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**ADDENDUM 1**

prepared for quick reference BUT this THIS MUST BE READ WITH MY MAIN SUBMISSION - titled, An In-Depth Analyses of National Treasury's Proposed TWO-POT RETIREMENT SYSTEM |Through the Lens of a Financial Planner

TO: THE STANDING COMMITTEE OF FINANCE

IRO BILL: "Key Tax Proposals contained in the 2022 Draft Revenue Laws Bill include the following: "Tax amendments made by the Minister in the February 2021 Budget Speech and November 2021 Medium Term Budget Policy Statement dealing with the "two pot" retirement system. These amendments also follow a discussion document published by National Treasury for public comment on 15 December 2021, titled "Encouraging South African households to save more for retirement".

FROM: MS. VIMLESH RAJBANSI, FINANCIAL PLANNER
EMAIL: [redacted]
[redacted]

This comment is submitted in my personal capacity as a member of a pension and provident fund, and after submitting my comment to National Treasury on 29 August 2022. Upon further analysis using a lens of a financial planner and as far as possible due to the deadline for submission, is supported with data. Included are the responses of 71 other members of retirement funds who voluntarily participated in a quick survey within 48 hours of submitting this comment to the committee.
Seeing that this submission is complex, I would greatly appreciate the opportunity to address the committee. The comment includes technical details which require an explanation by means of a presentation and to answer any questions.

Thank you,

Ms. Vimlesh Rajbansi
MBA | CFP® | Advance Postgraduate Diploma in Financial Planning
IQA(22)

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## MEDIA STATEMENT

### RETIREMENT REFORM: DRAFT LEGISLATION FOR THE TWO-POT SYSTEM

- [VIMLESH COMMENT]:
- Further and urgent considerations to members rights must be acknowledged prior to the implementation of this 2 pot system. And, when referring to the main document submitted herewith the analyses provided shows that the two-pot system defeats the objective of encouraging members to save more for retirement, and that exposing 1/3rd of members retirement funds to annual withdrawals poses significant risks of losses to the member and leakage of retirement funds. This is in conflict with National Treasury's media release on 14 May 2012 titled "STRENGTHENING RETIREMENT SAVINGS: Overview of the 2012 Budget proposals"[1] which clearly reassured members and the public that, "Adequate retirement savings require an active public, an engaged government and an industry that is fit for purpose." And, Minister Pravin Gordhan emphasized in this media release that "these are structural changes a paradigm shift and that government has one interest only and that is to ensure that the beneficiaries of the retirement process benefit substantially from their own savings"
- GOVERNANCE - proper monitoring system implemented to prevent corruption from retirement funds (refer main doc, chapter 4)
-
- Other Reference to Main document:
- Executive Summary
- Chapters 2 to 6
-
-

The National Treasury released the set of four draft Tax Bills for public comment on 29 July 2022, which give effect to the 2022 Budget tax proposals. These include the 2022 Draft Rates and Monetary Amounts and Amendment of Revenue Laws Bill (2022 Draft Rates Bill), the 2022 Draft Revenue Laws Amendment Bill, the 2022 Draft Taxation Laws Amendment Bill

[1] http://www.treasury.gov.za/comm_media/press/2012/2012051402.pdf



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(2022 Draft TLAB) and the 2022 Draft Tax Administration Laws Amendment Bill (2022 Draft TALAB).

The 2022 Draft Revenue Laws Amendment Bill contains key amendments on retirement reform to move towards a "two-pot" retirement system. The amendments enable South Africans to also save for non-retirement purposes (e.g. emergencies) via their retirement funds, whilst preserving more of their savings for retirement.

**[VIMLESH COMMENT ] – (refer to main document chapter 5 to 8)**

- IN MY SUBMISSION I HAVE ILLUSTRATED IN DETAIL THE REAL IMPACT WHICH THE SAVINGS POT WILL HAVE ON MEMBERS FUNDS IF IMPLEMENTED.
- IT HAS THE VERY REAL POTENTIAL TO ERODE UP TO 33.33% OF MEMBERS RETIREMENT FUNDS, AND POTENTIALLY DOUBLE THE "LEAKAGE" FROM RETIREMENT FUNDS IN THE FORM OF ANNUAL WITHDRAWALS.

- **PROBLEM 1: LEAKAGE**
- THE SAVINGS POT WILL GIVE MEMBERS THE RIGHT ACCESS TO 1/3RD (33.33%) OF THEIR FUNDS THEY SAVE FROM 1 MARCH 2023. THIS CAN BE ACCESSED ANNUALLY.
- SARS TAX DATA CLAIMS THAT R246 BILLION IS PAID PER YEAR INTO RETIREMENT FUNDS.
- ADDED LEAKAGE @ 33.33% = R82 BILLION
- PLUS LEAKAGE FROM WITHDRAWALS @ RETIREMENT = R78BILLION
- RISK OF LEAKAGE FROM RETIREMENT ANNUAITY FUND CONTRIBUTIONS
-
- **ADDED TO THIS IS PROBLEM 2: COST TO MEMBERS ON WITHDRAWAL FROM THE SAVINGS POT**
- TOO COMPLEX WITH LAYERS OF CHARGES THAT DEFEAT THE OBJECTIVE OF A SAVINGS POT
- FIRST LAYER OF CHARGE = FUND ADMINISTRATIONS FEES + FUND MANAGEMENT FEE
- 2ND LAYER OF CHARGE – WITHDRAWAL FEE
- 3RD LAYER OF CHARGE - COMMISSION ON RETIREMENT ANNUITIES
- 4TH LAYER OF CHARGE IS THAT THE MEMBER MUST PAY TAX ON THE WITHDRAWL AMOUNT IN THE YEAR OF ASSESSMENT.
- OTHER MORE AFFORDABLE PRODUCTS ARE ALREADY AVAILABLE WITH MEMBERS BANKS, DIRECT INVESTMENTS INTO TAX FREE SAVINGS, UNIT TRUSTS AND EVEN STOKVELS ARE CHEAPER THAN A SAVINGS POT. SATRIX AND EASY EQUITIES ARE SOME EXAMPLES.
- **PROBLEM 3**: WITHDRAWALS FROM THE SAVINGS POT WILL ERODE 33.33% OF THE MEMBERS RETIREMENT SAVINGS LEAVING THEM WORSE OF

These amendments aim to encourage members to preserve their retirement savings by making it more flexible to accommodate unforeseen pressures that members face during the span of their working life.

**[COMMENT]:**



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- THE FAIS ACT AND FPI ALREADY PROVIDE FOR THIS IN THE 6 STEP FINANCIAL PLANNING PROCESS.
- MEMBERS HAVING ACCESS TO 33.33% OF THEIR RETIREMENT FUNDS IS DETRIMENTAL TO THE RETIREMENT GOAL OF MEMBERS.
- THERE ARE OTHER MORE AFFORDABLE VEHCILES FOR SAVINGS
- UNFORSEEN PRESSURES – REFER TO THE OLD MUTUAL SURVEY 2022 –
- FURTHER, THE COSTS TO THE RETIREMENT FUNDS, THE EMPLOYER AND SARS TO MAKE CHANGES TO THE EXISTING SYSTEMS WILL ADD FURTHER CHARGES THUS LOSS TO THE MEMBER
- ALL THE DATA IS SAYING THAT IT IS NOT FEASIBLE

It makes it possible for workers not to resign from their employment merely to access their retirement funds and would have assisted members during a crisis like the COVID-19 pandemic, when many employees faced reduced salaries or were not paid at all during that time.

The legislative proposals follow an intensive process of consultations, where various risks, challenges and possible perverse outcomes were identified. These amendments are the culmination of several years of consultations and engagements that took place between National Treasury, Labour, and Business stakeholders, and reflects input received from the public after the release of the discussion paper *Encouraging households to save more for retirement* in December 2021. The amendments are technically complex, as they attempt to fit a pre-retirement withdrawal scheme into existing retirement savings vehicles primarily meant to cater for long term savings.

**[COMMENT] – chapters 11 and 13**

- IN MY MAIN SUBMISSION I HAVE UNPACKED THESE REFERENCES AND DATA AND I RESPECTFULLY DISAGREE WITH THIS AS A REASON TO IMPLEMENT A COMPLEX SYSTEM WHICH IS NOT AN IMPROVEMENT TO THE EXISTING RETIREMENT SYSTEM. (refer to my main document chapters 8 to 13)
- MY ANALYSES ILLUSTRATES THAT RELIABLE & RELEVANT DATA MUST USED IN SUPPORT OF SUCH FAR REACHING PROPOSALS TO CHANGE A 66 YEAR OLD RETIREMENT SYSTEM.
- THAT GOVERNANCE RULES MUST BE INCORPORATED
- THAT THE OUTCOMES WILL BE DISASTROUS TO MEMBERS RETIREMENT SAVINGS (see chapter 7 and 8)
- MEMBERS OF RETIREMENT FUNDS HAVE NOT BEEN CONSULTED OR INFORMED OF PROPSOED REGULATIONS (REFER chapter 4)
- AND IRO THE FINANCIAL DISTRESS WHICH MEMBERS EXPERIENCED DURING COVID (LOCKDOWNS) - What treasury's report omits to refer to is that the same report offers a recap from the 2020 survey done in July 2020[2] which relates that people had to

[2] Page 3, https://eu-assets.contentstack.com/v3/assets/blt0554f48052bb4620/blt49505d3962a2c079/61040ee6bc767c65981b44b8/OMSIM_2021_Peppercorn_Full_Research_Report_4_August_2021.pdf



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take salary cuts from lockdowns, and having to support more people during the pandemic. And, on page 3, para 5, it states that, *"What was worth noting though is the ability of South Africans to make a plan. Stokvels started going online and adapting to digital payments. Indebted consumers reached out to creditors and made use of the relief measures on offer (for home loans in particular)"*

- To add to this is the *ability of South Africans to make a plan, In 2022 the Old Mutual Savings & Investment Monitor*[3] *confirms this statement in Martin Hesse's article on IOL*[4] *titled " South Africans are recovering from the financial damage caused by the Covid-19 pandemic, showing higher income levels and financial satisfaction, lower stress levels, a more optimistic outlook and marginally lower reliance on personal loans*."
- And in this 2022 survey 86% of respondents "claim that Covid-19 has made them change the way they think about, and manage their finances".
- This proves that South African's are resilient and determined, and we know how to plan and budget for rainy days. Respectfully, the outcome of Covid-19 is not for government to take control of the wallet of every household I have referenced relevant data from the same source which government relies on to support my comment.
- The same article states that:"*Old Mutual said that those who have the funds to last more than three months without a salary up from 27% in 2020 to 39% in 2022. That's a 12% increase.*
- *A key highlight of the survey is that attitudes towards saving have shifted over the last two years. To cope with an unforeseen financial emergency, 37% of respondents now say they are developing an emergency savings fund.*

- *PRODUCT PROVIDERS FOR RETIREMENT ANNUITIES – COST TO REDESIGN PRODUCT, SYSTEMS AND COMMISSION & FEES – see chapter 13*

-
-

***Process to enact Bills following public comments***

The process for enacting any amendments following publication involves taking public comments. After receipt of written comments, National Treasury normally engages with stakeholders through public workshops to discuss the written comments on the draft bill.

[3] https://www.oldmutual.co.za/savingsmonitor/

[4] https://www.iol.co.za/personal-finance/my-money/pandemic-raised-our-financial-resilience-survey-shows-eb7470d8-e6eb-4105-a7b4-0eb516e81003



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The Standing Committee on Finance (SCoF) and the Select Committee on Finance (SeCoF) in Parliament are expected to make a similar call for public comment and convene public hearings on the 2022 draft bills before their formal introduction in



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Parliament. Thereafter, a response document on the comments received will be presented at the Parliamentary committee hearings, after which the bills will then be revised, taking into account public comments and recommendations made during committee hearings, before they are introduced formally in Parliament for its consideration.

***Due date for public comments on the 2022 Draft Revenue Laws Amendment Bill***

National Treasury hereby invites comments in writing on the 2022 Draft Revenue Laws Amendment Bill and all other draft tax bills. Please forward written comments to the National Treasury's tax policy depository at 2022AnnexCProp@treasury.gov.za and SARS at acollins@sars.gov.za by close of business on **29 August 2022.** Comments and queries on the proposed two pot system should also be sent to retirement.reform@treasury.gov.za.


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# POLICY DISCUSSION AND FAQ

## RETIREMENT REFORM: DRAFT LEGISLATION FOR THE TWO-POT SYSTEM

**Background**

South Africa has different retirement fund vehicles available to individuals, including pension funds, provident funds, retirement annuity funds, pension preservation funds and provident preservation funds. Historically, each of these funds had a different tax treatment for contributions, alongside different rules for withdrawals.

Since 2012, the South African retirement fund regime has been undergoing fundamental reforms, as initiated in a series of discussion papers since 2012, starting with *Strengthening retirement savings: An overview of proposals announced in the 2012 Budget,* which summarised the intended policy direction for future retirement reforms. To date we have been able to:

- Create tax free savings account opportunities for individuals from 1 March 2015;
- Harmonise the tax treatment of contributions to the different types of funds from 1 March 2016;
- Increase preservation at retirement through annuitisation effective from 1 March 2021; and
- Implement reforms to lower charges and improve defaults, governance, and market conduct.

The discussion paper entitled *Preservation, portability and governance for retirement funds,* published on 21 September 2012, and the paper entitled *Retirement reform proposals for further consultation*, published on 27 February 2013, both included options to increase the level of pre-retirement preservation. <u>Data from retirement fund administrators and SARS suggests that many of these withdrawals are taking place, notwithstanding the potentially high tax rates that are applied.</u>

**[COMMENT]:**

it is my submission that:

- Data has not been provided to support this statement because it is not referenced in the discussion documents published by treasury
- For
- Further – governance to prevent corruption



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- In the 2012 Budget Speech the Minister of finance said that 'High costs in savings products undermine the national objective of getting our people to save more.' And that improved governance of retirement funds requires effective interventions to be implemented to eliminate corruption and fraud.[5]
-

**Rationale for the two-pot system**

The amendments in the draft bill seek to implement the remaining pre-retirement preservation proposal, as part of the longer-term retirement reform project. There are two primary concerns with the current design of the retirement system. The first is the lack of preservation before retirement, whiCh has been highlighted in previous discussion papers. Individuals can access

[5] Page 14 - https://www.gov.za/sites/default/files/gcis_document/201409/retirement-savings-discussion-paper-1.pdf



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their pension funds and provident funds, in full, when changing or leaving a job. In some cases, it can create an incentive to leave employment to gain access to those funds in the short-term, putting their long-term retirement savings, and eventual ability to maintain their standard of living at retirement at risk.

The second issue is that some households in financial distress have assets within their retirement fund(s) that are not accessible, even in case of emergencies. This issue has become more prominent since the COVID-19 pandemic, with numerous calls for financially distressed individuals to be given some level of access to their retirement funds to alleviate financial hardship.

On 15 December 2021, Government published a discussion document entitled *Encouraging South Africans to save more for retirement*, which proposed a new retirement fund regime that aims to address both concerns – this would be in the form of a "two-pot" system for retirement savings. Individuals can contribute to a one-third "savings pot" which is accessible without changing their employment status, and a two-third "retirement pot" which must be preserved until retirement. The aim is to have a system that will allow resources to be available when needed, but that will also increase the overall level of savings that are dedicated to retirement.

**[COMMENT]**

- 'WILL ALSO INCREASE THE OVERALL LEVEL OF SAVINGS THAT ARE DEDICATED TO RETIREMENT" – I RESPECTFULLY DISAGREE
- IT INCREASES THE INCENTIVE TO ERODE 33.33% OF MEMBERS SAVINGS @ HIGH COST

- CONTRIBUTIONS INTO RETIREMENT FUNDS VARY BETWEEN 10% - 27.5%. MEMBERS CANNOT AFFORD TO SAVE MORE FOR RETIREMENT, AND THE ONLY WAY TO ENCOURAGE MEMBERS TO SAVE MORE IS FOR INDIVIDUAL PERSONAL FINANCIAL PLANNING ANALYSES.

- THIS INVOLVES ASSISTIGN THEM WITH THEIR CASH FLOW MANAGEMENT, DISCIPLINE WITH DEBT MANAGEMENT, SAVINGS FOR CASH EMERGENCIES, HAVING ADEQUATE RISK BENEFITS AND SAVINGS FOR RETIREMENT. AFTER THERE ESSENTIAL LIVING EXPENSES HAVE BEEN PROVIDED FOR. THE 6 STEP FINANCIAL PLANNING PROCESS, THE FAIS ACT AND THE NATIONAL CREDIT ACT ALREADY PROVIDES FOR THIS.

- MEMBERS NEED TO BALANCE THEIR SAVINGS BETWEEN SHORT (CASH SAVINGS) MEDIUM (UNIT TRUSTS (LIKE ETF) AND LONG TERM SAVINGS (RETIREMENT FUNDS). BALANCE ON SAVINGS GOAL, AT REASONABLE COSTS IS TREATING CUSTOMERS FAIRLY.
- REALISTICALLY – MEMBERS NEED TO PAY FOR ACCOMODATION COSTS, UTILITY COSTS LIKE ELECTRICITY, MEDICAL AID, TRANSPORT COSTS, SCHOOL FEES AND FOOD BEFORE THEY CAN AFFORD TO ALLOCATE THEIR INCOME INTO

SAVINGS.

-
- A **NOTE ABOUT GOVERNMENT DOCTORS & OTHER PROFESSIONALS** WHO ARE MEMBERS OF THE GEPF. YEARS AGO WHEN GOVERNMENT WAS UNDER PRESSURE AFTER PROTESTS TO INCREASE EMPLOYEES SALARIES IT WAS DONE SO ON THE BASIS OF THE NOTCH BEING SPLIT INTO 70% AS THE BASIC SALARY AND 30% AS A CASH COMPONENT.
- THE IMPACT OF THIS ON GEPF MEMBERS SAVINGS FOR RETIREMENT WAS TWARTED BECAUSE EVEN THOUGH THEIR SALARIES WERE INCREASED THEIR SAVINGS INTO THE GEF IS CALCULATED AT 7.5% OF THE BASIC SALARY ONLY, AND GOVERNMENT CONTRIBUTES A FURTHER 13% OF THE BASIC SALARY INTO THE FUND.

- **THE PROPOSED SAVINGS PO**T – GIVES MEMBERS ANNUAL ACCESS TO 33.33% OF ALL THEIR RETIREMENT SAVINGS. AS ALREADY EXPLAINED THE ACCESS COMES AT A HUGE COST TO THE MEMBER, AND REDUCES THE PROVISIONS OF CAPITAL AVAILABLE AT RETIREMENT DATE.
- DUE TO THE SAVINGS POT PROVIDING FOR EMERGENCY ACCESS THIS MEANS THAT THE FUNDS IN THIS POT WILL HAVE TO INVESTED IN UNDERLYING FUNDS WHICH ARE CONSERVATIVE IN NATURE, REDUCING THE POTENTIAL OF HIGHER RETURNS THUS DEFEATING THE OBJECTIVE OF SAVING MORE FOR RETIREMENT.

Government has consulted widely with labour unions, fund administrators, industry, and other experts, before finalising the draft legislative proposals.

COMMENT

- BUT, ACCORDING TO THE PENSION FUND ACT & THE FSB TCF (TREATING CUSTOMERS FAIRLY GUDIELINES) FOR RETIRMENT FUND BOARD OF TRUSTEES THE MEMBERS OF RETIREMENT FUNDS HAVE EXCLUDED FROM DISCUSSIONS.
- SEE CONFIRMATION FROM THE PRINCIPAL OFFICER OF A LARGE COMMERCIAL UMBRELLA FUND

- IT IS MY SUBMISSION THAT THE STANDING COMMITTEE OF FINANCE REQUESTS THE Head OF Fund Governance & Trustee Conduct Retirement Funds Supervision Division at the FSCA TO PROVIDE CLARITY ON THE INTERPRETATION & APPLICATION OF OUTCOME 3 OF THE GUIDANCE TO BOARDS OF RETIREMENT FUNDS FOR THE IMPLEMENTATION OF TCF OUTCOMES.

    - Outcome 3 PROVIDES that:
        - ***Members of retirement funds are given clear information and are kept appropriately informed before, during and after the time of contracting***



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- Paragraph 2.3.3 further states that trustees have to inform members when important events or changes take place, ***"timeous and appropriate information as and when important events or changes take place"***
- And paragraph 2.3.6 specifies that trustees must ensure that "***information provided must at all times be current and appropriate***;
- and paragraph 2.3.7 states that the "***information must be clear and understandable"***
- And paragraph 2.3.12 places a duty on trustees to ensure that they inform us within a reasonable time of any PROPOSED amendments to legislation which has a significant impact on our retirement savings, "***any change in policy or legislation that might have an impact on their retirement savings."***

-

It is recognised that in allowing for a withdrawal option, many funds may face liquidity risks on implementation. It is also recognised that any new system will take time to implement, as they require changes to systems and fund rules, and will also mean that funds will face new and higher costs.

**[COMMENT]:**

- AGREE LIQUIDITY RISKS.
- WE HAVE A RETIREMENT SYSTEM FOR 66 YEARS.
- NEW SYSTEM COSTS – HAVE THESE BEEN DRAFTED AND ESTIMATED, AND WILL MEMBERS BE CHARGED FOR THIS?
- RETIREMENT FUNDS FEES ARE ALREADY HIGH, AND THIS PROPOSED CHANGE TO THE SYSTEM
- IN THE ILLUSTRATION OF THE ADDITIONAL TAX A MEMBER WILL INCUR IF TAXED AT THE TAX RATES IN THE YEAR OF WITHDRAWL FROM THE SAVINGS POT IS ESTIMATED AT 4%, POSSIBLY MORE BECAUSE THE WITHDRAWAL AMOUNT WILL BE ADDED TO THE MEMBERS TAXABLE INCOME, AND THE LARGER THE WITHDRAWAL AMOUNT THE HIGHER THE POSSIBILITY IS THAT HIS/HER INCOME TAX RATE WILL INCREASE TO THE NEXT BRACKET, INCURRING UNNECESSARY & UNFAIR TAXES
- PROPER ILLUSTRATIONS MUST THEREFORE BE DONE SO THAT MEMBERS ARE FULLY INFORMED OF ALL THE POSSIBILITY OF THESE COSTS, AND WHETEHER CHANGING TO THIS NEW TWO-POT SYSTEM IS IN FACT IN THE BEST INTEREST OF ALL MEMBERS.

Many workers have low levels of savings, as they have accessed all their previous savings


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when they changed jobs or resigned from their jobs. For example, according to ASISA, about 61% of fund members had an average of R37 000 or less in total retirement savings (July 2020).

**[COMMENT]**:

- RESPECTFULLY THIS IS IRRELEVANT DATA BECAUSE JULY 2020 WAS AT THE PEAK OF LOCKDOWNS AND JOB LOSSESS.
- FURTHER ANALYSIS USING RELEVANT DATA IN JULY 2022 MUST BE PROVIDED TO SUPPORT THIS STATEMENT

The proposal does not include allowing immediate access to retirement funds, but rather moves to a system that can more adequately cater for emergencies in the future but should also increase preservation to improve retirement outcomes.

[**COMMENT]:**

- RESPECTFULLY DISAGREE
- REASONS ALREADY PROVIDED HEREIN AND IN MY MAIN SUBMISSION

The key risks that counteract allowing immediate withdrawals include:

a) Risk of members drawing down a substantial part of their retirement saving, leaving them more vulnerable when they retire;

– COMMENT: AGREE – 33.33% OF THEIR RETIREMENT SAVINGS IS AT RISK

b) Risk of lower investment returns for members as more funds are withdrawn and less of their savings are invested;

- COMMENT: AGREE

c) Risk to financial viability of specific funds and fund types that were not designed to accommodate such a withdrawal; and

**– COMMENT: THERE ARE SAVINGS VEHICLES ALREADY AVAILABLE AND BEING SUCCESFULLY USED BY MEMBERS AND THE PUBLIC WHICH ARE FAR MORE COST EFFECTIVE, AND READILY ACCESSIBLE BY MEMBERS AT NO CHARGE**

d) Risk of liquidity runs on some funds alongside a negative shock on asset prices on the implementation date or soon after.


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**Summary of policy proposals**

**Contributions:** All pension funds, pension preservation funds, provident funds, provident preservation funds or retirement annuity funds will be required to allocate contributions from 1 March 2023 to a new “retirement pot” and a “savings pot”. Up to 1/3 of contributions can flow to the “savings pot”, while the remainder should flow to the “retirement pot”. Contributions will remain deductible up to the specified caps, but any contributions more than 27.5% of taxable income or R350 000 p.a. can only flow into the “retirement pot”. Only members who were 55 years of age or older on 1 March 2021 will still be able to contribute to their provident funds – but only until they leave the fund or retire.

> ***Question:*** *Do members have to re-enrol to funds for the new “two pot” system?*
>
> ***Answer:*** *No. Existing funds will be adapted to accommodate both components into the fund. Each fund will have to review their fund rules to do so. After the date of implementation, members’ contributions will be split into the two pots by the fund.*
>
> *[COMMENT:]*

- *COST OF ADAPTING FUND*
- *REVIEW OF RULES*
- *IN CONSULTATION WITH MEMBERS*

**Existing funds**: All contributions and growth that are accumulated before 1 March 2023 (i.e., retirement interest) will have to be valued at the date immediately prior to implementation, to enable vesting of rights (called the “vested pot” a term used to refer to all the different funds a person may hold on that date). The rights of members in these funds will be protected – but it also means that the conditions that were attached to those contributions will remain in place.

The “savings pot” will then be accumulated from 1 March 2023, which means that the proposal for seed finance or capital into either pot is not supported. While there were many public requests for immediate access to accumulated retirement funds, it would not be in the best interest of members or the stability of retirement funds to do so, particularly at a point when the value of accumulated assets is already under pressure. These products were not designed to accommodate such a withdrawal, and it is members who will suffer if their retirement interest is diminished by large lump sum withdrawals.

[COMMENT]

- THE OBJECTIVE OF ACCESS TO RETIREMENT FUNDS WERE DURING THE PANDEMIC
- THIS IS NOW OVER AND MEMBERS HAVE LEARNT TO IMPLEMENT OTHER SAVINGS TO PROTECT THEM IN SUCH EMERGENCIES AS QUOTED BYT THE OLD MUTUAL INVESTMENT SURVEY
- THEREFORE I RESPECTFULLY SUBMIT THAT THIS PROPOSED TWO POT RETIREMENT SYSTEM IS BEING MADE WITHOUT CONSIDERING THE FULL



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EXTENT OF THE RISK TO MEMBERS AND RISK TO THE FUND

-

***Question**: Should I withdraw my funds from my pension or provident fund to exercise my right to a pre-retirement withdrawal? What if I lose my job and I always planned to have access to a pay-out from my pension if that were to happen?*

*[COMMENT]:*

- *THIS IS A VAGUE QUESTION – IS THIS PERTAINIGN TO A MEMBERS RIGHT TO WITHDRAW AT RESIGNATION?*
- *FURTHER – EXISTING MEMBERS OF PENSION & PROVIDENT FUNDS HAVE A VESTED RIGHT TO ACCESS THE FULL PORTION OF THEIR FUNDS NOW AND IN THE FUTURE. THIS RIGHT IS NOT BEING IMPACTED ON BY THE PROPOSED TWO POT RETIREMENT SYSTEM AND THEIR RETIREMENT FUND BOARD HAVE NOT COMMUNICATED ANY OF THIS TO MEMBERS. THEREFORE I RESPECTFULLY SUBMIT THAT THIS PROPOSAL REQUIRES MORE TIME FOR PROPER CONSIDERATION WITH ALL RELEVANT AND RELAIBLE DATA*

***Answer**: All your rights will be protected for the funds that you have already contributed. The new pots will grow from the date of implementation, while the "vested pot" will still operate under the rules that were in place before the amendments.*

***Example**: Person A is employed and has R200 000 in a provident fund at the time of implementation of these amendments on 1 March 2023. From 1 March 2023 onwards, one-third of their contributions are deposited into an "savings pot" and two-thirds of their contributions are deposited into the "retirement pot".*



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*After two years, there is R20 000 in the "savings pot", R40 000 in the "retirement pot' and R220 000 in the "vested pot". Person A faces some financial difficulties and can withdraw the R20 000 from their "savings pot" without resigning to gain access to their retirement savings. Any amounts withdrawn from the "savings pot" would be included in Person A's taxable income. No further withdrawals from the "savings pot" can be made for another year.*

*[COMMENT:]*

- *WHAT ARE THE COSTS TO THE MEMBER IN YEAR OF WITHDRAWAL?*
- *FUND MANAGEMENT FEES*
- *ADMIN FEES*
- *WITHDRAWAL FEES*
- *TAX (PENALTY HIGHER RATE)*
- *ESTIMATED AT 5% WHICH IS UNFAIR*
- *THE FUTURE COSTS TO BE CALCULATED WILL BE THE CAPITAL LOSS AT RETIREMENT AGE*

**SAVINGS POT | CONTRIBUTIONS | TAX SAVING FROM DEDUCTION | WITHDRAWAL**

| Yr 1 | | |
|---|---|---|
| | Gross MONTHLY remuneratio | 10000 |
| | TOTAL MONTHLY SAVING | 1000 |
| | SAVINGS POT | |
| | 33.33% | 333 |
| | MARGINAL TAX RATE | 18% |
| | TAX SAVED MONTHLY | 60 |
| | TOTAL PAID INTO SAVINGS POT END OF YEAR | |
| | | 4000 |

| Yr 2 | | |
|---|---|---|
| | Gross MONTHLY remuneration | 20000 |
| | TOTAL MONTHLY SAVING | 2000 |
| | SAVINGS POT | |
| | 33.33% | 667 |
| | MARGINAL TAX RATE | 26% |
| | TAX SAVED MONTHLY | 173 |
| | TOTAL PAID INTO SAVINGS POT END OF YEAR | |
| | | 7999 |

| Yr 3 | | |
|---|---|---|
| | Gross MONTHLY remuneration | 30000 |
| | TOTAL MONTHLY SAVING | 3000 |
| | SAVINGS POT | |
| | 33.33% | 1000 |
| | MARGINAL TAX RATE | 31% |
| | TAX SAVED MONTHLY | 310 |
| | TOTAL PAID INTO SAVINGS POT END OF YEAR | |
| | | 11999 |

| SAVINGS POT AVAILABLE & WITHDRAWALS | | |
|---|---|---|
| | AVAILABLE | WITHDRAWAL |
| YEAR 1 | 4000 | 0 |
| YEAR 2 | 11999 | 0 |
| YEAR 3 | 23998 | 23998 |
| **TAX DUE IN YEAR OF WITHDRAWAL** | | |
| 31% | | 7439 |
| **LOSS FROM TAXES PAID** | | |
| 7439 - 6519 | | 920 |
| **% OF WITHDRAWAL** | | 4 |

| TAX SAVED OVER 3 YEARS | |
|---|---|
| YEAR 1 | 719.928 |
| YEAR 2 | 2079.792 |
| YEAR 3 | 3719.628 |
| **TOTAL TAX SAVED** | **6519** |

YR 3 - TAXABLE INCOME R360,000 - TAX RATE 31%
YR 1 & 2 NO WITHDRAWALS - DEDUCTION ENJOYED 18% & 26%
YR 3 - PAGE 5 WITHDRAWALS - "These withdrawals will be subject to the fund rules allowing them. Withdrawals from the "savings pot" will be added to taxable income in the year of withdrawal. This will therefore require that a "savings withdrawal benefit" be defined in section 1(1) of the Act. Should an individual opt not to make a withdrawal within a specific twelve-month period, the funds available in the "savings pot" come the subsequent twelve-month period will be available for withdrawal. "



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*After another two years, Person A has R25 000 in the "savings pot", R100 000 in the two-thirds "retirement pot" and R250 000 in the "vested pot". Person A resigns to join another company. On resignation, the one-third "savings pot" and the two-thirds "retirement pot" can either stay in the current fund or be transferred to another fund which has a "savings pot" and a "retirement pot", potentially at their new employer. The one-third "savings pot" would still be accessible at any time. For the "vested pot", Person A would have the following options:*

- *Withdraw the R250 000 vested right, although the amount would be subject to tax according to the withdrawal tax table;*
- *Transfer the R250 000 to another "vested pot" within a provident preservation fund. The amount would remain eligible for a once-off withdrawal of up to the full value at any point before retirement. The transfer would not have any tax consequences, but any future withdrawal(s) would be treated as indicated directly above; or*
- *Transfer the R250 000 to the "retirement pot" to consolidate retirement interest, which would forfeit the once-off withdrawal. The transfer will not have any tax consequences.*

*After another 10 years, Person A has reached retirement age. There is R75 000 in the "savings pot" and R600 000 in the "retirement pot". Person A retires and can either withdraw the R75 000 from the "savings pot" as cash (taxed through the retirement lump sum tables) or transfer any remainder to the "retirement pot". Upon retirement Person A is required to purchase an annuity with the balance in the "retirement pot", which would amount to R600 000 upon retirement, in the absence of any transfers from the "savings pot" or "vested pot".*

**Pre-retirement withdrawals**: Members will still be able to withdraw from the "vested pot", which will be taxed through the applicable pre-retirement lump sum table. Should they need to, members will also be able to withdraw from the "savings pot" once in 12 months, with a minimum withdrawal of R2 000. **All withdrawals from the "savings pot" will be included in taxable income, which means that it will attract the appropriate marginal tax rate to ensure all sources of income are taken into account to determine taxable income.**

[COMMENT;]

- AND AT SIGNIFICANT LOSSES TO THE MEBER DUE TO THE INCREASE RATE OF TAX IN THE YEAR OF WITHDRAWAL
-



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***Question**: When will I be able to make my first withdrawal from the "savings pot"?*


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***Answer**: The pot will grow from 1 March 2023. You will be able to make a withdrawal once there is at least R2 000, but only once a year. But if you withdraw you will pay tax at your marginal rate, while you will be able to withdraw from the "savings pot" with lower tax if you leave the money in the pot. You will be rewarded with a lower tax payment if you do not withdraw from your savings and preserve the savings until you retire – it is, therefore, in your interest to only withdraw from your savings if you really need to and have no other alternative.*

*[COMMENT]:*

- *THE EXISTING RETIREMENT SYSTEM PROVIDES A PERFECT DETERRENT TO PREVENT MEMBERS FROM WITHDRAWL FROM THEIR FUNDS.*
- *THE REWARD MENTIONED HERE IS THE TAX DEDUCTION WHICH ALREADY EXISTS*
- *IT IS THE NEED TO EARN THEIR INCOME FROM CONTINUED EMPLOYMENT WHICH PRESERVES THEIR RETIREMENT SAVINGS. RESIGNATION WILL RISK THEIR LIVELIHOODS*
- *THE 33.33% ACCESS TO THE SAVINGS POT DEFEATS THIS OBJECTIVE*

***Example:** If Person B makes a withdrawal on 21 March 2025, the next withdrawal can only be made on or after 22 March 2026. The minimum withdrawal amount is proposed to be R2 000. These withdrawals will be subject to fund rules allowing them. Withdrawals from the "savings pot" will be added to taxable income in the year of withdrawal. Should an individual opt not to make a withdrawal within a specific twelve-month period, the funds available in the "savings pot" will still be available for withdrawal in the subsequent twelve-month period.*

***Question:** Will pre-retirement withdrawals really make much difference?*

***Answer:** Early withdrawals will have two important implications. Firstly, you lose out on the returns to investment in your savings pot. Secondly, you pay more tax if the withdrawal is before retirement. The size of the impact is strongly related to the size of withdrawals – as will be clear from comparing the two examples below.*

*[COMMENT]:*

- *THIS IS EXACTLY WHY THE PROPOSED TWO-POT SYSTEM IS NOT ENCOURAGING CUSTOMERS TO SAVE MORE*

***Example**: Person C is 54 years old on 1 March 2023. They have taxable income of R300 000 p.a. and can contribute R30 000 to their retirement fund at the start of every year – of which R10 000 flows to the "savings pot". What would the impact be of withdrawals from the savings pot?*

***We assume a return of 10% p.a.** and current tax tables to apply throughout the*



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*analysis. We further assume that Person C retires at the age of 64 on 1 March 2033, at which time they withdraw the remainder of the savings pot as a lump sum – which we assume to be their only income for that year.*

***Scenario 1:*** *Person C makes three relatively small withdrawals of R7 000 at the start of 2024, 2028 and 2032, as a supplement to their income due to unforeseen circumstances. This means that their tax liability in those years increase by R1 820. At retirement, the three withdrawals will result in a lump sum that is R36 249 lower than it would have been without the early withdrawals. Person C can withdraw R139 062 upon retirement in 2033. After applying the tax-free R500 000 lump sum upon retirement, Person C will pay R5 460 more in taxes over the period 2023 – 2033 and their disposable income that is R20 709 lower than it would have been without those withdrawals.*

***Scenario 2:*** *Person C makes one big withdrawal of R100 000 at the start of 2031 due to unforeseen circumstances. This means that their tax liability that year will be*



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*R28 345 higher in that year. As they withdraw almost the whole pot in 2031, they only have R54 312 left to withdraw upon retirement. Beyond the withdrawal of R100 000, investment growth of R21 100 is foregone. After applying the tax free R500 000 lump sum upon retirement, Person C will pay R28 345 more in taxes over the period 2023 - 2033 than they would have without the withdrawal. Their net income over the whole period is R49 345 lower than it would have been if they waited 2 years longer before making the big withdrawal from their "savings pot".*

**Retirement:** Amounts contributed to the "retirement pot" cannot be accessed before retirement. At retirement date, the total value must be paid in the form of an annuity (including a living annuity). The current minimum amount for purchasing an annuity (*de minimus* of R167 500) will apply to the retirement pot.

Any funds available in the "savings pot" at retirement or death can either be withdrawn in full or transferred to the "retirement pot". Where the member opts to withdraw funds from the "savings pot" as a lump sum on retirement, the available balance will be taxable as a retirement lump sum subject to the retirement lump sum table.

**Change of tax residence:** Full withdrawals from the retirement, savings and vested pots can take place if an individual ceases to be tax resident for a period of at least 3 years – with the appropriate tax treatment based on the facts and circumstances of the case.

**Transfers:** Transfers will remain tax neutral. Individuals cannot transfer amounts out of the "retirement pot" but transfers can be made into the "retirement pot" from other pots, or from one "retirement pot" to another "retirement pot". No transfers can be made into the "savings pot", unless they are from another "savings pot" and subject to fund rules. "Retirement pots" and "savings pots" cannot be split between funds (i.e., you cannot transfer a "savings pot" to another fund without also transferring the relevant "retirement pot" to that same fund).

**Further work and coming reforms**

The Minister of Finance also confirmed the intention of further retirement reforms related to auto-enrolment (or mandatory) and greater consolidation of retirement funds. Consultations for these reforms will continue over the next year, and legislative proposals finalised in 2023 for tabling in Parliament.

The National Treasury is also exploring complementary measures to better incentivise long-term savings alongside better financial planning and advice to promote higher levels of saving and preservation, **including progressively increasing the percentage saved (e.g., from 12% to 15% of income).**

[COMMENT]

- AN EXAMPLE IS CURRENTLY IF A MEMBER IS CONTRIBUTING 12% OF R15,000PM INTO HER RETIREMENT FUND, THAT IS R1 800PM
- INCREASING THAT TO 15% RESULTS IN THE MEMBER PAYING R2 250PM, WHICH



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IS R450PM MORE

- BY INCREASING THE PERCENTAGE SAVED INTO RETIREMENT FUNDS GOVERNMENT IS IGNORING THE HOLTISTIC FINANCIAL NEEDS OF THE CONSUMER TO PROVIDE FOR OTHER SAVINGS GOALS
- THERE ARE SAVINGS ACCOUNTS LINKED TO BANK ACCOUNTS WHICH
- FURTHER SUBJECTING THIS INCREASED AMOUNT T, HIGH RISK INVESTMENTS WITH VOLATILITY, FUND RULES ON WITHDRAWALS FROM THE SAVINGS POT, FUND FEES, ADMIN FEES, AND UNGAIR ADDITIONAL TAX RATES.
- RESPECTFULLY THIS IS NOT TREATING CUSTOMERS FAIRLY

**Summary/conclusion**

Government is of the view that the two-pot system option will present a better balance between ensuring preservation of retirement savings and allowing some withdrawals through a savings vehicle incorporated into the retirement funds.

COMMENT:

- RESPECTFULLY DISAGREE
- OTHER SIMPLE, EASILY ACCESSIBLE, AND CHEAP SAVINGS VEHICLES ARE AVAILABLE
- THE DATA DOES NOT SUPPORT THIS STATEMENT

For other options considered to assist fund members in the state of emergency, please consult the December 2021 paper *Encouraging South African households to save more for retirement.*

*[COMMENT]:*

1.1 And in the paper published over the December holidays in 2021, it introduces[6] that:

*1.1.1 "This paper deals with the key outstanding proposals from the retirement reforms initiated in 2012, regarding the promotion of higher level of savings, expanding coverage and promoting better preservation and more consolidation to reduce the costs and charges on members."*

*1.1.2 "Further, consolidation of the retirement fund sector into a smaller number of large retirement funds could bring a few cost advantages to funds and members –including economies of scale, improved governance and disclosure." BUT AT THE EXCLUSION OF MEMBER PARTICIPATION IN THE FUND*

*1.1.3 "A limited level of **immediate** access will be made available under specific conditions for those negatively impacted by the COVID-19 pandemic and similar emergencies. The proposed restructuring of retirement savings aims to address the situation where many members of funds find themselves cash strapped (because of not having any alternative or sufficient forms of short- term savings) and then they resign from their jobs to access their retirement savings." BUT, THE CURRENT PROPOSAL UNDER DISCUSSION OMMITS TO ADDRESS THIS IMMEDIATE ACCESS .*

[6] INTRODUCTION, page 1 available at http://www.treasury.gov.za/comm_media/press/2021/2021121401%20Two-pot%20system%20retirement%20proposal%20and%20auto%20enrolment.pdf



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The proposal is for retirement funds to direct one-third of their retirement contributions to a savings pot and two-thirds preserved in a retirement pot. Pre-implementation date vested rights will be preserved. Offering of the savings pot will be subject to fund rules i.e., will not be compulsory, meaning that a member may opt out of the savings pot. A minimum of R2 000 may be withdrawn in a 12-month cycle, with no conditions attached to withdrawals from the savings pot, subject to fund charges and tax. No pre-retirement withdrawals will be permissible from the retirement pot. Transfers of the savings and retirement pots between funds is allowed.

The proposed 2023 implementation date is optimistic, because fund rules need to be changed, there will be systems changes within retirement funds to enable the two-pot system and SARS also needs to create capacity to cater for the new pots and track withdrawals. Furthermore, retirement funds must train employees, educate fund members about the reform and its implication.

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