

2. The following changes to Section 37C of the Pension Funds Act are proposed:

- a) Where a fund has successfully traced a dependant, the benefit must be paid to the dependant within **two** months of the fund tracing the dependant. However, it is not clear if the two- month period only applies to the payment period and it is also unclear if this requirement applies regardless of whether the fund has identified and traced all potential dependants and nominees.
- b) If a pensioner receiving an in-fund living annuity or life annuity dies in the guaranteed period, the balance of his or her benefit must be paid to the nominees. If there are no nominees, it must be paid into the estate of the member. If there is no inventory, then the benefit must be paid to the presumably, the central unclaimed benefit fund. This provision is problematic as there have always been problems w Fund as the benefits are often difficult to trace and it is not yet clear how the central unclaimed benefit fund will operate.
- c) COFI has specified the age at which minor dependants and minor nominees must be paid the balance of such benefit where they are being paid in instalments. This is the age of majority or any other age agreed between the fund and the beneficiary, but it must not exceed 21 years of age. This raises questions about what will happens to benefits payable from beneficiary funds or retirement funds in instalments to beneficiaries suffering from a life-long disability.

3. Certain changes to Section 37D of the Pension Funds Act are also proposed:

- a) The wording of the Section will be revised so that deductions which are permissible in terms of Section 37D may take place when the member leaves the service of the employer, instead of when the member ceases to be a member of the fund. Therefore, a deduction permissible in terms of Section 37D could be made from the benefit of a paid-up member.
- b) Interim maintenance orders may be enforced by a fund. Arrear maintenance may be paid by the fund as a lump sum, but future maintenance payment must be made in instalments, either monthly or annually.
- c) The pension interest which may be payable to a non-direct or guaranteed housing loan if the housing loan was granted before the divorce order. However, if a fund is aware that a divorce action is pending, it may not grant a housing loan to a member without the consent of the non-member spouse.

It is important to note that the provisions of COFI may not be implemented in exactly the same way as indicated in this communication.

The authorities are still in the process of considering comment from the industry which could lead to changes.