ALLAN GREENBLO: As public awareness of unclaimed benefits rises, nuance is needed

A report on finance companies' conduct by Open Secrets makes damning allegations, but questions remain

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It's iniquitous that billions of rand owed to millions of past and present retirement fund members, many in poverty, are left unclaimed or unpaid. Worse is that the numbers appear to be mounting.

The latest annual report of the Financial Sector Conduct Authority (FSCA) for the year to end-March 2019 shows that there were 1,275 retirement funds owing an aggregate of R42.8bn in unclaimed monies to over 4.7-million beneficiaries. Add to them the funds that the FSCA does not regulate, notably the mammoth Government Employees Pension Fund and Transnet funds, for the quantum to become yet heavier.

What's to be done? No longer is it a matter to be resolved by leisurely interaction between funds, administrators and the FSCA. Impatience is piqued by the Unclaimed Benefits Campaign (UBC), an unaffiliated community organisation which has been gaining traction from its Sebokeng base, supported by Open Secrets, a donor-funded entity which has produced a research report lambasting the financial sector.

The more they take to the streets – an activist strategy planned to intensify – the more public awareness will foment. This in itself is no bad thing, serving as it should to dissipate lethargy in assets being reunited with their owners. The flip side is in the reputational risk for the financial sector, including the FSCA as regulator, taken as a whole without nuance.

Intending to lobby parliament, UBC steering committee member Thomas Malakotse is reported to have said: "We will also be calling for a boycott of finance companies involved in the withholding of benefits. The fund administrators have been making secret profits for decades by charging fees on these unclaimed assets, and they are accountable to no-one."

AT LIBERTY: HOW FEES WORK

Despite the high quality of its research, and sometimes emotive presentation, the Open Secrets report does contain errors on cost computations. Since it has singled out Liberty to illustrate from the particular to the general, the group has sought to answer some of the more serious misunderstandings. For its side of the story, Liberty Corporate CEO Tiaan Kotze has entered this Q&A.

Administration fees are deducted from unclaimed benefits. Are these fees eroding members' benefits?

The Liberty Unclaimed Benefits Funds charge administration fees for the monthly maintenance of members' records. These fees are significantly lower than those of commercially active retirement funds.

The fees are charged against each member's fund value and paid by the funds to Liberty in respect of the funds' operational requirements. These requirements include administration maintenance, production of the funds' audited annual financials, statutory levies, professional advisory fees and remuneration of the independent trustees.

Other than members with a fund value of less than R800, who are automatically exempted, the fee charged for these services is R9.90 per member per month. The capital benefit is not reduced by the monthly admin fee where investment growth exceeds this fee.

The funds have contracted ICTS as their tracing agent. It charges around R350 for each record successfully traced. This fee is deducted from the benefit before it is paid.

What is Liberty doing to trace members with lower benefit balances who are exempted from administration fees?

We have now processed all members in our Unclaimed Benefit Funds, where each member has a fund value of over R1,000, through traditional tracing methods. About a third of members have values below R1,000. For these members we're running SMS campaigns, with some success, and also looking at ways to enhance membership data for those remaining members. These actions are at Liberty's own cost.

How are assets of the Unclaimed Benefit Funds invested?

Selected by the trustees is a combination of money market and predominantly the Liberty Stable Growth Portfolio. The annual fee Liberty charges is 0.6% of assets invested. There are no further fees.

That's a broad sweep which overshoots on context. Much of the problem arose because of surplus apportionment legislation retrospective to 1980. Funds and administrators simply had too little contact information on long-departed members, often lacking even their ID numbers.

This made it inordinately difficult for funds to ascertain former members' whereabouts for payment of top-ups by the time that apportionment of surpluses had to be distributed by 2008. Surpluses arose, for example, by former members becoming entitled to share in the contributions of employers to their old defined-benefit funds.

Clearly, there's a lot of explaining still to be done; not only by fund administrators but also by large funds whose boards comprise nominees of trade unions.

In fact, the Metal Industries Provident Fund and the Engineering Industries Pension Fund – both run by the Metal Industries Benefit Fund Administrators (MIBFA) – are together liable for nearly 45% of all unpaid benefits (see table as at end-December 2016, broadly consistent with the report of the pension funds registrar for the year to end-December 2017).

After the MIBFA funds comes the Mineworkers Provident Fund, whose board includes trustees appointed by the National Union of Mineworkers and the Association of Mineworkers & Construction Union. Then there are three standalone funds in the motor industry whose boards similarly boast trade union representation.

Being self-administered standalones, none can blame outsiders for unpaid benefits. Neither would they have anybody other than themselves to pick up the costs for tracing and processing former members to whom payments are due. Nor is there an explanation for the union-related standalones being responsible for such a high proportion of unclaimed benefits.

Asked to comment, a spokesperson for MIBFA says: "It is the policy of the funds not to respond to media inquiries about the confidential matters of the funds. However, we confirm that the funds report the unclaimed benefit member details to the FSCA on a regular basis as required. Further, members and beneficiaries of these unclaimed funds are also traced through MIBFA's internal processes as well as advertisements in the press."

For its part, the FSCA has set up a search engine to help members of the public establish whether there are possible unclaimed benefits due to them. At the least, the facility would require basic ID information.

Nonetheless, much as the Open Secrets research is so comprehensive and plausible for its well-articulated allegations to demand response, its report is deficient by omission. It prefers to focus primarily on Liberty – presumably because it administers more retirement funds than any other (1,107 out of a total of 5,140, according to the FSCA) – as a prime example of “how financial service companies make money from administering pension funds”.

Unclaimed benefits held per Funds and/or Administrator

Administrator	Occupational			Unclaimed Benefit Funds			TOTAL			
	Assets	Members	Funds	Assets	Members	Funds	Assets	Members	Funds	%
Metal Industries Benefit Fund Administrators	18,879,449,000	2,101,491	2	-	-	-	18,879,449,000	2,101,491	2	44.58
Mineworkers Fund	3,980,035,134	76,512	1	660,226,214	58,132	2	4,640,261,348	134,644	3	10.96
Alexander Forbes	3,009,910,305	227,214	315	1,299,667,907	188,722	2	4,309,578,212	415,936	317	10.18
Liberty Life	1,284,300,627	67,664	172	939,297,103	105,782	2	2,223,597,730	173,446	174	5.25
Old Mutual	502,515,027	38,457	38	1,397,933,120	104,636	2	1,900,448,147	143,093	40	4.49
Sanlam	1,273,580,795	289,812	105	397,232,094	54,981	2	1,670,812,889	344,793	107	3.94
Motor Industry	1,523,859,403	248,796	2				1,523,859,403	248,796	2	3.60
MMI	263,387,995	63,338	29	835,799,582	64,766	2	1,099,187,577	128,104	31	2.60
NBC	701,839,164	151,930	74	294,764,195	36,148	1	996,603,359	188,078	75	2.35
Absa	684,113,360	45,997	144	299,376,386	27,084	2	983,489,746	73,081	146	2.32
NMG	373,607,051	17,017	67	294,304,484	35,897	2	667,911,535	52,914	69	1.58
Cedar	11,576,436	371	7	82,161,450	7,023	1	93,737,886	7,394	8	0.22
Total	**32,488,174,297**	**3,328,599**	**956**	**6,500,762,535**	**683,171**	**18**	**38,988,936,832**	**4,011,770**	**974**	**92**
Other administrators	2,231,839,980	11,181	330	1,132,006,682	187,586	23	3,363,846,662	198,767	353	8
TOTAL UB all funds (2016)	**34,720,014,277**	**3,339,780**	**1,286**	**7,632,769,217**	**870,757**	**41**	**42,352,783,494**	**4,210,537**	**1,327**	

The irony is that Liberty, among all the institutions involved with fund administration, has led the pack in setting right to wrongs. Having become the largest administrator by number through the unholy mess it inherited by taking over the old Capital Alliance funds in the 1990s, it was the first in applying to court for reinstatement of various “dormant” funds whose registrations the Financial Services Board (FSB) – the FSCA’s predecessor – had allowed improperly to be cancelled.

These funds still had assets and liabilities. Liberty’s successful court application in 2018 paved the way for members to be recompensed. It subsequently caused the FSCA to issue a directive that other administrators similarly move to reverse irregular cancellations. Liberty has also appointed three external individuals, relied upon to act independently, as trustees of its unclaimed benefit funds.

None of which absolves Liberty from past controversies: for one, through the interest conflicts that arose from using employees as trustees of the supposedly dormant funds to pursue their cancellations; for another, on whether the start it made a few years back to revise the cancellations was motivated coincidentally or autonomously by the contention of Rosemary Hunter that the so-called “cancellations project” of the FSB was illegal.

At the time, in 2014, Hunter was the FSB deputy executive officer in charge of retirement funds. Up against her was her boss, then FSB executive officer Dube Tshidi. Their ugly confrontation eventually landed in the Constitutional Court where, by majority judgment in 2018, Hunter was defeated in her attempts to have prejudice from the cancellations fully explored.

Who has the last laugh? Unsurprisingly, the latest FSCA annual report mentions not a word of gratitude to Hunter. At huge personal sacrifice, she’d brought the inequity of unpaid benefits into the public consciousness as the regulator never did.

It does mention that Tshidi still sits on the FSCA interim management committee. As its executive head, his remuneration for the year to end-March 2019 was R7.6m.

But the show isn't over while the UBC, with Hunter in the wings, sings ever louder.

• Greenblo is editorial director of Today's Trustee (www.totrust.co.za), a quarterly publication mainly for principal officers and trustees of retirement funds