1. 2020 National Budget

The following proposals and information provided in either the Budget Speech or the Budget Review (published on http://www.treasury.gov.za) are relevant to the employee benefits industry:

Retirement reform: Harmonisation of retirement benefits

The Budget Review states that Government and the National Economic Development and Labour Council (NEDLAC) have agreed to proceed with retirement reform related to the harmonisation of all retirement benefits, including provident funds. The compulsory annuitisation of retirement benefits from provident funds has been postponed a number of times in the past, but it seems that this will now go ahead from 1 March 2021, as currently provided in the Income Tax Act.

In short, the position as from 1 March 2021 will be that not more than one-third of the retirement benefit from a provident fund may be taken as a lump sum. However, this restriction does not apply to the balance in the fund as at 1 March 2021 (and growth thereon) and therefore funds will have to keep separate member accounts for pre-March 2021 contributions (and growth) and post-March 2021 contributions (and growth). Provident fund members who are 55 years or older on 1 March 2021 will however be able to commute the full retirement benefit, including contributions made after 1 March 2021 (and growth thereon) to the provident fund of which he/she was a member on 1 March 2021.

Note that the annuitisation requirements discussed above with regard to provident funds will also apply in respect of provident preservation funds.

Other retirement reform measures

Government indicated that it also intends to take steps to ensure the development of annuity products more suitable for the low-income market. According to the Budget Review, further reforms will include improving oversight and governance of commercial umbrella funds, fund consolidation and auto-enrolment. However, no further information regarding the proposed reforms was provided.

Unclaimed benefits

Unclaimed benefits, reportedly in excess of R42 billion, are currently preserved in unclaimed benefit preservation funds, other retirement funds as well as the Guardian's Fund. According to the Budget Review, these monies are being considered for the funding of infrastructure. Government intends to introduce legislation later this year to centralise such funds and establish a central registry of all members of retirement funds.

Clarifying deductions in respect of contributions to retirement funds

Paragraphs 5(1)(a) and 6(1)(b) of the Second Schedule to the Income Tax Act make provision for a deduction of retirement fund contributions that did not qualify for a deduction in terms of section 11F of the Act. These paragraphs refer to "own contributions", which inadvertently seem to prevent employer retirement fund contributions on behalf of employees (made on or after 1 March 2016) from qualifying for a deduction under either paragraph. It is proposed that the legislation be amended to remove this anomaly. Since employer contributions that have been taxed in the hands of an employee as a fringe benefit are deemed to have been made by the employee, our understanding is that SARS has up to now in any event indeed treated such contributions as "own contributions". This is accordingly merely a technical correction.

Withdrawing retirement fund benefits upon emigration

Individuals are currently able to withdraw funds from their pension preservation fund, provident preservation fund and retirement annuity fund upon emigrating for exchange control purposes through the Reserve Bank. The Budget Review states that the concept of emigration as recognised by the Reserve Bank will be phased out. It is proposed that the trigger for individuals to withdraw these funds be reviewed and any resulting amendments will come into effect on 1 March 2021.

Conduct of Financial Institutions Bill (CoFI Bill)

In 2018, the CoFI Bill was published for public consultation. Public workshops were held during 2019. Over 800 pages of comments were received, including feedback on governance requirements, retirement funds, payment services, financial markets and wholesale banking. The Budget Review reports that a revised draft of the bill will be published for public comment, and tabled in Parliament in 2020.

Levies on financial institutions (including retirement funds)

The Financial Sector Levies Bill, to be submitted to Parliament during 2020, will propose the collection of levies to ensure that the Prudential Authority, the FSCA and ombuds are sufficiently resourced to carry out their duties and functions. In the past, levies were charged in terms of the Financial Services Board Act. Going forward, it will be charged in terms of separate legislation just dealing with levies.

Transformation and financial inclusion

The Budget Review states that the Financial Sector Transformation Council has established eight subcommittees to review the targets in the Financial Sector Code to strengthen transformation of the financial sector. To date, the committees have developed targets for management control, skills development, socio-economic development, consumer education and retirement funds. A paper to establish a policy framework for financial inclusion in South Africa will be published for public comment in 2020. Compliance with the Financial Sector Code and submission of a balanced scorecard is voluntary for retirement funds at present. We will have to wait for the policy paper to see what will be required of retirement funds in future in this regard.