



Early access to retirement funding by March 2024



Geraldine Fowler, IRFA President, Wayne Hiller van Rensburg, IRFA Executive Officer and Nancy Andrews, Chair of the IRFA's Legal and Technical Committee

The Institute of Retirement Funds Africa (IRFA) has been providing advocacy, lobbying, information and education to the local retirement sector for nearly 40 years. It prides itself in being in the forefront of regulatory and legislative change, equipping its members and the sector at large with information, education and guidance in navigating the South African retirement ecosystem in all its complexity.

With the plethora of change around these legal and regulatory statutes and standards, no time is more important than the present for the industry body to fulfill this role through the auspices of its Legal and Technical committee.

IRFA President Geraldine Fowler, Executive Officer Wayne Hiller van Rensburg and Nancy Andrews, chair of the IRFA's Legal and Technical committee advises on the implications of the proposed two-pot retirement system, which will give members of retirement funds early access to a portion of their retirement savings.

Andrews, in providing a historical perspective, noted that this system falls in line with National Treasury's focus on compulsory preservation of retirement funds, but that this focus has been amended and enhanced by circumstances brought about by the Covid pandemic when fund members experienced financial need.

In providing this perspective Andrews noted that the original structure and implementation of the two-pot system has been put out to a later date. This was largely driven from industry due to the anticipated time needed to gear up administrative systems to cope with the changes, as well as from labour so as to resolve matters around "seed funding".

Andrews notes that "National Treasury then went back to the drawing board, and the March 2023 budget speech contained a few new proposals with regard to this system."

The updated legislation is due to be tabled by July of this year and submitted to Parliament by December 2023. It will be promulgated on 1 March 2024.

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There will be a two phased approach to implementation, the first phase which will come into effect on 1 March 2024.

Andrews notes that the new legislation to be tabled in July of this year means that essentially the two-pot system will consist of five pots, a vested benefit pot, a non-vested benefit pot, a pot for the over 55's, a savings pot and a retirement pot. With regard to provident funds as opposed to pension funds all contributions before and after 29 February 2024 will form part of the vested benefits.

It is proposed that seed capital in the savings pot be limited to 10% of accrued benefits and will be capped at R25 000. As from 1 March 2024 one third of contributions will be allocated to the savings pot and two thirds to the retirement pot. Members may draw any amount not less than R2 000 from their savings pot on an annual basis.

On the vested and non-vested pots, withdrawals from the vested pot will be taxed at a marginal rate and the one third, two third rule of allocation of contributions will apply to both.

Andrews stresses that the new legislation should not give rise to a “use it or lose it” mindset. Should fund members not withdraw from their savings pot this can be taken as a tax-free lump sum on retirement. (Applicable to higher income members.) IRFA President Geraldine Fowler notes several administrative concerns around implementation of the new system.

“There will be a strong imperative for the management boards of retirement funds to engage with the administrators of the funds. In my opinion there is great urgency to get the final piece of legislation in place so we can begin with the huge amount of education required. Education of trustees, of employers, of administrators and of the members of the funds themselves.”

In addition, as administrators, there will be a large amount of development work needed to adjust administration systems to cope with the model. Dealing with the 5 pots in terms of reporting, claims handling, allocation of investment growth and more, from a systems perspective will be complex from a systems perspective.”

She continues “SARS will also need development on their systems in terms of taxation and the issuing of tax directives.”

The question also arises on how to best deal with claims from the savings pot, “will withdrawal claims be filtered through the employer or will the administrator be required to act in this capacity?” Also says Fowler, guidance is needed from the Financial Services Conduct Authority on acceptable timelines in terms of payouts of withdrawals from 1 March next year from when these withdrawals will be permitted.

Andrews notes that the discretionary powers of trustees will not apply in terms of eligibility of a withdrawal “there are no rules about this now, it is the member's right to access their vested or savings pot.”

She raises the possibility that small amounts left in the savings pot on resignation by a member could ultimately result in unclaimed benefits.

Both Andrews and Fowler endorse the need for “guidelines and rules” to help the sector navigate the introduction of the two-pot system.

IRFA Executive Officer Wayne Hiller van Rensburg states firmly that the Institute of Retirement Funds Africa will be assisting all stakeholders in every way through the auspices of its Legal and Technical committee.

Despite some challenges, the IRFA supports the proposed two-pot system and there is strong consensus that the legislation will be welcome and alleviate the financial distress experienced by members in case of financial emergencies.