The South African retirement landscape:

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Four draft bills came under the attention of the public and financial services industry when published on 29 July, with a mere month for public commentary until 29 August 2022. One of these hold the long-awaited concept drafts for what National Treasury ("NT") refers to as the two-pot retirement system.

These proposals are set to change the South African retirement landscape. If it is up to NT this change is going to happen very quickly, with a proposed implementation date of 1 March 2023. However, they do admit in a media statement that this date is optimistic. Whether stricter legislation catering for access, savings, vested rights and retirement capital preservation will be the saving grace for generally poor sustainable retirement income, remains to be seen. If the relatively brief time granted for public comment is anything to go by, NT is set on pushing through at a quick pace. However, the proposed changes are immense, and the industry will find it extremely challenging to be ready for implementation on the proposed date.

The proposed system aims to enable the avoidance of financial hardship, a way to save and grow capital for the purpose of emergency savings and better retirement savings preservation, all using what is arguably the biggest source of wealth for most South Africans - their retirement savings fund.

NT's own summary in their media statement dated 31 July 2022, of what they have to date enabled along the lines of retirement reform, does provide food for thought. These include tax-free savings accounts for individuals since 1 March 2015, equal tax treatment for retirement fund contributions to any type of fund since 1 March 2016, increased preservation via provident fund annuitisation since 1 March 2021 and other implemented reforms that improve charges, governance and market conduct.

The retirement pots

The severe SA dilemma around preservation is not a new thing but the pandemic-related societal changes along with world-wide economic pressure has led to NT believing the answer to increased

preservation and a better retirement, lies in having a balance between preservation and flexibility. Although it is, to an extent, too late to address the economic suffering caused by the pandemic, NT states that they want to help avoid it in the future. There is credit due to them for their future scenario planning. Currently the proposals are questioned in general, with fears that the real problem of indigent retirement years will only be exacerbated by this. One must, however, not lose sight of the fact that while access to retirement savings prior to retirement is being brought forward, there are also other restrictions proposed that will mean retirement fund members can no longer completely empty out their retirement savings long before retirement is even an impending reality for them. It could be argued that this existing allowance creates a false incentive to resign from employment just to access savings in the short term, while actually significantly risking debilitating a comfortable retirement. One must keep in mind that the proposed changes will only apply to the contributions into retirement funds starting on the date of implementation. This means that for all of a fund member's current savings, the changing rules will not apply as the existing rules will continue applying to these savings in particular.

The Sanlam Benchmark Survey 2022 revealed interesting facts that one should keep in mind. The survey shows that the state of the world has led to 58.08% of respondents to the survey saying that they have had to live more frugally since the start of the pandemic. A corresponding shift indicated in consumer behaviour in the survey is that 27% of the respondents indicated they are reviewing their insurance products, and this includes their retirement savings.[1] These figures make the case for more reform.

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[1] Sanlam. (2022). *Sanlam Benchmark 2022. Envision a new tomorrow. Insights Report.* Retrieved from https://www.sanlam.co.za/corporate/retirement/benchmarksurvey/Pages/default.aspx?gclid=CjwKCAjwi8iXBhBeEiwAKbUofb3glw6rSHSXUt2PHjmqkLZy21y

The proposals in brief as we understand them currently:

	What is in it	The rules of the pot	At retirement
Vested pot	Everything in the retirement fund on the date of implementation.	• No further contributions into this pot after implementation date unless the member was a provident fund member aged 55 or older on 1 March 2021. • Can transfer this pot into the retirement pot.	Current access and taxation rules will apply.
Retirement	Two-thirds of all contributions after date of implementation. Possibly also any over contributions (disallowed deductions) as the proposals state that any contribution higher than one-third of the deductible amount catered for in section 11F of the Income Tax Act, should not go to the savings pot but rather to the retirement pot.	• No access before retirement. • No transfers out of this pot to other pots. • Can transfer between different retirement pots at different retirement funds but the retirement pot and the savings pot must always transfer together.	• Must use the whole pot to buy an annuity product unless the value of the retirement pot is below R165 000. • If the value is below R165 000 then the lump sum will be taxed per the retirement tax table (R500k table).
Savings pot	A maximum of one-third of all contributions to the retirement fund after implementation date.	• Member can choose NOT to have a savings pot. • No over contributions (disallowed deductions) allowed in this pot. • No transfers into this pot unless from another savings pot at another retirement fund, subject to fund rules. The retirement pot and the savings pot must transfer together. • Can transfer to retirement pot. • Only one withdrawal per twelve-month period with a minimum per withdrawal of R2 000. • Withdrawals will not be taxed per the withdrawal tax table (R25k table) but at the marginal tax rate of the member.	• Can take lump sum at retirement that will be taxed per the retirement tax table (R500k table). • Can also transfer any value to the retirement pot.

Please note that there are some issues and detail around the information in the above table that require clarity from the authorities and the industry will be requesting this clarity during the commentary process. Similarly, some of the proposals will be extremely difficult to successfully implement administratively and therefore alternative suggestions will be made during the mentioned commentary process.

Immediate access and the old rules

The proposals will not enable all retirement fund members to immediately dip into their retirement savings come 1 March 2023. The savings pot will have to be built up first. NT says that immediate access is simply not in the best interests of members or the stability of retirement funds. All the rights and obligations of retirement fund members as we know them now, will also continue to apply to the fund value in favour of a member as it stands on 1 March 2023 (or a later date of implementation). This means that the way contributions and lump sums are taxed as well as the rules of access, will remain and apply to the 'old' pot i.e. the vested pot. The rights of members with regards to the existing savings are therefore vested, as it was with the provident fund annuitisation changes not that long ago.

First-time access will therefore only become possible once a member has at least R2 000 in the savings pot. The authorities also made it clear that retirement funds will need to amend their fund rules to allow these withdrawals. The withdrawal is going to be taxed at marginal tax rates though. This taxation rule is said to encourage preservation and discourage unnecessary withdrawals.

Some of the finer details around this and the unforeseen consequences thereof, is on the list of issues that the industry is seeking clarification on.

We understand the proposals to mean that when it comes to divorce orders and the granting of a portion of savings to an ex-spouse, these grants will be proportional from the different pots.

Access upon 'emigration', or more correctly now when a member has no longer been tax resident in SA for an uninterrupted period of three years, will remain and be taxed as follows:

1. Vested pot lump sum taxed on current tax rules;
2. Retirement pot taxed at lump sum withdrawal table (R25k table); and
3. Savings pot taxed as gross income at marginal tax rate.

The lids on the pots

One should view these proposals in the context of the ASISA statement that about 61% of retirement fund members had an average of R37 000 retirement savings in total as at July 2020. This is shockingly little.

In the Sanlam Benchmark Survey 2022, van Zyl reveals that 52% of the member respondents indicated they are aware of these proposals, 56% indicated that they do not approve of them and 31% indicated they will consider dipping into the savings pot.[2] He also highlights the hope that these proposals will alter member behaviour and decision-making seeing that despite the punitive withdrawal tax table rates, many people currently cash in retirement savings when changing jobs. A further consideration for the industry is the investment strategy linked to these pots. He asks whether the savings pot needs more liquid assets, and how one would balance the likely lower investment returns as a result, over the longer term? If a fund has members who will not access the savings pot, will it be prudent to differentiate the investment strategy for this pot in relation to those members and if so, how will retirement fund trustees cater to these diverse needs? Van Zyl's conclusion is that the effort might be worth it over the long term as initial modelling done indicates better retirement outcomes for most members regardless of regular access to the savings pot.

NT does admit that what they are trying to enable is complex. Trying to fit new pre-retirement withdrawal rules into a scheme originally designed for long-term savings, while the vehicles already hold existing retirement provisions, will be a huge task. On top of this, all approved retirement funds will have to go through the laborious process of changing their fund rules to accommodate the new system. It is therefore no surprise that the industry is concerned about the pace at which implementation is set to take place. Readiness and unforeseen consequences are something that the industry will have to bear the brunt of, and this is going to cost a lot of money, which is inevitably passed onto members. In addition, NT warns that we should not take our eyes off the retirement ball after this implementation as they will be finalising proposals in 2023 for mandatory enrolment in retirement savings vehicles and to cater to greater retirement fund

consolidation.

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[2] Van Zyl, D. (2022). *Keeping the pot boiling. Sanlam Benchmark 2022. Envision a new tomorrow. Insights Report.* Retrieved from https://www.sanlam.co.za/corporate/retirement/benchmarksurvey/Pages/default.aspx?gclid=CjwKCAjwi8iXBhBeEiwAKbUofb3glw6rSHSXUt2-PHjmqkLZy21yZChaHgUFYcSKUai6H5PUnXvGvxoCqnAQAvD_BwE&gclsrc=aw.ds

The draft Taxation Laws Amendment Bill (TLAB) 2022

One of the other draft bills that justifies a brief mention is the draft Taxation Laws Amendment Bill. Many of the proposed amendments relate to changes that will enable the two-pot system.

The four anomalies of importance in the retirement context and addressed in the proposals are:

1. An important proposal centres around the transfer of separate plans or contracts in a retirement annuity fund membership. Currently where a retirement annuity fund member has more than one plan or contract in a retirement annuity fund, legislation determines that all of these plans or contracts must be transferred to other funds, together. Partial transfer or separate plan transfer to another retirement annuity fund is therefore not allowed. The anomaly between the rules applicable when it is a preservation fund membership as opposed to a retirement annuity fund membership, is being addressed in these proposals. The draft TLAB proposes more flexibility and an equal playing field. The suggestion is to allow retirement annuity fund members with more than one plan or contract, to transfer these separately to other retirement annuity funds subject to the rule that the value of the one plan/s transferred must be greater than the current *de minimis* amount times two. This means a plan will only be transferred separately if the value is at least R495 000 AND if the value of the remaining plan/s in the retirement annuity fund is also at least R495 000. The proposed effective date is 1 March 2023.
2. A second anomaly addressed in the proposals is around the vested rights of provident fund members when they transfer benefits to a public sector fund. Currently these vested rights are not protected when transferred into a public sector fund. The suggestion is that these rights must remain vested even in the public sector fund and that the amendment will be retrospective to 1 March 2021.
3. The third anomaly addressed is the unequal taxation at early retirement between provident funds and other funds. Currently provident fund members taking early retirement (not for reasons of ill health) will have their lump sum taxed on the withdrawal tax table (R25k table) and not the retirement tax table (R500k table). The proposed change will mean that provident fund members will also be taxed on the R500k table at early retirement. The amendment is proposed to be effective on 1 March 2023.
4. In principle all transfers between pension and provident funds should be tax neutral i.e. tax-free. The last anomaly addressed will ensure that contributions to pension funds prior to 1 March 2021 will also have a tax-free transfer status as of 1 March 2021.

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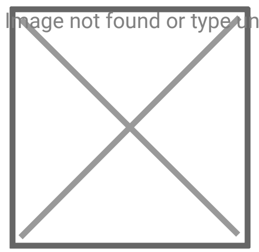

Annalise is responsible for support of the Business Development team with respect to product entrenchment, legal expertise, regulatory compliance, financial planning principles, digital communication, and strategic project collaboration. Her role is key to ensuring the fulfilment and maintenance of the competency and expertise of the team and selected partners. Annalise joined Glacier in 2015 as a Sales Training Manager looking after the competency and expertise of the Glacier Distribution and Sales team. Before Glacier, Annalise's career spanned almost two decades as a technical professional in the fields of law, financial planning, development, business development and marketing at the Road Accident Fund, Bowline Fulfilment, Bowman Gilfillan Attorneys and Milpark Education. Annalise obtained a B. Proc degree and Postgraduate LLB degree from the University of Johannesburg (1993 to 1999), Postgraduate Diploma in Financial Planning (CFP®) from the University of the Free State (2008) and an Advanced Postgraduate Diploma in Financial Planning (Advanced CFP®) in Estate Planning and Personal Risk Management from the University of the Free State (2010)

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