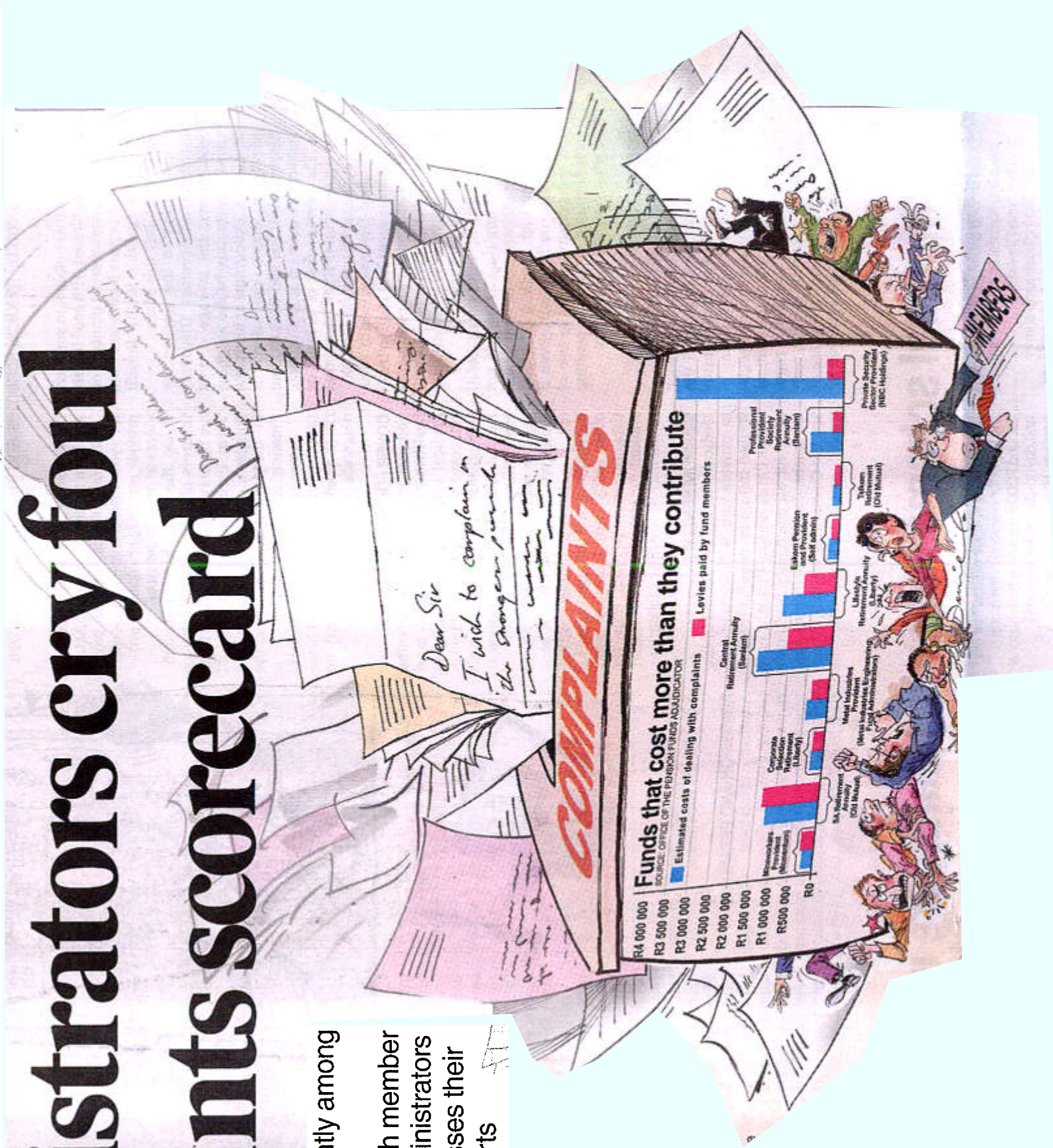


■ ONLY ONE PENSION FUND OUT OF 290 MAKES THE GRADE, ACCORDING TO ADJUDICATOR'S RATING SYSTEM

Fund administrators cry foul over complaints scorecard

Two administrators' funds feature prominently among the worst performers in the Pension Funds Adjudicator's ranking of how funds deal with member complaints sent to her office. But both administrators are unhappy with how the scorecard assesses their performance. **Neesa Moodley-Isaacs** reports



The scorecard of how pension funds deal with members' complaints has been met with wide criticism from the retirement industry. The scorecard was released earlier this week by Mamodupi Mohlala, the Pension Funds Adjudicator (PFA).

The overall assessment pass mark of the scorecard was seven, and only one fund, the Lifestyle Retirement Annuity Fund, which is administered by Liberty Life, passed with a score of 7.19.

Mohlala introduced the scorecard to rate funds in terms of the type and number of complaints related to each fund, as well as how a fund handles complaints.

Two administrators, Negotiated Benefit Consultants (NBC Holdings) and Alexander Forbes, each administer four funds that feature among the "top 20 worst performers".

Max Maisela, the chairman of NBC Holdings, says that although the scorecard names NBC Holdings as the administrator of another worst-performing fund, the Impala Platinum Pension Fund, NBC Holdings is not the fund's administrator.

When asked to comment on the fact that NBC Holdings administers four of the worst-performing funds, Maisela said he is not able to comment at this stage, as he does not know how the scorecard works and will have to find out more details before he can comment.

"We are waiting for a release of the detailed scorecard before we comment," he says.

The full details of the scorecard and how funds would be rated or scored were published by the Office of the PFA in December last year.

DEFAULT DETERMINATIONS

Mohlala recently issued 285 default determinations against the Private Security Sector Provident Fund (PSSPF), which is administered by NBC Holdings, after the fund repeatedly failed to respond to queries from her office. (See "PFA cracks the whip on errant fund", Personal Finance, September 5, 2009.)

NBC Holdings has since published a report on its website, stating that "NBC is seeking legal advice from its attorneys with regard to the articles that appeared in City Press and in Personal Finance on September 5, 2009".

The rest of the statement addresses the article in City Press and makes no further reference to the Personal Finance article.

The statement goes on to say that in January this year, the PSSPF instructed NBC Holdings to allow

the fund's principal officer to assume full managerial responsibility for all complaints against the fund sent to the PFA.

However, Peter Zibi, the principal officer of the PSSPF, says the trustees asked NBC Holdings to make sure that all correspondence with the PFA was routed through him in order to ensure that complaints were dealt with.

"Too often, we were told that NBC did not receive the correspondence from the PFA office or did not see the determination," he says.

Zibi says he does not understand how the scorecard can compare the PSSPF, which has about 2 000 employer members, with funds that have only a few employer members.

"Also, confusion about jurisdiction meant that our fund's complaints were not dealt with between 2002 and 2007, leading to a backlog of cases. After a court ruling that our fund fell under the PFA jurisdiction, we sent upwards of 4 000 complaints to the PFA office in 2007 to be addressed," he says.

Zibi says at least 1 400 of those

complaints related either to employers that were collecting contributions and not paying them over to the fund or to employers that were collecting contributions and were not registered with the fund.

All pension funds are required to pay the PFA office a levy of R2.91 for each pension fund member a year.

The scorecard shows that the cost to all fund members of addressing complaints related to the PSSPF was about R3 900 a complaint, against the PSSPF's levy contribution of R222.479 to the PFA for the

past year. The PSSPF accounted for 26 percent, or 345, of the complaints received by the PFA from September last year to September this year.

The PSSPF was one of eight funds that cost the PFA office more than the amount they contributed to the office in levies (see graph).

Mohlala says a few "serial offenders" compromise the levy system as other funds subsidise the costs of their complaints.

During last year, Mohlala appointed various teams to deal with the complaints backlog. She

appointed an entire team to deal with the PSSPF alone.

When Personal Finance asked Alexander Forbes to comment on the fact that it administers four of the "top 20 worst performers", Leanne van Wyk, the group legal counsel for Alexander Forbes, says the scorecard is not an assessment of administrators but of funds.

"We don't deal with complaints for the Cape Municipal Fund or the Denel Retirement Fund, as both these funds have outsourced that aspect of their business," she says.

Van Wyk says Alexander Forbes also "literally just took over one of the other funds from another administrator".

Despite repeated attempts by Personal Finance to speak to Mohlala this week, she failed to respond to our queries.

Mohlala handed in her resignation at the beginning of September and has been appointed as the director-general in the Department of Communications.

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Scorecard 'doesn't reflect' state of industry

There are 6 500 active pension funds in South Africa and the impression created by some media reports earlier this week that the pension funds industry is in dire straits is "totally misplaced", Jurgen Boyd, the deputy registrar of pension funds at the Financial Services Board (FSB), says. The scorecard focuses only on the 290 pension funds that were the subject of complaints to the Pension Funds Adjudicator (PFA) between September last year and September this year, he says.

Although Mamodupi Mohlala, the PFA, said earlier this week that she would be referring the scorecard's results to the FSB to "reconsider the continued licensing of the funds", Boyd says pension funds do not have licences but are required to be registered with the FSB.

"We carry out a regular comprehensive risk assessment of funds. Fund complaints and how the fund handles those complaints – in other words, the elements of the scorecard – form only one component of an overall assessment of a pension fund," he says. So, while the FSB will take the scorecard into account, it will feed into an overall risk assessment process, Boyd says.

A pension fund can be placed under curatorship, if during an investigation into the fund, evidence of maladministration or misappropriation of funds is uncovered. In such cases, Boyd says, the FSB would apply to the courts for a curatorship order – removing the board of trustees and replacing it with a curator.

"Depending on its rules, a fund can also apply to the FSB for voluntary

liquidation. Or, if the situation warrants it, the FSB can approach the court to place a fund into liquidation – for example, a dormant fund with no board of trustees but with assets and liabilities," he says.

Although the FSB has the power to suspend or withdraw the licences of fund administrators, Boyd says this would depend on a number of factors, of which the scorecard would not be one, because the scorecard assesses funds and not administrators.

NOT ENTIRELY ACCURATE

Leanne Dewey, the group legal executive at Liberty, says although it is right for a consumer complaints tribunal to make its findings transparent, this brings with it the obligation to ensure that information is presented accurately and fairly and can be used to drive improvements.

"Although we do believe that some of the scoring methods used could be refined, we appreciate that this is the first step in what will no doubt be a regular feedback mechanism," Dewey says.

Leanne van Wyk, the group legal counsel for Alexander Forbes, says although it is good for the PFA to provide feedback to the industry, she is not sure about the ratings used and whether they are a true reflection of a fund's performance.

"For example, part of the scoring relates to settlements, but, in terms of

most fund rules, they are not allowed to negotiate any kind of settlement with a member after they have made a decision or, for example, paid out a benefit," she says.

Van Wyk also says she is surprised that only one fund passed the scorecard, as this does not reflect her experience of how funds respond to complaints to the adjudicator.

"This [the scorecard] has led to a negative perception of the pension funds industry in general and many of those funds named in the scorecard as poor performers. One of those funds named is contused, because all complaints against it have been dismissed by Mohlala, yet it has been given a poor rating," she says.

"Our information is that the adjudicator is not going to give funds their individual assessments. If this is the case, this is inappropriate where these funds have been publicly named and now have no way of assessing the fund's score or defending their position," she says.

What the scorecard says about your fund

If you are thinking of changing your retirement fund or have started working and want to know which funds to avoid, you should take a closer look at the scorecard for funds released this week.

The scores for each fund can be found on the website of the Pension Funds Adjudicator (PFA), www.pfa.org.za. (Go to "News and media", then "Media articles" and then "Current articles".)

The scorecard assesses the performance of 290 retirement funds (including pension funds, provident funds and retirement annuity funds) that had complaints lodged against them with the PFA between

September last year and September this year.

There are about 13 000 registered and

6 500 active pension funds in South Africa.

Funds were

assessed in terms of the type of complaint received, the details of the complaint, the quality of the fund's response, whether the fund made any attempt to settle the complaint before it reached the PFA and the outcome of the complaint.

The only fund to pass the overall assessment pass mark of 70 percent was the Liberty Lifestyle Retirement Annuity Fund.

The scorecard's results show that the professional cost of each determination was between R3 500 and R30 000 (an average of R10 000), while the professional cost of conciliation services (introduced by the PFA last year to clear the backlog of complaints) was R3 500 a complaint.

Ten funds were the subject of 67 percent of the complaints dealt with by the PFA in the past year.

These funds are the: Private Security Sector Provident Fund, Central Retirement Annuity Fund, Lifestyle Retirement Annuity Fund, South African Retirement Annuity Fund, Professional Provident Society Retirement Annuity Fund, Momentum Retirement Annuity Fund, Metal Industries Provident Fund, Contract Cleaning National Provident Fund, Metropolitan Life Retirement Annuity Fund and Corporate Selection Retirement Fund.

SECURITY FUND DOES IT AGAIN

Mamodupi Mohlala, the Pension Funds Adjudicator (PFA), this week issued yet another default determination against the Private Security Sector Provident Fund (PSSPF) and its administrator, NBC Holdings.

Nceba Maitwane, an employee of Khulani Fidelity Security Services, complained to the adjudicator after the fund failed to pay out a disability benefit. Maitwane was injured in a car accident in June 2004. The injury left him permanently blind in one eye and unable to perform his duties.

As with previous complaints to the PFA against the PSSPF, both the fund and NBC Holdings failed to respond to the request from the adjudicator's office for more information.

Mohlala ordered NBC Holdings to calculate the value of the disability benefit Maitwane would have received if his claim had been submitted to the insurer, and to inform the fund and the PFA of the benefit within seven days of the ruling. The PSSPF was ordered to pay the benefit plus interest at a rate of 25 percent until the date of payment, within 14 days of the ruling.

The adjudicator also ruled that Maitwane may approach a court to obtain a warrant of execution if the fund fails to make the payment in line with her ruling.

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