management skills she holds a diploma in leadership from UCT's School of Business.

Joe Karabus

Alternate trustee

Joe holds a Bachelor of Commerce degree and a Post-Graduate Diploma in Financial Planning. He also has a CFP qualification. Joe has 20 years' experience in the retirement fund industry and was the former Head of Retirement Fund Administration at Metropolitan Employee Benefits. Joe is the current Head of Customised Intermediary Sales at Momentum Corporate.

Emile Hugo

Principal officer

Emile was appointed as the principal officer to the Funds in September 2014. He is currently a consultant at Momentum Consultants and Actuaries after having spent six years in various roles at Momentum Retirement Administrators (Pty) Ltd. Emile is a Chartered Accountant CA(SA), a CFA® Charterholder and a Certified Financial Planner (CFP®). Before joining Metropolitan Employee Benefits in 2007, Emile spent two years with Ernst and Young LLP in London, during which time he headed up a number of audit teams on FTSE 100 audit and assurance engagements.

Fund Investment options

Transferor funds

Transferor Funds can opt for one of three investment options to house members' unclaimed accrued benefits. These include:

- The Momentum Multi Manager Smooth Growth Fund,
- The Momentum Enhanced Factor 4 Portfolio, or
- The Momentum Money Market Portfolio.

Fee structure

Our fees are clearly disclosed to you and consist of 4 types of charges, each paid to the provider independently.

Administration fees

Administration fees are paid to the administrator on a monthly basis at a rate of **R10.00 (excl. VAT)** per member per month. This fee includes all services specified in the service level agreement, the most notable being:

- Maintenance of records including allocation of investment income and expenses
- Monthly investment and financial accounting
- Annual accounting (excludes audit fees)
- Preparation of rules and amendments
- Preparation of statutory returns
- Assisting the trustees on investment and administration matters
- Organising trustee meetings

Tracing fees

Tracing fees are only paid to the tracing agent on receipt of a claim form leading to the settlement of the claim. This incentivises the tracing to ensure that members are not only found but also paid. The fee charged by Investment Consulting and Trustee Services (ICTS) is **R246.96 (excl. VAT)**.

Investment fees

Smooth Growth Fund

Investment fees are levied directly against the funds' investments by the asset manager. The investment fee is **0.25% per annum** of invested assets. Please note that a **0.9% capital charge** is levied by the product provider. This charge is paid to provide the downside protection enjoyed through the guarantee of non-negative bonuses and payments to exits at book value.

Momentum Enhanced Factor 4 Portfolio

The investment fees for this portfolio is 0.825% per annum of invested assets.

Momentum Money Market Portfolio

The investment fees for this portfolio is 0.35% per annum of invested assets.

Other expenses

Expenses other than those listed above are paid for from a cost account. The largest of these fees are fidelity cover and audit fees. Based on the current membership, the cost account is funded by a deduction of **R0.10** per member per month for both Pension and Provident Fund members.

Legal and technical information

This document covers comprehensive legal and technical information below, including:

1. What is an unclaimed benefit?

- Definitions as set out in the Pension Funds Act;
- Comment on paragraph (a): Legal requirements for benefits to qualify as unclaimed;
- Comment on paragraph (aA): Payment of allocated death benefits in terms of Section 37C;
- Comment on paragraph (c): Former members who cannot be traced;
- Comment on paragraph d: Unclaimed benefits and funds applying for cancellation of registration;
- Comment on paragraph (e): Amount unclaimed or unpaid to a non-member spouse within 24 months of the date of the deduction.

2. What is an unclaimed benefit fund?

- Definition as per the Pension Funds Act;
- Who are the role players in an unclaimed benefit fund;
- The transfer process.

3. The Registrar: concerns and expectations

- Concerns regarding unclaimed benefits;
- What does the Registrar expect from the boards of trustees of occupational funds;
- Are boards of trustees obligated to transfer unclaimed benefits to unclaimed benefit funds;
- Possible changes to the process of transferring unclaimed benefits.

1. What is an unclaimed benefit?

Definitions as set out in the Pension Funds Act

The Pension Funds Act defines an unclaimed benefit as:

- a** Any benefit, other than a benefit referred to in paragraphs (aA), (b), (c) and (d), not paid by a fund to a member, former member or beneficiary within 24 months of the date on which it in terms of the rules of the fund, became legally due and payable;
- aA** A death benefit payable to a beneficiary under section 37C not paid within 24 months from the date on which the fund became aware of the death of the member, or such longer period as may be reasonably justified by the board of the fund in writing;
- b** In relation to a benefit payable as a pension or annuity, any benefit which has not been paid by a fund to a member, former member or beneficiary within 24 months of:
 - i. the expiry date of any guarantee period for pension payments provided for in the rules of the fund; or
 - ii. the date on which any pension payment or annuity legally due and payable in terms of the rules of the fund became unpaid;
- c** In relation to a benefit payable to a former member who cannot be traced in accordance with section 15B (5) (e), any benefit that has become legally due and payable to a former member in terms of a surplus apportionment scheme approved in terms of this Act not paid to that former member within 24 months of the date on which it became legally due and payable;
- d** Any benefit that remained unclaimed or unpaid to a member, former member or beneficiary when a fund applies for cancellation of registration in terms of section 27 or where the liquidator is satisfied that benefits remain unclaimed or unpaid; or
- e** Any amount that remained unclaimed or unpaid to a non-member spouse within 24 months from the date of the deduction contemplated in section 37D (4) (a) (ii).

a Legal requirements for benefits to qualify as **unclaimed**

Any benefit, other than a benefit referred to in paragraphs (aA), (b), (c) and (d), not paid by a fund to a member, former member or beneficiary within 24 months of the date on which it, in terms of the rules of the fund, became legally due and payable.

In order for a benefit to qualify as an unclaimed benefit under this section, the following requirements must be met:

- The benefit must be legally due and payable in terms of the rules of the fund;
- The benefit must not have been paid and must be in the fund's books as a liability;
- The benefit must be due and payable to a member, former member or the member's beneficiaries; and

- A period of 24 months must have elapsed from the date it becomes legally due and payable.

What does legally due and payable mean?

The member must have met the requirements that will enable the fund to pay the benefits in terms of the rules.

These requirements are usually termed the exits events and can be:

- Withdrawal due to dismissal, retrenchment, resignation;
- Retirement; and
- Death.

aA Payment of allocated death benefits in terms of Section 37C

A death benefit payable to a beneficiary under **Section 37C** not paid within 24 months from the date on which the fund became aware of the death of the member, or such longer period as may be reasonably justified by the board of the fund in writing.

Under this section, a death benefit qualifies as an unclaimed benefit when:

- The trustees have made an allocation to the beneficiaries;
- A period of 24 months has elapsed since the fund became aware of the death of the member; and
- The death benefit has remained unpaid.

In practice how do the allocated death benefits become unclaimed?

Typically this occurs when a member is deceased and the trustees conduct an investigation as required in terms of Section 37C of the Act. The trustees trace dependants and nominees and allocate the death benefit. It is possible that some of the dependants and nominees' whereabouts and contact details are unknown. As a result payment of the death benefit is made to those dependants and nominees who are known or whose contact details are known. The benefits

allocated to those dependants and nominees whose contact details are unknown then remain in the fund and become unclaimed benefits upon the meeting of all the conditions outlined above.

Payment of unallocated death benefits to an unclaimed benefit fund in terms of Section 37C(1)(c) of the Act.

These death benefits are not dealt with in the definition of unclaimed benefits but are dealt with in Section 37C(1)(c) of the Act. The section provides:

"If the fund **does not become aware of or cannot trace any dependant of the member within twelve months of the death of the member** and if the member has not designated a nominee or if the member has designated a nominee to receive a portion of the benefit in writing to the fund, the benefit or the remaining portion of the benefit after payment of the designated nominee, shall be paid into the estate of the member or, if no inventory in respect of the member has been received by the Master of the Supreme Court in terms of Section 9 of the Administration of Estates Act, 1965 (Act 66 of 1965), into the Guardian's Fund or **unclaimed benefit fund**".

Under this section, the trustees of a fund can pay a death benefit to an unclaimed benefit fund under the following circumstances:

- Where a fund cannot trace a dependant within a period of twelve months from the date of death of the member;
- The member has not chosen a nominee or a nominee has been chosen to receive only a portion of the benefit;
- Either the full benefit or the portion that remains after paying the nominee can be paid to the following:
 - The estate of the member; or
 - If the estate has not been reported, into the Guardian's Fund or **unclaimed benefit fund**.

Payment of benefits to an unclaimed benefit fund upon the death of a beneficiary of a beneficiary fund in terms of 37C(5) of the Act.

Section 37C(5) of the Act provides that:

"The provisions of subsections (3) and (5) do not apply to a beneficiary fund, and any remaining assets held for the benefit of a deceased beneficiary in a beneficiary fund must be paid into the estate of the member, if no inventory in respect of the beneficiary has been received by the Master of the Supreme Court in terms of Section 9 of the Administration of Estates Act, 1965 (Act 66 of 1965), into the Guardian's Fund or **unclaimed benefit fund**".

The payment of the benefit to an unclaimed benefit fund occurs where a beneficiary of a beneficiary fund has died. The trustees of the beneficiary fund must pay the remaining balance of the assets to:

- The estate of the deceased beneficiary; or
- If the estate has not been reported, into the Guardian's Fund or **unclaimed benefit fund**.

c Former members **who cannot be traced**

In relation to a benefit payable to a former member who cannot be traced in accordance with **section 15B (5) (e)**, any benefit that has become legally due and payable to a former member in terms of a surplus apportionment scheme approved in terms of this Act not paid to that former member within 24 months of the date on which it became legally due and payable.

d Unclaimed benefits and funds applying for **cancellation of registration**

Any benefit that remained unclaimed or unpaid to a member, former member or beneficiary when a fund applies for cancellation of registration in terms of **section 27** or where the liquidator is satisfied that benefits remain unclaimed or unpaid.

In this instance, the unclaimed benefits do not have to be unpaid for a period of 24 months. The only requirements are that:

- That the fund should be in the process of applying for cancellation of its registration; and
- The liquidator must be satisfied that the benefits have remained unclaimed or unpaid.

e Comment on paragraph

Any amount that remained unclaimed or unpaid to a non-member spouse within 24 months from the date of the deduction contemplated in **section 37D (4) (a) (ii)** of the Act.

The portion of a member's pension interest allocated to a non-member spouse in terms of a divorce order qualifies as an unclaimed benefit if it qualifies as an unclaimed benefit if within 24 months of the expiry of the 165 day period granted to the non-member spouse to choose how the payment must be made as contemplated in the Pension Funds Act.

The exception

All benefits which are due to be transferred as part of a transfer of business in terms of a **section 14** transfer of this Act do not qualify as unclaimed benefits.

2. What is an **unclaimed benefit fund**?

An unclaimed benefit fund is defined in the Act as:

“ a fund that is established for the receipt of unclaimed benefits contemplated in the definitions of a pension preservation fund and a provident preservation fund in **section 1** of the Income Tax Act, 1962 (**Act No. 58 of 1962**)”.

An unclaimed benefit fund is therefore a preservation fund and its registration will only be approved by SARS if its sole purpose is to receive and administer unclaimed benefits. Unclaimed benefits are registered by the Registrar of Pension Funds and are subject to the stringent compliance regime that all pension funds are subjected to. This includes but is not limited to submission of annual financial statements, valuation (exemption) applications and inspections by the Registrar of Pension Funds.

Who are the role players in an unclaimed benefit fund?

- An unclaimed benefit fund shall have a board of trustees that is appointed in terms of the Act and its rules;
- It must have a principal officer who is appointed in terms of the Act and its rules;
- It must have an administrator who is appointed by the board of trustees to administer it. The administrator of the Momentum Unclaimed Benefits Preservation Pension and Provident Funds is Momentum Retirement Administrators (Pty) Ltd; and
- The members and their beneficiaries.

The transfer process

- Members whose benefits qualify as unclaimed benefits are transferred from their occupational funds to the unclaimed benefit fund;
- The members are transferred via a Section 14(8) of the Act process;
- This process involves the occupational fund's board of trustees and the board of trustees of the unclaimed benefit fund signing a Form H;
- Form H confirms the number of members to be transferred and the values to be transferred;
- Both funds are required to keep a copy of the form for presentation to the Registrar upon request or during an inspection;
- On transfer of the assets, the occupational fund's board of trustees and the board of trustees of the unclaimed benefit fund sign a Form J (recognition of transfer form) confirming receipt of the assets; and
- Both funds are required to keep a copy of the form for presentation to the Registrar upon request or during an inspection.

3. The Registrar: concerns and expectations

The Registrar has raised concerns regarding the way unclaimed benefits are being handled by occupational funds.

The concerns raised are:

- The boards of trustees of occupational funds have a fiduciary duty to look after the interests of their members;
- This duty includes the boards of trustees' obligation to trace its members and pay benefits due to members and their beneficiaries. Boards of trustees are currently not doing enough to trace members;
- Members who are transferred to unclaimed benefit funds are denied the opportunity to raise concerns/objections regarding their benefits; and
- By transferring members to unclaimed benefit funds, the boards of trustees of occupational funds are abdicating their responsibilities.

The Registrar has therefore proposed that more intrusive steps will be taken to ensure that funds are doing enough to protect the interests of members.

What does the Registrar expect from the boards of trustees of occupational funds?

- The boards of trustees of occupational funds must put measures in place to trace members;
- The boards of trustees of occupational funds must keep records of the steps taken to trace members; and
- Rules of occupational funds must be amended to allow for tracing and deduction of the costs of tracing members.

Are boards of trustees of occupational funds obliged to transfer unclaimed benefits to unclaimed benefit funds?

Boards of trustees of occupational funds are not obliged to transfer unclaimed benefits to unclaimed benefit funds.

If the boards of trustees of occupational funds decide not to transfer unclaimed benefits to unclaimed benefit funds, they are obliged to take active steps to trace members and their beneficiaries.

In the event that boards of trustees of occupational funds decide to transfer unclaimed benefits to unclaimed benefit funds then:

- The rules of their fund must be amended to allow for such transfers; and
- Proper due diligence must be conducted on the unclaimed benefit fund that is selected.

Possible changes to the process of transferring unclaimed benefits

- All transfers to unclaimed benefit funds will be subject to a full Section 14 transfer process; and
- Prior to the finalisation of the Information Circular and to address the Registrar's concerns, it is recommended that boards of trustees of occupational funds put measures in place ensure that members are traced and their benefits paid.

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