UNDERSTANDING THE DEATH CLAIMS PROCESS OF RETIREMENT FUNDS

We understand that dealing with administration at this time can be very stressful. You are welcome to call the Allan Gray Client Service Centre on 0860 000 654, or email info@allangray.co.za if you have any questions or if you need any explanations.

WHY HAVE WE SENT YOU THIS DOCUMENT?

The member was saving for retirement through one or more of Allan Gray’s retirement funds. As the member passed away prior to retiring from these funds, a death benefit – i.e. the value of the investment – will be paid out.

Retirement funds are governed by specific fund rules and legal requirements. These rules and requirements are different from other investment products and affect how death benefits are paid out. The process is complicated and can take a long time. This document explains some of the concepts and the process.

WHO ALLOCATES THE DEATH BENEFIT?

Every retirement fund is managed by a board of trustees. The trustees are responsible for allocating retirement fund benefits in terms of Section 37C of the Pension Funds Act (the Act*). The intention of the Act is to protect dependants, even over the clear wishes of the member. At its core the Act serves a social function, striving to ensure that no one who was financially dependent on the member is left without support.

Death benefits are expressly excluded from the member’s estate, and the benefit must be dealt with according to the Act. Therefore, the member cannot leave the death benefit to a specific person via the terms of his/her last Will, and the executor of the member’s estate does not deal with the payment of these death benefits.

The difference between DEPENDANTS and NOMINEES

To understand how the trustees allocate the benefit, it is useful to understand the difference between a dependant and a nominee.

DEPENDANTS: The Act defines dependants as spouses, children, anyone proven to have been financially dependent on the member at the time of his/her death, anyone entitled to maintenance, as well as anyone who may in the future have become financially dependent on the member.

NOMINEES: A nominee is any party (natural person, trust or legal entity) whose details the member provided to the retirement fund in writing indicating that they should be considered by the trustees for a possible allocation of the death benefit. Examples would be one or more dependants, or a person who is not a dependant, such as a friend of the member.

HOW LONG IS THE PROCESS?

The Act requires the trustees to conduct an enquiry into the member’s circle of dependants at the time of his/her death before deciding how the benefit will be allocated.

The Act grants the trustees at least 12 months to search for dependants, but the timeframe for allocating the benefit depends on the completeness of the information provided, as well as the response time of the dependants and nominees.

In all instances, the trustees aim to distribute the death benefit as quickly as possible. However, the process can be challenging and timing depends on the complexity of individual circumstances and how long it takes to find dependants. Some death claims can take an extended period of time to finalise.

Other factors can also influence the time taken. For example, if the member dies through unnatural causes, the trustees may not be able to make any decisions or pay any benefits, until the cause of death has been established, or the police have confirmed that no one who is to receive part of the benefit was involved in the member’s death.

The law that applies to fund death claims is complex. Living annuities and other life and savings products fall under different legislation which is less complex, and these benefits are often allocated long before fund death claim benefits.

THE PROCESS

The Act requires the trustees to conduct an enquiry into the member’s circle of dependants at the time of his/her death before deciding how the benefit will be allocated.

- **STEP 1:** The dependants, financial adviser or executor must complete a ‘Death Claims Form for Retirement Annuity, Pension and Provident Preservation Funds’ and the applicable ‘Annexures’ and submit the forms and supporting documents to Allan Gray.

  To find the forms visit www.allangray.co.za and click on the ‘What we offer’ tab at the top of the page. ‘Forms and documents’ can be found under ‘Useful resources’. The forms list all the supporting documents that are required.
STEP 2: The trustees must identify and find all dependants of the member at the time of his/her death

This is done by following the information provided on the ‘Death Claims Form for Retirement Annuity, Pension and Provident Preservation Funds’, and ‘Annexures’ and by doing further research and investigation.

STEP 3: The trustees must make enquiries into the personal and financial circumstances of each dependant and nominee

This is done by gathering information and supporting documents from the various stakeholders related to the death claim. In some instances certain information and/or documents may lead to further enquiries.

When making their decision the trustees are duty bound to consider various factors, including:

- The financial position of the person
- Other sources of income and financial support available to the person
- Age of the person
- The person’s future income or his/her ability to earn an income
- How much money the person needs
- How the person was related to the member
- The value of the death benefit that is available to divide
- The written wishes of the member

STEP 4: The trustees decide how to divide the death benefit based on the outcome of their investigations

Who receives the death benefit?

- If there are only dependants, the benefits will be distributed among these dependants at the discretion of the trustees.
- If there are dependants and nominees, the benefits are distributed among these dependants and nominees at the discretion of the trustees. A nomination does not guarantee that the person will receive all, or a part, of the death benefit, as the trustees cannot merely follow nominations.
- If no dependants are found and only nominees are listed, the trustees must establish whether or not the member’s estate has enough money to pay its debts. If the estate is able to pay its debts, the benefit will be paid to the nominees in the proportions in which they were nominated. However, if the estate has a shortfall, the death benefit must be used to pay the shortfall and the remaining benefit will be paid to the nominees. The payment can only be made 12 months after the death. This is a legal waiting period that is applied to give untraced dependants a chance to come forward.
- If there are no dependants and no nominees, the trustees will pay the benefit to the member’s estate after 12 months. This is a legal waiting period that is applied to give untraced dependants a chance to come forward.

The trustees may decide that it is fair to allocate a nil portion to specific dependants and/or nominees. All decisions are based on the unique merits of each claim.

STEP 5: Dependents and nominees decide how they wish to receive their benefit

There are various options available to dependents and nominees in terms of how they can receive their benefit. They may wish to speak to an independent financial adviser who should be able to help them carefully consider the income tax implications before making decisions. For more information please refer to the ‘Lump sum payments and tax directives’ document, which is available upon request by emailing retirementproducts@allangray.co.za.

The options are:

- Transfer their benefit to a compulsory living or life annuity
- Take a cash lump sum (from which tax may be deducted)
- Take a combination of a cash lump sum (from which tax may be deducted) and a compulsory living or life annuity

If the dependant or nominee is a minor or legally incapacitated adult, the trustees may pay the benefit to a special ‘beneficiary fund’ or to the parent or other person who has a legal responsibility for that person. The benefit may also be paid to a trust, if nominated by the member, and approved by the board of trustees.

*Copy of the Pension Funds Act

If you would like to read a copy of the relevant extracts from the Act, we will gladly send it to you. Please send your request to:

- Email: retirementproducts@allangray.co.za,
- Fax: 0860 000655, or
- Post: Allan Gray Investment Services (Pty) Ltd, PO Box 51605, V&A Waterfront, Cape Town, 8002.