

City Press

Liberty reinstates 90 funds worth R82m

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18 February 2018

The financial services group responsible for most of a controversial mass cancellation of “orphan” pension and provident funds, Liberty Group, is asking for 90 of them to be reinstated. These 90 funds have total assets of R82 million, Liberty told City Press this week. A first tranche of 25 funds with R35 million in assets will be reinstated when a first application goes to court in March.

Liberty said in emailed answers to questions that it cancelled 4 500 funds between 2007 and 2013, implying that the 90 that are to be reinstated represent a small proportion. At the same time, the almost five-year long battle between the Financial Services Board (FSB) and its former deputy registrar for pension funds Rosemary Hunter reached the Constitutional Court this week.

Hunter has asked for a court-supervised investigation into the cancellation of thousands of “orphan” pension funds between 2007 and 2013. She had accused the FSB of a “systemically” flawed cancellations project that outsourced the culling of funds to the fund administrators.

The argument is that they had conflicting interests: it was never in their interest to find beneficiaries when they could instead deregister funds and transfer whatever assets there might be to an unclaimed benefits fund to which they could indefinitely charge fees.

Sometimes funds were also cancelled without their asset being transferred, leaving people’s benefits in limbo. There has been a heated dispute about the extent of these cases. The orphan fund problem was largely caused by the shift from the 1990s onwards from small single-employer funds to large umbrella funds. As larger funds prevailed, the legal wreckage of the old funds simply drifted around on the FSB’s register of funds as “dead wood”.

The FSB’s cancellation project was meant to deregister only funds that no longer have assets or members. Up to 4 600 funds were deregistered. At the very least 160 funds are now known to have been deregistered erroneously as they still had assets. The FSB itself has in the past reinstated 70; Liberty is applying to reinstate 90.

The 25 funds Liberty wants to reinstate next month have assets of R35.9 million that were missed when they were deregistered and at least 332 beneficiaries, according to an affidavit by Chantal Hugo, Liberty’s head of terminations. Among the funds is the R19.8 million Bivec Group Pension Fund for which the application does not provide a membership number.

Another is the Pickering van Rensburg Provident Fund which has assets of R9.1 million and only two members. Both are owed millions. At the other end of the spectrum, two of the funds being reinstated by Liberty have assets of less than R2 000 and only one beneficiary.

Liberty claims that the unclaimed benefit business has little to no economic value. It charges unclaimed benefit funds R9.75 a member per month but it recently started waiving the fee for members with benefits of less than R800, it said.

Liberty said it has 107 203 members to its unclaimed benefit funds, which have assets of R1 billion.

That means the benefit to Liberty has been in the region of R1 million a month in fees and then whatever investment fee it might earn on the R1 billion which it said is in low-risk, low-fee passive investment vehicles.

Hunter was appointed deputy registrar in 2013 and immediately stopped the cancellation project.

A massively acrimonious battle inside the FSB ensued with Hunter's superiors offering her a golden handshake to leave and then embarking on a failed disciplinary process.

Hunter's fixed term ended in 2016, but she has carried on with the campaign. FSB chair Abel Sithole has hit back hard. In his affidavit he describes Hunter as an egotistical conspiracy theorist.

"None of the parties interested in the cancelled funds has come forward to complain about their cancellation. The only complainant is Ms Hunter and the only basis of her complaint is that she knows better than everybody else," Sithole said in his affidavit.

"I have no doubt that mistakes were on occasion made. Assets sometimes come to light despite the fact that all the evidence had showed that there was none," he said "That would be inevitable in any process for the cancellation of many thousands of orphan funds," said Sithole. He called these "rare exceptions".