



Briefing to PCOT by DOT and the RAF

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**"Freezing and subsequent release of their bank
accounts"**

28 February 2017

Purpose

The purpose of this presentation to brief the Portfolio Committee on Transport on the recent challenges at the RAF with regard to the “freezing and subsequent release of the Fund’s bank accounts”

- Mandate
- Background
- Financial position
- Managing the financial position
- Recent developments
- Risk mitigation measures and solutions
- Summary
- Conclusion

- RNYP “Requested not yet paid” are claims and related expenditure that have been finalised and are due for payment.
- WRIT A writ of execution (also known as an execution) is a court order granted to put in to force a judgment of possession obtained by a plaintiff from a court.

When issuing a writ of execution, a court typically will order a sheriff or other similar official to take possession of property owned by a judgment debtor. Such property will often then be sold in a sheriff's sale and the proceeds remunerated to the plaintiff in partial or full satisfaction of the judgment.

It is generally considered preferable for the sheriff simply to take possession of money from the defendant's bank account. (An Attachment)

- Road Accident Fund Act, 1996 (Act No. 56 of 1996) & RAF Amendment Act, 2005 (Act No. 19 of 2005)
 - › “Payment of compensation in accordance with this Act for loss or damage wrongfully caused by the driving of a motor vehicle”
 - › Provide compulsory cover to all users of South African roads against injuries sustained or death arising from accidents involving motor vehicles within the borders of South Africa
- National Public Entity (Schedule 3A of the PFMA)
- Constitutional Court rulings and legal precedents have shaped the mandate
- The Fund is called on to:
 - › Provide a social security safety net
 - › Indemnify, rehabilitate and compensate the injured
 - › Promote the safe use of all South African roads

Legacy

- Compensation regime from 1942
- Numerous commissions of inquiry
- Complex and adversarial
- “Business of law”
- Excludes many & benefits a few
- Perceived as a poorly run business

Business Challenges

- Claims expenditure exceeds income
- Increasing average value of a claim
- Increase in the value of legal costs
- Increasing number of writs
- Insolvent since 1981
- Unable to “Pay as you go” (RNYP)

Financial Position – Key Indicators FY14 to FY16

	2013/2014	2014/2015	2015/2016
Net Fuel Levy income	R20,28 bn	R22,6 bn	R33,1bn
Number of payments	211 099	225 501	221 329
Claims Expenditure	R22 bn	R21,5 bn	R28,63 bn
Cash/Payment shortfall at YE (RNYP)	R0,37bn	R6,9 bn	R10,6 bn
Deficit before Provision	(R3,1 bn)	(R7 bn)	(R1,0 bn)
Deficit for the year	(R17,3 bn)	(R8,47bn)	(R34,96bn)
Admin costs (Incl Payroll) as a % of total expenditure	4%	4%	3%
Writs paid	5294	10752	15273
Value of payments on writs	R0,66 bn	R2,15 bn	R5,39 bn
Number of writs not paid/outstanding at YE	none	251	3141
Cash Holding at YE	R2,5 bn	R1,05 bn	R2,04 bn
Liquidity = Current Assets - Current liabilities	(R18,11 bn)	(R28,50 bn)	(R37,92 bn)
Accumulated Deficit	(R91 bn)	(R110 bn)	(R145 bn)

Financial Position – Key Indicators FY17



	April	May	June	July	Aug	Sep	Oct	Nov	Dec	Jan
Net Fuel Levy income	R2,68 bn	R2,67 bn	R2,62 bn	R2,11 bn	R2,91bn	R3,05 bn	R3,15 bn	R2,84 bn	R3,11 bn	R3,16 bn
Number of payments	22916	25919	24202	28904	22774	23304	23064	28247	11898	23419
Claims Expenditure	R2,60 bn	R2,70 bn	R2,46 bn	R2,56 bn	R2,75 bn	R2,41 bn	R2,70 bn	R2,55 bn	R1,78 bn	R3,48 bn
Cash/Payment shortfall/(RNP/PA)(Acc amount)	R9,73 bn	R9,47 bn	R9,74 bn	R9,21 bn	R9,11bn	R9,64 bn	R9,35 bn	R9,96 bn	R10,5 bn	R8,18 bn
Writs paid	718	967	1094	953	1038	926	1122	1192	892	1409
Value of payments on Writs	R351 mil	R371 mil	R508 mil	R401 mil	R441 mil	R316 mil	R500 mil	R400 mil	R392 mil	R455 mil

Managing the Financial Position (1 of 3)



1. Continued efforts to secure additional funding
2. Ensured that claims expenditure is as efficient as possible
3. Continued to reduce administrative costs
4. Kept all relevant stakeholders informed
 - NT, DOT, DOH, DOJ
 - AGSA
 - PCOT
 - Financial Services Board
 - South African Reserve Bank
 - Various Sheriffs and the South African Board of Sheriffs
 - Black Lawyers Association, Law Societies and Councils
 - South African Medical Association
 - Via our Call Centre, all claimants/service providers
 - Media releases to ensure the broader public is informed
 - RAF Primary Banker

Managing the Financial Position (2 of 3)



2015/16 Outcomes

Transformation

Pillar	2015/2016	2014/2015
•ROTR Events	•10	•1
•No. of Claims (All Events)	•36 146	•N/A
•Value settled during ROTR Events	•Over R 1bn	•R463 000
Writes	15 273	11 656
Call Centre		

19. Claims Expenditure

	2016	2015
	R'000	R'000
Claims paid	28 628 546	21 469 707
Claims booked and not yet paid	10 635 698	6 940 109
Reversal of claims booked and not yet paid	(6 940 109)	(802 619)
Net increase in claims provision	33 942 347	13 426 859
Total	66 266 472	40 456 056



Challenges

Significant issues

- Seriously insufficient cash resources
- Writes, legal costs, interest payments, converted direct claims and disrupted operations are both frequent and significant

12. Claims Liabilities

	2015	2014
	R'000	R'000
Provision for outstanding claims recorded	78,491,000	78,491,000
Provision for claims incurred but not yet reported	30,807,000	30,807,000
Provision for hand-over costs	130,859	130,859
Claims requested for payment but not paid at year-end	6,938,384	6,938,384
	116,367,243	116,367,243

(Deficit)/surplus before provision for outstanding claims

Provision for outstanding claims (3,138)

(Deficit)/surplus for the year (14,162)

(17,300)

Cash Flow Statement

	31 March	31 March
	2014	2014
	R million	
Net cash flows from operating activities	(3,589)	(3,589)
Cash flows from investing activities	(50)	(50)
Net increase/(decrease) in cash and cash equivalents	(3,639)	(3,639)
Cash and cash equivalents at the beginning of the year	6,144	6,144
Cash and cash equivalents at the end of the year	2,505	2,505

Managing the Financial Position (3 of 3)



5. Implemented effective cash management measures
 - Maximum number and value of payments spread equitably amongst all categories
 - 97% of monthly Fuel Levy is paid out in the month
 - Based on payment days as calculated using our Funding Model
 - Claim related payment days are re-calculated as and when required
 - Maintaining a minimum funding level before receipt of Fuel Levy
 - Pursue predictability and transparency
 - Payments expected in terms of Court Orders are subject to the same payment terms as those of Plaintiff Attorneys
 - Payments are ideally effected first on the matters longest overdue
 - Fulfillment of payment terms depends on operations and the fuel levy received
 - Cash flow forecasting takes place (Daily/Weekly/Monthly)
 - Improved system-driven reporting put in place
 - Increased capacity in the relevant departments
 - Contingency measures to ensure business continuity where interruptions occur
 - Cash Management Procedure reviewed annually and as and when required

Recent Developments

- Attachment /removal/threat of sale /auction of movable property is, has been and remains a day to day operational challenge and a process to manage this is in place
- Attachments of the bank account are increasing both in prevalence and value:
 - Frequency
 - December 2015, August 2016, September 2016, 15 December 2016
 - 27 January 2017 (35 attachment orders valued at an est. R10 million)
 - 2 February 2017 (30 attachment orders valued at an est. R18 million)
 - 6 February 2017 (33 attachment orders valued at an est. R17 million)
 - Scheduled for 23 February 2017 (56 attachment orders valued at an est R44 million)
 - Value
 - From an estimated R16 000 to the latest threat of R44 million per instance
- Approximately 200 attachments compared to 40,000 writs received in the past 3 years
- Less than 20 attorneys pursue this course of action, compared to 6000 payees
- The latest instances resulted in the suspension of ALL payments for nearly 10 days
- In response, the Fund has implemented all of the actions captured in the previous slides with a focus on business continuity measures and wide communication

Summing It All Up

Productivity

- Improved!
- **Shaped by the RAF Act**
- Over 700 claims finalised per day
- 188,000 claims finalised
- 188,000 claims registered

Income

- **Set by NT**
- R3 billion monthly fuel levy
- Additional R1,9 billion through 9c/l increase
- Reduced investment income

Expenditure

- R3 billion over spread over each month
- R108 million/day
- >2,000 daily payments
- BUT R8,6 billion remains unpaid

Payment Demands

- Writs
- Bank attachments
- Minority of plaintiffs, to the detriment of all
- Serious financial and non-financial Implications

Slow productivity

- Reduce finalizations
- Contain head count
- Interrogate s.21 of the Act
- Introduce a dispensation that matches expenditure with income
- Safer roads with fewer crashes

Additional Funding

- Continuous motivation for additional funds
- R8,6 billion is validly due and to 4,300 claimants, lawyers, healthcare providers, caregivers, corporate suppliers and creditors
- **Fiscal reality!**

Optimise payments

- Review cash management plan
- Experience good
- Increase direct claim prevalence
- R1,6 billion saved in 2016 and a potential R3,6 billion saved on new claims
- **End the RAF scheme**
- Introduce a dispensation that matches expenditure with income

Optimal

- ### administration
- WRIT SOP
 - Board of Sheriffs
 - Jurisdiction, notification & blocking duplication
 - Plaintiff Communications
 - Swift communication

Conclusion

In the context of the current financial constraints:

- Remain committed to finding new solutions and funding
- Remain committed to utilising all available money to honour payments which are due
- Remain committed to ensuring that all categories of payees receive regular payments
- Remain committed to ensuring that no category of payee is neglected
- Remain committed to introducing a new, equitable, affordable and sustainable scheme
- Extend our appreciation to the thousands of claimants, lawyers, healthcare providers, caregivers, corporate suppliers and creditors who have patiently participated with the Fund
- In impossible and unreal circumstances, recognise the team who makes possibilities a reality on a daily basis.

Thank You!

