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Submission File

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Parliamentary Standing Committee on Finance (SCoF)
90 Plein Street
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Dear Sir and Madam

COMMENTS ON THE PENSION FUNDS AMENDMENT BILL [B30-2020]

1. We present the comments and submissions of the South African Institute of Chartered Accountants (SAICA) on the Pension Fund Amendment Bill [B30-2020]. We once again thank the Standing Committee on Finance (SCoF) for the ongoing opportunity to provide constructive comments in this regard. SAICA continues to believe that a collaborative approach is best suited in seeking solutions to complex challenges.

Acknowledgment of purpose of the Bill

2. We do understand and acknowledge the financial hardship that COVID-19 has caused on many households in the country. We thus fully appreciate the purpose of this Bill and the balancing act that it is trying to achieve by enabling saving of assets and livelihoods while maintaining retirement savings.
3. We also understand governments current more narrow policy on fund guarantees and withdrawals, balancing the rights of taxpayers to access their funds and, on the other hand, the government's concerns that taxpayers will squander these funds once accessed and then become a further burden on the state on retirement.
4. Considering this, we do, however, submit two concerns with the present amendment bill which are discussed below.

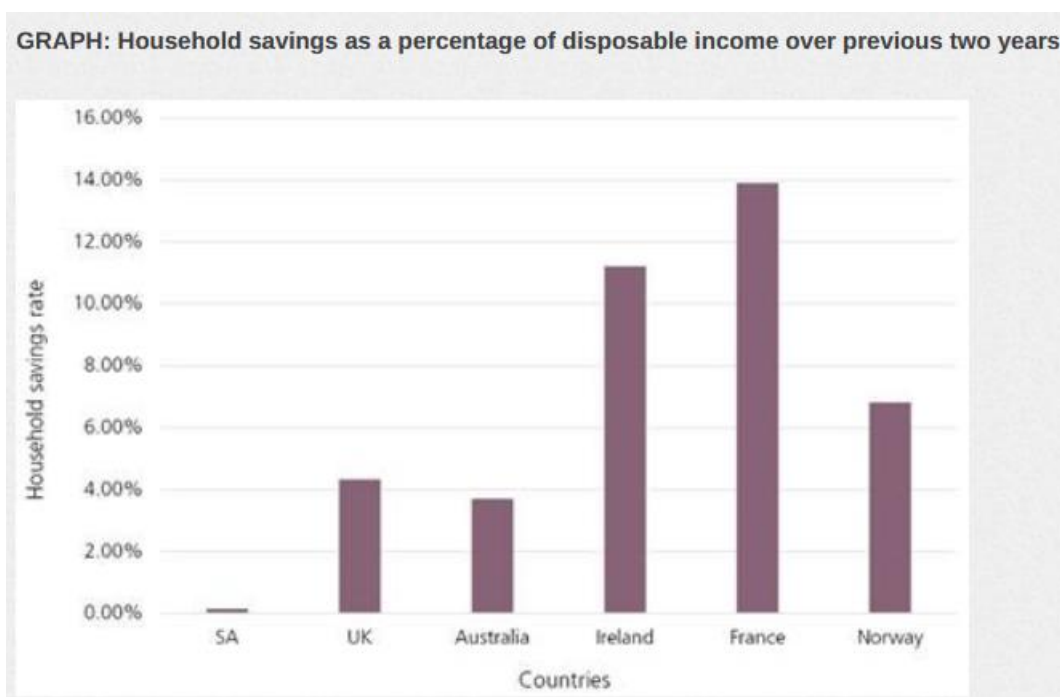
Treatment of default of loan

5. The proposal to extend the purpose of a loan beyond just immovable property creates a higher risk of default.

6. The Bill is unclear as to what the procedure is should the taxpayer default on the loan where the loan has been secured by either the debt security cession of the pension rights or loan guarantee.
7. In both these instances we believe a withdrawal benefit accrues to the member when the fund or external creditor claims against the loan.
8. Though this is a problem in the current legislation the risk of executing against the retirement benefits is exponentially reduced by limiting the loan against a value growing asset like immovable property, having valuation limitations and also compelling a first mortgage against which the creditor will execute against the immovable property first.
9. The current proposal will allow this security to be without any underlying assets to execute against leaving just the fund interest.
10. It is also unclear whether the fund or external secured creditor can immediately execute on default against the fund benefit or has to wait to membership termination though we assume the former.
11. Submission: The Bill should provide clarity on how the lender will exercise the repayment of the loan and whether there will be compelled order of realisation i.e. first executing against other assets before executing against the fund benefit.
12. We understand the hardship many people face as a result of losing an income stream.
13. It is, however, a concern that by allowing access to leverage fund benefits for any reason could result in a significant reduction in retirement savings.
14. South Africans have a very bad savings culture with only 10% of South Africans saving enough for retirement. Even compared to other poorer countries like India (see Table below), South Africans are bad at saving responsibly.

Domestic Saving by institutions (as per cent of GDP)

Year	Household sector			Private corporate sector	Public sector	GDS
	Physical	Financial	Total			
1950 – 51	7.0	0.7	7.7	1.0	1.7	10.4
1955 – 56	6.8	4.2	11.0	1.3	1.7	13.9
1960 – 61	5.6	2.8	8.4	1.7	2.6	12.7
1965 – 66	5.8	4.1	9.9	1.5	3.1	14.5
1968 – 69	7.1	2.2	9.3	1.2	2.3	12.8
1973 – 74	8.0	5.8	13.8	1.7	2.9	18.4
1978 – 79	10.6	6.4	17.0	1.5	4.6	23.2
1984 – 85	6.0	7.7	13.7	1.7	2.8	18.2
1989 – 90	9.9	8.3	18.2	2.6	1.6	22.4
1996 – 97	10.3	6.7	17.0	4.5	1.7	23.2
1999- 2000Q	10.5	9.2	19.8	3.7	-1.2	22.3



15. This lack of savings is coupled with South Africans extreme over indebtedness. In 2017 a World Bank report noted that South Africans are some of the most indebted people in the world.
 16. Given this culture of low savings and “borrow to spend” on non-assets, we can understand why government would be very vigilant in protecting compelled savings like fund benefits.
 17. However, as a primary concern to any person is losing their house as their primary asset and place of safety. In this regard they may require money to fund the instalments due for a temporary period.
 18. It may therefore be possible to balance the proposal of expanded access with those of conserving the fund interest.
19. Submission: We submit that by expanding the current immovable property loan provisions to extend to monies payable to a financial institution for the instalments for a temporary period may provide a more balanced approach than allowing it to secure any type of expenditure.
 20. We further submit that consideration should also be given to limiting the circumstances in respect of which these loans can be provided – such as retrenchment, other financial hardship that can be substantiated by supporting documentation etc.



Tax on withdrawal of funds

21. We acknowledge that some of the below may be a current challenge though to a much lesser extent.
22. In terms of this Bill, the taxpayer can get a guarantee for 75% of their share in the value of the fund. However, the Bill does not seem to consider tax payable on the withdrawal of the funds should the taxpayer default on the loan and the amount needs to be paid to the lender.
23. Should a creditor execute against the guarantee, the taxpayer will unlikely be in a position to pay this amount of tax as the reason for requesting the loan is due to his/her dire financial position. The lender will require the full 75% to be paid and the remaining 25% in the pension fund may not be sufficient to cover the tax that is payable by the taxpayer.
24. It also remains unclear whether tax will be collected from the taxpayer after settlement of the loan to the creditor so that the 25% remains protected or whether SARS would recover this amount from the remaining benefit.
25. Submission: The Bill should provide clarity on how the tax payable on the occurrence of a withdrawal event when the creditor executes against the guarantee, will be treated.

Yours sincerely

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