

# **RULES**

## **OF THE**

### **SANLAM PRESERVATION PROVIDENT FUND**

Reference numbers:

Financial Services Board	12/8/28801
South African Revenue Service	18/20/4/033721

The Revised Rules has been registered by the Registrar of Pension Funds on 4 May 2018.

Where a rule has been amended/deleted/inserted after 4 May 2018 it is indicated with a note below that rule.

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## **PART 1: ESTABLISHMENT OF FUND**

### **Name**

1. A fund, known as the “Sanlam Bewaringsvoorsorgfonds” was established on 1 April 1993.

The BOARD resolved at a meeting on 18 March 2009 to register the English version of the RULES as the official RULES under the name Sanlam Preservation Provident Fund (“the FUND”). In Afrikaans the FUND will be referred to as the Sanlam Bewaringsvoorsorgfonds.

### **Registered office**

2. The registered office of the FUND is: SANLAM LIFE INSURANCE LIMITED, 2 Strand Road, BELLVILLE, 7530, with postal address: The Principal Officer, Sanlam Preservation Provident Fund, P.O. Box 1, SANLAMHOF, 7532.

### **Purpose**

3. The sole purpose of the FUND is to provide retirement benefits for the MEMBERS of the FUND and benefits for the DEPENDANTS or NOMINEES of deceased MEMBERS.

### **The Fund is a legal person**

4. The FUND is a separate entity and legal person, distinct from its MEMBERS, and is the legal owner of its goods and has the capacity to incur any liability in its own name and to proceed as claimant and defendant in court cases. The BOARD or its assignees carry out all the necessary legal actions for and on behalf of the FUND.

### **Financial year and auditor**

- 4A The financial year runs from 1 January to 31 December.

The AUDITOR of Sanlam Life Insurance Ltd is also the AUDITOR of the FUND.

## PART 2: DEFINITIONS

5. The headings of the RULES are for ease of reference and shall not be taken into account in the interpretation of the RULES.

In these RULES, unless the context indicates otherwise:

- words defined in the ACT have the same meaning as ascribed to them in the ACT; and
- all words and expressions in the masculine form also include the feminine form; and
- the singular also include the plural, and vice versa.

**ACT** means the Pension Funds Act, 1956, as amended, and the regulations issued in terms of the ACT and any supervening Act which replaces it and any amendments and regulations promulgated thereunder.

**ACTUARIAL BASIS**, in relation to a POLICY, means the underlying actuarial rules, specifications and formulae in terms of which the POLICY operates, which:

- in compliance with the Long-term Insurance Act, 1998, are approved by the statutory actuary of the INSURER, in particular for the purposes of sections 46 and 52 of that Act; and
- if and while the Insurance Act, 1943, applied to the POLICY, in compliance with that Act, were approved by the valuator of the INSURER, in particular for the purposes of sections 34 and 62(2) of that Act; and

**ADMINISTRATOR** means Sanlam Life Insurance Limited, or any other ADMINISTRATOR appointed from time to time by the BOARD and whose appointment shall be duly recorded by the AUTHORITY.

**ANNUITY STRATEGY** means a strategy, as determined by the BOARD, setting out the manner in which a MEMBER'S retirement savings may be applied, with the MEMBER'S consent, to provide an annuity or annuities by the FUND or to purchase an annuity on behalf of the MEMBER from an external provider, which annuity or annuities may either be in the name of the MEMBER or in the name of the FUND and which complies with the requirements of regulation 39 of the ACT and any conditions that may be prescribed from time to time;

*[amendment effective from 01/03/2019]*

**AUDITOR** means an AUDITOR registered in terms of the Auditing Profession Act, 2005, and who is not an official of the FUND.

**AUTHORITY** means the Financial Sector Conduct Authority established in terms of section 56 of the Financial Sector Regulation Act (Act no. 9 of 2017).

*[amendment effective from 03/06/2019]*

**BENEFIT** means a POLICY benefit, including a consideration payable upon the full or partial surrender of a POLICY, but excluding a loan in respect of a POLICY. For purposes of any deductions in terms of section 37D(1)(d)(i) of the ACT, a MEMBER's benefit will with effect from 1 November 2008 deemed to be the early termination value of the POLICY the FUND holds in respect of the MEMBER.

**BOARD** means the board of TRUSTEES which controls and manages the FUND in terms of these RULES.

**CAUSAL EVENT** in relation to a POLICY means one of the following events:

- the remaining policy term is reduced, without the POLICY thereby coming to an end;
- the POLICY is surrendered in part, other than for the purpose of a transfer from one fund to another in terms of section 14 of the ACT, or a part of the POLICY comes to an end for another reason;
- the POLICY is surrendered in part for the purpose of a transfer from the FUND to another fund in terms of section 14 of the ACT;
- the POLICY is surrendered in full, other than for the purpose of a transfer from the FUND to another fund in terms of section 14 of the ACT, or the POLICY comes to an end for another reason (other than because the POLICY has reached its maturity date); or
- the POLICY is surrendered in full for the purpose of a transfer from the FUND to another fund in terms of section 14 of the ACT.

**CONTRIBUTION** means the amount that is transferred to the FUND from the EXISTING FUND for the benefit of a MEMBER in terms of RULE 8.

**DEPENDANT** means:

- A person in respect of whom the MEMBER is legally liable for maintenance;
- A person in respect of whom the MEMBER is not legally liable for maintenance, if such a person:
  - was at the death of the MEMBER, in the opinion of the BOARD in fact dependent on the MEMBER for maintenance; or
  - is the SPOUSE of the MEMBER; or
  - is a child of the MEMBER, including a child born after the death of the MEMBER, an adopted child and a child born out of wedlock.
- A person in respect of whom the MEMBER would have become legally liable for maintenance if the MEMBER had not passed away.

**DEPUTY PRINCIPAL OFFICER** means the person appointed for the FUND in terms of section 8(2)(b) of the ACT.

**EXISTING FUND** means a PROVIDENT FUND or a PROVIDENT PRESERVATION FUND from which a prospective member's or a member's interests have to be or have been transferred to the FUND.

**FUND MEMBER POLICY** means a policy:

- of which the FUND is or was the policyholder; and
- which is or was entered into by the FUND for the purpose of funding exclusively the FUND's liability to a particular MEMBER (or to the surviving SPOUSE, children, dependants or nominees of the MEMBER) in terms of the RULES.

**INDEPENDENT TRUSTEE** means a TRUSTEE who:

- is not an employee of the FUND or the INSURER; and
- is not controlled by the FUND or the INSURER; and
- does not control the FUND with the INSURER; and
- does not render any other services to the FUND or the INSURER.

**INSURER** means Sanlam Life Insurance Limited or Sanlam Developing Markets Limited as the case may be.

**MEMBER** means any person who has been admitted to membership in terms of the RULES and has not ceased to be a member in terms of the RULES.

**NOMINEE** means a person, whether a DEPENDANT of the MEMBER or not, who has been nominated by the MEMBER in writing and notified to the FUND, to receive the death benefits payable on the MEMBER's death in terms of the RULES.

**PENSION FUND** means a pension defined in section 1 of the Income Tax Act, 1962 as amended.

**POLICY** means a FUND MEMBER POLICY.

**POLICY PRESCRIPTIONS** means the terms of the POLICY, the underlying ACTUARIAL BASIS of the POLICY, and the prescriptions of the Long-term Insurance Act, 1998 and the regulations issued under that Act or the Long-term Insurance Act, 1998 of Namibia and the regulations issued under the latter Act, as the case may be.

**PROVIDENT FUND** means a provident fund defined in section 1 of the Income Tax Act, 1962 as amended.

**PROVIDENT PRESERVATION FUND** means a provident preservation fund defined in section 1 of the Income Tax Act, 1962 as amended.

**RETIREMENT ANNUITY FUND** means a retirement annuity fund defined in section 1 of the Income Tax Act, 1962 as amended.

**PRINCIPAL OFFICER** means the person appointed for the FUND in terms of section 8(2)(a) of the ACT.

**RETIREMENT BENEFITS COUNSELLING** means the disclosure and explanation, in a clear and understandable language, including risks, costs and charges, of:

- the terms of the FUND's ANNUITY STRATEGY; and
- any other options made available to members;

*[amendment effective from 01/03/2019]*

**RETIREMENT DATE** means the date elected by the MEMBER and provided to the FUND in the prescribed format. If the date elected by the MEMBER is not possible because all the requirements of the FUND, the INSURER and the South African Revenue Service have not been complied with to the satisfaction of the FUND, then it means the closest possible date to the date elected by the MEMBER. No MEMBER becomes entitled to payment of any BENEFIT before reaching the age of 55 years, except in the case of a MEMBER who becomes permanently incapable of carrying on his occupation through infirmity of mind or body and becomes entitled to disability benefits in terms of RULES 27 and 28.

**RULES** means these rules and such alteration hereof as may at any time be in force.

**SPOUSE** means a person who is the permanent life partner or SPOUSE or civil union partner of a MEMBER in accordance with the Marriage Act, 1961, the Recognition of Customary Marriages Act, 1998 or the Civil Union Act, 2006 or the tenets of a religion.

**TRUSTEE** means a member of the BOARD.

**UNCLAIMED BENEFIT** means –

- any BENEFIT, other than a BENEFIT referred to hereunder, not paid by the FUND to a MEMBER, former MEMBER or beneficiary within 24 months of the date on which it in terms of the RULES of the FUND, became legally due and payable;

*[amendment effective from 18/03/2020]*

- a death BENEFIT not paid within 24 months from the date on which the FUND became aware of the death of the MEMBER, or such longer period as may be reasonably justified by the BOARD in writing;
- in relation to a BENEFIT payable as a pension or annuity, any BENEFIT which has not been paid by the FUND within 24 months of the date on which any pension payment or annuity legally due and payable in terms of the RULES of the FUND became payable;
- any BENEFIT that remained unclaimed or unpaid to a MEMBER, former MEMBER or beneficiary if the FUND applies for cancellation of registration in terms of section 27 of the ACT or where the liquidator is satisfied that BENEFITS remain unclaimed or unpaid;
- any amount that remained unclaimed or unpaid to a non-member spouse within 24 months from the date that the non-member spouse becomes entitled to the payment of a pension interest in terms of a decree of divorce or decree for the dissolution of a customary marriage.

**VALUES** means all VALUES of a POLICY including, but not limited to, its investment value, its remaining value and other values contemplated in section 52(2) of the Long-term Insurance Act, 1998 and its maturity value.

*[amendments in this Part 2 effective from 27/08/2019]*

## PART 3: MEMBERSHIP

### Eligibility

6. The following persons are eligible for membership of the FUND:
- 6.1 Former members of a PROVIDENT FUND whose membership of that fund has terminated due to:
- 6.1.1 resignation, retrenchment or dismissal from employment and who elected to have any lump sum benefit that is payable as a result of the termination transferred to this FUND;
- 6.1.2 the winding up of that fund, if the member elects or is required in terms of the rules to transfer to this FUND; or
- 6.1.3 a transfer of business from one employer to another in terms of section 197 of the Labour Relations Act, 1995, and the employment of the employee with the transferor employer is transferred to the transferee employer, if the member elects or is required in terms of the rules to transfer to this FUND;
- 6.2 former members of any other PROVIDENT PRESERVATION FUND:
- 6.2.1 if that fund was wound up or partially wound up; or
- 6.2.2 if the member elected to have any lump sum benefit contemplated in paragraph 2(1)(b)(ii) of the Second Schedule to the Income Tax Act 1962 transferred to this FUND and who made this election while they were members of that other fund;
- 6.3 a person who has elected in terms of section 37D(4)(b)(ii) of the ACT to have an amount awarded to that person in terms of a court order contemplated in section 7(8) of the Divorce Act, 1979 transferred from a PROVIDENT FUND or a PROVIDENT PRESERVATION FUND for the benefit of that person. This paragraph is deemed to have come into operation on 22 July 2008.

*[amendment effective from 1 March 2019]*

- 6.4 Former members of a PROVIDENT FUND who have elected to have a lump sum benefit contemplated in paragraph 2(1)(c) of the Second Schedule transferred to this PROVIDENT PRESERVATION FUND and who made the election while they were members of that other fund.

*[amendment effective from 1 March 2019]*

### **Termination of membership**

7. Membership of the FUND will be terminated if:
- 7.1 the MEMBER dies; or
  - 7.2 the MEMBER retires; or
  - 7.3 the MEMBER withdraws from the FUND; or
  - 7.4 the MEMBER's full BENEFIT is paid into another fund or combination of funds as contemplated in RULE 43; or
  - 7.5 [deleted]
  - 7.6 an annuity as contemplated in RULE 20 is purchased and the FUND has transferred the BENEFITS to the registered insurer and, if applicable, has paid any balance of the BENEFITS in cash to the MEMBER directly; or
  - 7.7 the FUND is dissolved,
- whichever event occurs first.

## **PART 4: CONTRIBUTIONS**

### **General**

8. A MEMBER's CONTRIBUTION consists of his total interest or a part of his interest transferred to the FUND from the EXISTING FUND.
9. The amount to be transferred equals at least the INSURER's minimum premium from time to time for the FUND.

## **PART 5: ASSETS**

### **Accumulation of assets**

10. The FUND accumulates the assets it requires to provide benefits to MEMBERS by taking out a POLICY in respect of each MEMBER.
11. The MEMBER himself chooses the type of POLICY, including the investment portfolios and other features of the POLICY, from the range which the FUND makes available for this purpose and the MEMBER accepts the investment risk accompanying his choice.

If a MEMBER does not respond to a request by the FUND to elect other investment options to ensure compliance with the ACT and regulations issued in terms thereof, the FUND reserves the right to change the allocation to and selection of the investment portfolios of a POLICY to ensure that the POLICY complies with the limits prescribed by the ACT and the regulations.

12. The CONTRIBUTION of the MEMBER is used exclusively as a premium for the POLICY which the FUND took out in respect of that MEMBER. The premium less any charges as specified in the POLICY PRESCRIPTIONS is invested in the investment portfolios linked to the particular POLICY.
13. The FUND is the owner of the POLICY it took out in respect of the MEMBER.
14. The FUND is under no obligation to maintain the POLICY, except to the extent that CONTRIBUTIONS are received from the EXISTING FUND.
15. The FUND's liability from time to time to the MEMBER in respect of BENEFITS is equal to the FUND's corresponding claim from time to time as policyholder against the INSURER for the POLICY BENEFITS provided or to be provided by the INSURER under the POLICY in accordance with the POLICY PRESCRIPTIONS.
16. The POLICY is administered by the INSURER, and all values and BENEFITS of the POLICY and charges in respect of it are determined, in accordance with the POLICY PRESCRIPTIONS.

17. Any change in the BENEFITS as the result of:
  - 17.1 a CAUSAL EVENT, as determined in accordance with the POLICY PRESCRIPTIONS; or
  - 17.2 a change in the value of the accumulated assets in the period between the CAUSAL EVENT or the maturity date and date that the BENEFIT is paidwill result in the FUND's liability to the MEMBER changing accordingly.
18. The FUND must notify the MEMBER of any change contemplated in RULE 17 in respect of a CAUSAL EVENT.
19. The MEMBER decides on any amendments or other transactions regarding the POLICY, in accordance with the POLICY PRESCRIPTIONS.

## PART 6: RETIREMENT BENEFITS

### General

20. A MEMBER's retirement BENEFIT when he reaches his RETIREMENT DATE or if he is not capable of being employed owing to ill-health, is an annuity (including a living annuity) purchased with the value of the POLICY held by the FUND in respect of the MEMBER. By applying to the FUND prior to his becoming entitled to the annuity, the MEMBER may convert a part or the whole of the annuity into a lump sum payment.

### Payment of annuity

21. Depending on the MEMBER's wishes, the annuity referred to above may be purchased with the FUND or MEMBER as owner of the annuity.

*[amendment effective from 27/08/2019]*

22. With the FUND as owner, the annuity is purchased from the INSURER and the FUND's liability towards the MEMBER after retirement is limited to the proceeds of the annuity contract with the INSURER.
23. With the MEMBER as owner, the annuity is purchased from a registered insurer selected by the MEMBER and the FUND's liability is limited to the conclusion of a contract with the relevant registered insurer in terms of which the registered insurer, on receipt of payment by the FUND for the benefit of the MEMBER, will accept an application by the MEMBER for an annuity which is payable to him directly.

Once the FUND has made payment to the registered insurer and, if applicable, has paid any balance of the benefits directly to the MEMBER in cash the FUND will have no further obligation towards the MEMBER.

24. More than one annuity may be purchased on behalf of the MEMBER within the limits laid down by the South African Revenue Service.
25. A MEMBER's annuity in terms of this Part must be payable at least until the death of the MEMBER. However, subject to the terms of the annuity contract, if:
- 25.1 the BOARD is satisfied that no portion of the retirement BENEFIT has been commuted yet, and the remaining total value of the annuity does not exceed the amount prescribed by the Commissioner for the South African Revenue Service from time to time; or

25.2 the BOARD cannot satisfy itself that no amount has previously been commuted and the VALUE of the annuity does not exceed the amount prescribed by the Commissioner for the South African Revenue Service from time to time,  
the annuity may be commuted.

**Continuation of a policy**

26. Should a MEMBER whose BENEFITS are funded by a POLICY with a fixed maturity date, not inform the INSURER by such maturity date of his chosen retirement options or, alternatively, in which of the available investment funds he should like to continue the POLICY, it will be continued in an investment fund guaranteed never to pay out less than the continuation amount.

## **PART 7: DISABILITY BENEFITS**

27. If a MEMBER retires from his new employer prior to his retirement age due to disability he must retire from the FUND as well.
28. If the TRUSTEES are satisfied that a MEMBER who is not in employment has become permanently disabled through infirmity of mind or body, a retirement benefit may be paid to him.

## PART 8: DEATH BENEFITS

### Payment of benefits

29. Subject to the prescriptions laid down by the FUND, the MEMBER can appoint a person (and revoke an appointment) to be considered by the BOARD to receive BENEFITS in the case of his death before retirement.

If at retirement a MEMBER chooses an annuity with the FUND as owner, he can appoint the same or another person (and revoke such appointment) to receive BENEFITS in the event of his death after retirement.

If the MEMBER appoints his SPOUSE or child to receive the annuity after his death, the BOARD may not appoint another person to receive the annuity.

30. The BENEFIT that becomes payable in the event of the MEMBER's death before the RETIREMENT DATE, or where a MEMBER at retirement chose an annuity with the FUND as owner which was calculated on his life only, and which is payable for a minimum term, or where a retired MEMBER appointed a person other than his SPOUSE or child to receive his annuity after his death, and the MEMBER passes away before the expiry of the term, must be paid as follows:

30.1 If the MEMBER has a DEPENDANT or DEPENDANTS and did not appoint a NOMINEE to receive the BENEFIT or part of the BENEFIT, the BENEFIT is paid to the DEPENDANT, or to one of such DEPENDANTS or to some or all such DEPENDANTS in the ratio upon which the BOARD decides; or

30.2 If there are no DEPENDANTS of the MEMBER or if no DEPENDANT of a MEMBER can be traced by the FUND within twelve months of the death of the MEMBER, and the MEMBER appointed a NOMINEE who is not a DEPENDANT of the MEMBER to receive the BENEFIT or such a portion of the BENEFIT as pertinently recommended to the FUND by the MEMBER, in writing, the BENEFIT or such a portion of the BENEFIT is paid to such a NOMINEE; provided that where the total amount of the debts against the estate of the MEMBER exceeds the total amount of assets in his estate, as much of the BENEFIT as is equal to the difference between the intended total amount of debts and the intended total amount of assets, is paid to the estate and the balance of the intended BENEFIT or the balance of such a portion of the BENEFIT as expressly indicated by the MEMBER, in writing, to the FUND, is paid to the NOMINEE; or

- 30.3 If a MEMBER has a DEPENDANT and the MEMBER has also appointed a NOMINEE to receive the BENEFIT or such a portion of the BENEFIT as the MEMBER stated in writing to the FUND, the FUND must pay such a BENEFIT or portion of it to such a DEPENDANT or NOMINEE within twelve months of the death of the MEMBER in the ratio deemed equitable by the BOARD; provided that this RULE is only applicable to the appointment of NOMINEES that took place on or after 30 June 1989; with the proviso that the FUND can pay a BENEFIT either to a DEPENDANT, or to a NOMINEE, or if there is more than one such DEPENDANT or NOMINEE, in ratio to any or all of those DEPENDANTS and NOMINEES; or
- 30.4 If the FUND does not become aware of or trace a dependant of the MEMBER within twelve months of the death of the MEMBER, and if the MEMBER did not appoint a NOMINEE, or if the MEMBER appointed a NOMINEE to receive a portion of the BENEFIT expressly indicated by the MEMBER to the FUND, the remaining portion of the BENEFIT after payment to the NOMINEE is paid into the estate of the MEMBER or, if no inventory in respect of the MEMBER was received in terms of section 9 of the Estates Act, 1965, by the Master of the Supreme Court, it is paid into the Guardian's Fund or an UNCLAIMED BENEFIT fund.
31. Payment to a DEPENDANT or a NOMINEE includes payment to any person who is deemed capable by the BOARD to apply the BENEFIT in the best interests of the recipient.
32. If a person to whom payment must be made should pass away before the BENEFIT has been paid to him, the BOARD may pay the BENEFIT to the estate of such a deceased in the BOARD's discretion, or to other DEPENDANTS.
33. The executor of the MEMBER's estate, a DEPENDANT or NOMINEE, as the case may be, may commute the whole or a portion of the value of the annuities to which he becomes entitled for a lump sum payment.

#### **Information required**

34. No BENEFITS are paid before all information reasonably required by the FUND has been rendered by the MEMBER, DEPENDANT and NOMINEE on whose life a BENEFIT was or must be calculated.

## Payment of annuity

35. Depending on the wishes of the DEPENDANT and/or NOMINEE, the annuity referred to above may be purchased with the FUND or the DEPENDANT and/or NOMINEE, as the case may be, as owner of the annuity.
36. With the FUND as owner, the annuity is purchased from the INSURER and the FUND's liability towards the DEPENDANT and/or NOMINEE is limited to the proceeds of the annuity contract with the INSURER.
37. With the DEPENDANT or NOMINEE as owner, the annuity is purchased from a registered insurer selected by the DEPENDANT or NOMINEE and the FUND's liability is limited to the conclusion of a contract with the relevant registered insurer in terms of which the registered insurer on receipt of payment by the FUND for the benefit of the DEPENDANT and/or NOMINEE, will accept an application by the DEPENDANT and/or NOMINEE for an annuity which is payable to him directly.

Once the FUND has made payment to the registered insurer and, if applicable, has paid any balance of the BENEFITS directly to the DEPENDANT or NOMINEE in cash, the FUND will have no further obligation towards the DEPENDANT or NOMINEE.

38. More than one annuity may be purchased on behalf of an individual within the limits laid down by the South African Revenue Service.

## PART 9: WITHDRAWAL AND TRANSLOCATION

### Withdrawal

39. Except for membership as contemplated in rule 6.4, a MEMBER may withdraw from the FUND at any date consented to by the TRUSTEES and falling before his RETIREMENT DATE. Such withdrawal shall not be regarded as retirement in terms of Part 6, and the FUND, depending on the MEMBER's instruction, shall:

39.1 pay to the MEMBER the value of the POLICIES on the MEMBER's life held by the TRUSTEES in terms of the RULES; or

39.2 cede such POLICIES to the MEMBER.

*[amendment effective from 1 March 2019]*

39A A MEMBER may withdraw from the FUND at any date consented to by the TRUSTEES and falling before his RETIREMENT DATE where that MEMBER emigrated from the Republic and that emigration is recognised by the South African Reserve Bank for purposes of exchange control or where the member departed from the Republic at the expiry of a work visa or visitor's visa as contemplated in the Immigration Act of 2002 and is not regarded as a resident by the South African Reserve Bank for purposes of exchange control and the FUND shall pay to the MEMBER the value of the POLICIES on the MEMBER's life held by the TRUSTEES in terms of the RULES.

*[amendment effective from 1 March 2019]*

40. Except for membership as contemplated in rule 6.4, a MEMBER may partially withdraw once only from the FUND by taking in cash a portion of the VALUE of the POLICIES held by the TRUSTEES in respect of the MEMBER, provided that if interests were transferred for the benefit of the MEMBER from different EXISTING FUNDS to the FUND, the MEMBER may partially withdraw on different dates once only in respect of the interests which were transferred from each of the EXISTING FUNDS.

*[amendment effective from 1 March 2019]*

41. Subsequent to such partial withdrawal the MEMBER may not withdraw from the FUND in whole or in part, and the only BENEFIT to which a MEMBER will be entitled thereafter is a retirement or death BENEFIT.

42. RULES 39 and 40 shall be subject to any special limitations regarding a MEMBER's accessibility to BENEFITS, such limitations having been imposed by virtue of the RULES of the EXISTING FUND on the original transfer of his interest to the FUND or by the Commissioner for the South African Revenue Service.

#### **Translocation to another fund**

43. The BENEFITS of a MEMBER may on request of the MEMBER be transferred to one PENSION FUND, PENSION PRESERVATION FUND, PROVIDENT FUND, PROVIDENT PRESERVATION FUND and RETIREMENT ANNUITY FUND provided that:
- the full BENEFITS payable under a POLICY are transferred to another fund as the BENEFITS under one POLICY cannot be transferred to two different funds; and
  - if the MEMBER'S BENEFITS are underwritten by more than one POLICY, one or more POLICIES may remain in the FUND.

44. [deleted]

#### **Translocation of living annuity**

- 44A The capital underlying a living annuity which provides a MEMBER's, DEPENDANT's or NOMINEE's PENSION may on written request by the person concerned be transferred by the FUND to a registered insurer of the person's choice whereupon the FUND's responsibility towards the person will be terminated.

## **PART 10 : MANAGEMENT**

### **Principal Officer and Deputy Principal Officer**

45. The BOARD shall appoint a PRINCIPAL OFFICER and may appoint a DEPUTY PRINCIPAL OFFICER as required by the ACT as it may deem appropriate and may withdraw any such appointments and make another appointment in their place at any time.

The BOARD shall notify the AUTHORITY within 30 days after the appointment of the PRINCIPAL OFFICER.

The PRINCIPAL OFFICER performs all functions which statutes and the BOARD require him to perform.

The PRINCIPAL OFFICER may delegate any of his functions to the DEPUTY PRINCIPAL OFFICER in writing, subject to conditions that the PRINCIPAL OFFICER must determine. The PRINCIPAL OFFICER is not divested or relieved of a function delegated to the DEPUTY PRINCIPAL OFFICER and may withdraw the delegation at any time.

The DEPUTY PRINCIPAL OFFICER shall act as PRINCIPAL OFFICER when the PRINCIPAL OFFICER is unable for any reason to discharge any duty of the PRINCIPAL OFFICER in terms of the ACT, until the PRINCIPAL OFFICER resumes his duties or the FUND formally appoints a new PRINCIPAL OFFICER.

### **Board of control**

46. The FUND is controlled and managed by the BOARD that binds the FUND regarding all the matters of the FUND and which has all the powers required to attain the objectives of the FUND.
47. The object of the BOARD shall be to direct, control and oversee the operations of the FUND in accordance with the applicable laws of the Republic of South Africa and the RULES. In pursuing its objects the BOARD shall:
- 47.1 take reasonable steps to ensure that the interest of MEMBERS in terms of the RULES and the provisions of the ACT are protected at all times;
  - 47.2 act with due care, diligence and good faith;
  - 47.3 avoid conflicts of interests;

- 47.4 act with impartiality in respect of all MEMBERS, DEPENDANTS and NOMINEES.
48. The BOARD consists of eight TRUSTEES. Fifty percent of the TRUSTEES must at all times be INDEPENDENT TRUSTEES.
49. The ADMINISTRATOR has the right to appoint fifty percent of the TRUSTEES and the serving TRUSTEES appoint the other fifty percent.
50. [deleted]
51. If a vacancy occurs on the BOARD another TRUSTEE must be appointed within ninety days of the vacancy occurring. If the ADMINISTRATOR has to appoint the TRUSTEE and fails to do so within the ninety day period the remaining TRUSTEES shall appoint the new TRUSTEE. Notwithstanding a vacancy, a decision taken by the BOARD will not be invalid, provided this Rule is complied with.
52. No person in any of the following categories shall be eligible for appointment and/or a TRUSTEE's term of office ends if and when he:
- 52.1 resigns from office by giving notice in writing to the BOARD; or
  - 52.2 is in terms of the provisions of the Companies Act, 2008, incapacitated to be the director of a company; or
  - 52.3 is a minor or becomes or is mentally incapacitated or otherwise incapable of acting; or
  - 52.4 is placed under curatorship by order of a competent court; or
  - 52.5 is an unrehabilitated insolvent; or
  - 52.6 is removed from an office of trust on account of misconduct; or
  - 52.7 has been convicted and sentenced to imprisonment without an option of a fine for any of the following: theft, fraud, forgery or uttering a forged document, perjury, an offence involving dishonesty or any offence in connection with the promotion, formation or management of a company; or
  - 52.8 ceases to be in the employment of the INSURER; or
  - 52.9 is removed by the BOARD on account of poor performance, misconduct or because the BOARD believes that the TRUSTEE is not fit and proper to occupy the position of TRUSTEE and after having given him notice in writing and discharged him of office in accordance with the Code of Conduct adopted by the BOARD; or
  - 52.10 without permission of the BOARD fails to attend three consecutive meetings; or

52.11 has served in the position for five years; or

52.12 has attained the age of 70 years.

*[amendment effective from 03/06/2019]*

53. A person mentioned in RULES 52.8 and 52.11 can be appointed as a TRUSTEE again if he makes himself available and is otherwise capable of serving as a TRUSTEE. The maximum number of terms that a TRUSTEE may serve is three.

*[amendment effective from 03/06/2019]*

### **Meetings and minutes**

54. Proper notice of an ordinary meeting of the BOARD must be given at least 15 days in advance to each TRUSTEE. If all the TRUSTEES agree, a shorter period of notice is in order.

55. The BOARD elects a chairperson and vice-chairperson from its own ranks at the first meeting after any of those positions become vacant. A TRUSTEE elected as chairperson or vice-chairperson serves in that capacity until the first BOARD meeting after three years have expired since his appointment in that position or until his tenure as TRUSTEE expires, whichever occurs first. At that meeting the BOARD elects a new chairperson or vice-chairperson or both. An incumbent may make himself available for re-election.

If the chairperson is temporarily not available to fulfil any of his duties, the vice-chairperson will perform those duties.

56. A quorum for a meeting of the BOARD comprises five TRUSTEES, always including two INDEPENDENT TRUSTEES. At all meetings, the decision of the majority will be final and obligatory, and, in the case of an equal vote, the chairperson of the meeting will have an ordinary as well as a decisive vote.

57. The chairperson may, when he finds it necessary, schedule a meeting of the BOARD to deal with the business of the FUND.

58. Any TRUSTEE may request the chairperson to schedule a meeting of the BOARD to deal with such business as set out in the request. If the chairperson considers the request as reasonable, he should schedule a meeting as soon as possible, but in any case no later than thirty days of the date of receipt of the request, provided that if the request is supported by the majority of the TRUSTEES and the chairperson neglects to schedule a meeting, they may themselves schedule a meeting after having informed the chairperson of their intention, and if a quorum is present, the decision of the majority will be binding.
59. Minutes will be taken of the meetings of the BOARD and resolutions recorded.
60. A decision in writing, signed by all the TRUSTEES, or a decision dispatched by e-mail to all the TRUSTEES and confirmed by them, is just as valid as a resolution passed at a meeting of the BOARD.
61. The BOARD will meet at least four times per year.

#### **Powers and duties of the Board**

62. The duties of the BOARD shall be to:
  - 62.1 ensure that proper control systems are employed by or on behalf of the BOARD;
  - 62.2 ensure that adequate and appropriate information is communicated to MEMBERS informing them of their rights, BENEFITS and duties in terms of the RULES;
  - 62.3 obtain expert advice on matters where the BOARD may lack sufficient expertise;
  - 62.4 ensure that the operation and the administration of the FUND comply with the ACT, the Financial Institutions (Protection of Funds) Act, 2001 and all other applicable laws of the Republic of South Africa;
  - 62.5 ensure that proper books and records of the operations of the FUND are kept, inclusive of proper minutes of all resolutions passed by the FUND.
63. The BOARD may do all things they deem necessary to attain the FUND's objectives, but always subject to applicable legislation and the RULES. Without limiting the generality of this, the BOARD may:
  - 63.1 appoint an ADMINISTRATOR for the administration of the FUND;
  - 63.2 delegate any of their powers to any officer, committee, or the ADMINISTRATOR subject to the provisions they deem fit;

- 63.3 schedule a general meeting of MEMBERS when the BOARD deems it fit, or on receiving a request, in writing, signed by at least 100 members. In the request the purpose for which the meeting is required, must be stated. Notice of such a meeting is published in the Government Gazette by the PRINCIPAL OFFICER within 21 days of the receipt of such a request. The meeting must be held more than 14 days and less than 30 days after such publication and should be kept at the registered office of the FUND. The quorum for such a meeting is 20 members. The meeting elects the chairperson of the meeting and each MEMBER has one vote that he can exercise personally or by proxy. A resolution passed at such a meeting serves as a recommendation to the BOARD, which is not compelled to carry out such a decision;
- 63.4 in the name of the FUND enter into and sign any contracts or documents and institute, conduct, defend, compound or abandon any legal proceedings by or against the FUND.

### **Sub-committees**

64. The BOARD may decide that any power of decision on any matter that is vested in them shall be delegated, on such terms and conditions as they may specify, to a sub-committee, or sub-committees, of such of their number as they nominate. The BOARD may appoint persons who are not TRUSTEES to any sub-committee and may terminate such an appointment at any time.
65. The decision of a sub-committee to which a power is so delegated shall, unless the BOARD stipulate that it must be referred to them for ratification, be regarded as a decision made by the BOARD.
66. The minutes of all sub-committee meetings will be circulated to the full BOARD and will form part of the minutes of the next BOARD meeting.

### **Signing of documents**

67. The BOARD is empowered to authorise such of its members and/or officers as it may approve from time to time, and upon such terms and conditions as may be approved by it, to sign any document binding the FUND or any documents authorising the performance of any act on behalf of the FUND, provided that documents to be deposited with the AUTHORITY shall be signed in the manner prescribed by the ACT.

## **Advice**

68. The FUND or the BOARD do not provide advice with regard to the selection of POLICIES by MEMBERS or beneficiaries (in particular regarding the investment and other related features of the POLICIES), or with regard to amendments or other transactions regarding POLICIES.
69. The FUND may pay a fee (including value added tax if applicable) to a financial adviser for ongoing services and advice on request and on behalf of a MEMBER by surrendering a portion of a POLICY which the FUND holds in respect of the MEMBER. The MEMBER must specify the amount and frequency of the fee as well as which POLICIES must be partly surrendered in those cases where the FUND holds more than one POLICY in respect of a MEMBER.

## **Review and approve policies**

70. The BOARD must, to reasonably satisfy themselves that the POLICIES made available to MEMBERS or beneficiaries for selection are suitable for the membership profile of the FUND:
- 70.1 approve all new POLICIES made available for selection by MEMBERS or beneficiaries;
  - 70.2 annually review the range of POLICIES that are made available to MEMBERS or beneficiaries for selection.

## **Interpretation and Disputes**

71. The decision of the BOARD as to the meaning of or interpretation of the RULES or part of a RULE shall be binding on the MEMBERS and every person claiming to be entitled to a benefit under the RULES, subject to the provisions of Section 30A of the ACT.

72. In a dispute regarding the interpretation of the RULES or the administration of the FUND, the complainant must submit his complaint directly to the FUND in writing. The FUND must reply in writing within thirty days of the receipt of the complaint. If the complainant is not satisfied with the FUND's answer and the complaint is a complaint as defined in the ACT, the complainant can refer the complaint to the Pension Funds Adjudicator. His contact details are as follows:

- Telephone : 012 346 1738
- Fax : 086 693 7472
- E-mail : [enquiries@pfa.org.za](mailto:enquiries@pfa.org.za)
- Postal address : PO Box 580, Menlyn 0063

If a MEMBER has a complaint about the operation and implementation of a POLICY providing his benefits under the FUND, he may lodge such with Sanlam Life's Client Contact Centre. The contact details are:

- Telephone : 021 916 5000
- Fax : 021 947 9440
- E-mail : [life@sanlam.co.za](mailto:life@sanlam.co.za)

If the MEMBER is not satisfied with the answer in respect of the POLICY, he may lodge a complaint with the Ombudsman for Long-term Insurance. His contact details are as follows:

- Telephone : 021 657 5000
- Fax : 021 674 0951
- E-mail : [info@ombud.co.za](mailto:info@ombud.co.za)
- Postal address : Private Bag X45, Claremont 7735

If a MEMBER has a complaint as defined in the Financial Advisory and Intermediary Services Act, No 37 of 2002 the complaint must be submitted to the FUND in writing. If the MEMBER is not satisfied with the FUND's answer, he may lodge a complaint with the FAIS Ombud. His contact details are as follows:

- Telephone : 012 470 9080
- Fax : 012 348 3447
- E-mail : [info@faisombud.co.za](mailto:info@faisombud.co.za)
- Postal address : PO Box 74571, Lynnwood Ridge 0040

### **Personal liability**

73. The TRUSTEES are not personally liable for losses that may arise for the INSURER and for the MEMBERS of the FUND, even where such a loss arises from actions of the BOARD and provided that such actions took place in good faith and in accordance with the provisions or the RULES.

## **Remuneration of functionaries**

73A The FUND does not have the means to remunerate the TRUSTEES, members of sub-committees who are not TRUSTEES, the principal officer or any other functionary.

When the BOARD deems it appropriate, it will arrange with the ADMINISTRATOR to remunerate a functionary.

## **PART 11: MISCELLANEOUS PROVISIONS**

### **Increased benefits**

74. If a benefit, except an annuity instalment, is not paid by the FUND to, or applied for the benefit of the MEMBER, DEPENDANT or NOMINEE on the date on which it should in terms of these RULES and the practice of the INSURER be paid or applied, the following will apply:
- 74.1 the FUND will pay interest to the MEMBER, DEPENDANT or NOMINEE in respect of the amount commuted by the party concerned into a lump sum;
  - 74.2 if the annuity of a MEMBER, DEPENDANT or NOMINEE is purchased at the INSURER, the annuity will be put into operation retroactively from the date on which it should have become operative in terms of these RULES, and all instalments in arrears will be paid to the party concerned together with the first recurring instalment;
  - 74.3 if the annuity of a MEMBER, DEPENDANT or NOMINEE is purchased at another insurer than the INSURER, the BENEFIT will increase from a date and at a rate as is the practice of the INSURER from time to time and the FUND transfers the increased BENEFIT to the insurer concerned.
75. Interest in RULE 74.1 will be paid from a date and at a rate as is the practice of the INSURER from time to time.

### **Benefits inalienable**

76. Save to the extent permitted by the RULES the ACT, the Income Tax Act, 1962, and the Maintenance Act, 1998, no BENEFIT provided for in the RULES (including an annuity purchased or to be purchased by the FUND from an insurer for a MEMBER), or right to such BENEFIT, or right in respect of CONTRIBUTIONS made by or on behalf of a MEMBER, shall be capable of being reduced, transferred or otherwise ceded, or of being pledged or hypothecated, or be subject to attachment or any form of execution under a judgment or order of a court of law, or to the extent of not more than three thousand rand per annum, be capable of being taken into account in a determination of a judgment debtor's financial position in terms of section 65 of the Magistrates' Courts Act, 1944, and in the event of the MEMBER or beneficiary concerned attempting to transfer or otherwise cede or to pledge or hypothecate, such BENEFIT or right, the FUND may withhold or suspend payment of it:

Provided that the FUND may pay any such BENEFIT or any BENEFIT in pursuance of such contributions, or part thereof, to any one or more of the DEPENDANTS of the MEMBER or beneficiary or to a guardian or trustee for the benefit of such DEPENDANT or DEPENDANTS during such period as it may determine.

77. If the estate of any person entitled to a BENEFIT payable in terms of the RULES (including an annuity purchased by the FUND from an insurer for that person) is sequestrated or surrendered, such BENEFIT shall, subject to RULE 79, not be deemed to form part of the assets in the insolvent estate of that person and may not in any way be attached or appropriated by the trustee in his insolvent estate or by his creditors.
78. Subject to RULE 79, any benefit payable regarding a deceased MEMBER by the FUND, shall not form part of the assets in the estate of such a MEMBER.

### **Monies due to the Fund**

79. The FUND may recover the following amounts from the BENEFITS payable in terms of the RULES namely:
- 79.1 any amount due to the FUND by the MEMBER regarding any amount for which the FUND is liable in terms of a guarantee furnished regarding a loan by some other person to the MEMBER to enable the MEMBER to:
- 79.1.1 redeem a loan granted to him by any person against security of immovable property which belongs to the MEMBER or his SPOUSE and on which a dwelling has been or will be erected which is occupied or will be occupied, as the case may be, by the MEMBER or a DEPENDANT of the MEMBER; or
- 79.1.2 purchase a dwelling, or purchase land and erect a dwelling on it, for occupation by the MEMBER or a DEPENDANT of the MEMBER; or
- 79.1.3 make additions or alterations to, or to maintain or repair a dwelling which belongs to the MEMBER or his SPOUSE and which is occupied by or will be occupied by the MEMBER or a DEPENDANT of the MEMBER;
- 79.2 any amount which the FUND has paid or will pay by arrangement with, or on behalf of, a MEMBER or beneficiary in connection with:
- 79.2.1 the MEMBER's or beneficiary's subscription to a medical scheme registered other than provisionally in terms of the Medical Schemes Act, 1998; or

79.2.2 any insurance premium payable by such a MEMBER or beneficiary to an insurer registered in terms of the Long-term Insurance Act, 1998 or the Short-term Insurance Act, 1998; or

79.2.3 any purpose approved by the AUTHORITY, on the conditions laid down by him, upon a request in writing from the FUND.

79A With effect from 1 July 2010 the FUND no longer furnishes guarantees as envisaged by RULE 79.1 or makes payments as envisaged by RULE 79.2.

### **Currency**

80. All amounts payable to or by the FUND in terms of the RULES shall be payable in the legal tender of the Republic of South Africa, provided that:

80.1 amounts transferred to the FUND in respect of MEMBERS employed in the Republic of Namibia shall be payable in the legal tender of the Republic of Namibia, and

80.2 BENEFITS in respect of service completed in the Republic of Namibia shall be paid in the legal tender of the Republic of Namibia.

### **Proof of claims**

81. The FUND shall not be obliged to grant any BENEFIT unless it is satisfied with regard to the MEMBER's age and with regard to any other circumstance which it considers relevant to the BENEFIT and for which it requested proof or information.

### **Unclaimed benefits**

82. UNCLAIMED BENEFITS contemplated in RULE 30.4 are dealt with as directed by that RULE. Any other UNCLAIMED BENEFITS may at the discretion of the BOARD be transferred to an UNCLAIMED BENEFIT fund. If any costs are incurred as a consequence of the BOARD tracing:

82.1 any potential beneficiaries; or

82.2 a non-member spouse who is entitled to a portion of the MEMBER's pension interest in terms of a decree of divorce or decree for the dissolution of a customary marriage,

such reasonable costs may be recovered from the BENEFITS payable to such beneficiaries and non-member spouse.

### **Binding force of the Rules**

83. The RULES shall bind the MEMBERS, the FUND and its officials and anyone who lays a claim in terms of the RULES or anyone whose claim is derived from the aforesaid claim.

### **Inspection of and copies of documents of the Fund**

84. MEMBERS may at a fee determined by the FUND, obtain copies of the RULES.

### **Dissolution of the Fund**

85. The TRUSTEES, in consultation with the INSURER, may at any time close the FUND to new MEMBERS or dissolve the FUND.
86. The TRUSTEES shall give notice to the MEMBERS of their intention to dissolve the FUND. Thereafter the TRUSTEES shall appoint a liquidator, which appointment shall be subject to the approval of the AUTHORITY, and the period of liquidation shall be deemed to commence as from the date of such approval.
87. During such liquidation the provisions of the ACT shall continue to apply to the FUND as if the liquidator were the TRUSTEES.
88. The liquidator shall as soon as may be required deposit with the AUTHORITY the preliminary accounts prescribed by regulation, signed and certified by him as correct, showing the assets and liabilities of the FUND at the commencement of the liquidation and the manner in which it is proposed to realize the assets and to discharge the liabilities, including any liabilities and contingent liabilities to or in respect of MEMBERS.

In discharging the liabilities and contingent liabilities to or in respect of MEMBERS full recognition shall be accorded to:

- 88.1 the rights and reasonable BENEFIT expectations of the persons concerned;
- 88.2 additional BENEFITS the payment of which by the FUND has become an established practice.

## **Amendment to the Rules**

89. The TRUSTEES, in consultation with the INSURER, may amend the RULES at any time, provided that:
- 89.1 the approval of the Commissioner for the South African Revenue Service and the AUTHORITY is obtained; and
  - 89.2 the amendment is not contrary to the ACT.
90. The FUND shall arrange for the AUTHORITY and the Commissioner for the South African Revenue Service to be notified of every amendment to the RULES.

## **Fund-proposed annuity**

91. Where the RULES allow for the purchase of an ANNUITY by a MEMBER at retirement or at permanent disability, the BOARD, in consultation with the INSURER, determines a proposed annuity option which is contained in the ANNUITY STRATEGY of the FUND. The proposed ANNUITY will, however, only be purchased if the MEMBER elects such option.

*[amendment effective from 01/03/2019]*

## **Counselling**

92. The FUND makes available RETIREMENT BENEFITS COUNSELLING, in the format or on the platform determined by the BOARD from time to time, upon a MEMBER contemplating retiring from the FUND.

*[amendment effective from 01/03/2019]*