The Aon Decoder

June 2023 | Edition 155

Contents

An update on the latest draft two-pot system proposals

The two pot system, to go ahead on 1 March 2024, tries to marry opposing concepts of access and preservation. On the one hand, ensuring that members retire better by preserving their benefits until retirement (not taking it in cash when they leave employment) and annuitising retirement benefits. On the other hand, Treasury recognises that members may need cash while they are still employed and members of the fund.

Treasury has recently issued an updated version of the two pot proposals (9 June 2023). You may hear the pots being referred to as 'components' (a technical term). Draft amendments to the Pension Funds Act have also been released by Treasury.

Contributions to the new pots

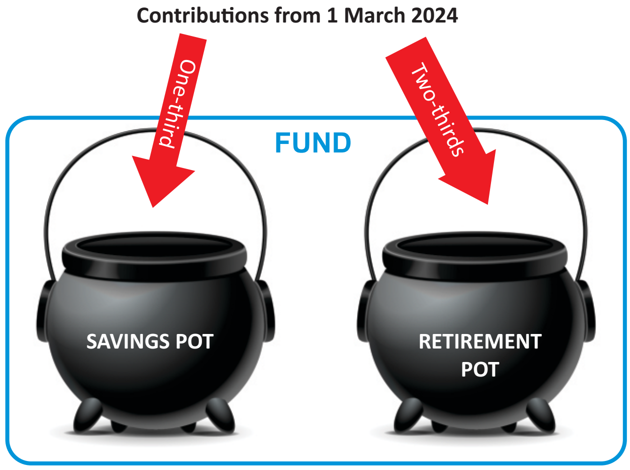
From 1 March 2024

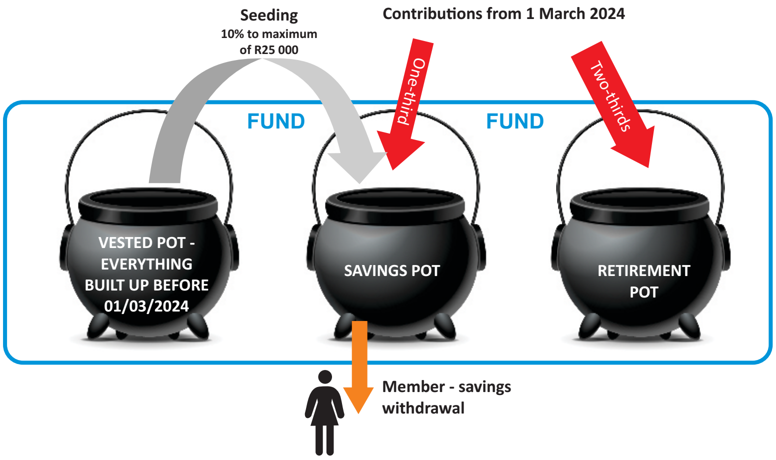
- One-third of contributions will go into a savings pot.
- Two-thirds of contributions will go into a retirement pot.
- Investment return will be added to both pots.

Everything saved in a fund before 1 March 2024 (plus investment return on this) will go into the member's vested pot.

Seeding – immediate withdrawals on and after 1 March 2024
An amount of 10% of the vested pot as at 29 February 2024, to a maximum of R25 000, will be allocated to the savings pot from 1 March 2024. This is called “seeding”. This can be paid out of the fund, at the member's request, as from 1 March 2024. This creates immediate access to an amount from the retirement fund (savings pot) for members. Withdrawing from a member's savings pot means they will have less money on which to retire.

A member may also decide to move amounts into the retirement pot from their savings pot and vested pot, but not the other way around.





Some of the benefit payments from the different pots

1 New payment while still in employment

- A member can take one savings withdrawal from their savings pot every year of tax assessment (there is a minimum of R2000) for any reason. This is taxed as part of the member’s income.

2 Benefit on withdrawal from fund (leaving employment)

- Everything in the vested pot may be paid in cash (what you built up in the fund before 1 March 2024, plus investment return on that)
- Everything in the savings pot may be paid in cash, as long as it is less than R2000.
- Nothing from the retirement pot may be paid in cash.

3 Retirement benefit

- Everything in the savings pot may be paid in cash. The member can choose to transfer his savings pot to his retirement pot at retirement if the member does not want cash.
- Everything in the retirement pot is paid as an annuity(ies).
- The vested pot is paid as part annuity(ies) and part cash.
- Small retirement benefits will still be able to be taken in cash if they are below a statutory minimum.
- The intention is to continue to recognise amounts that are currently not required to be annuitised.

A specific category of member

Different rules apply to a provident fund member who was 55 or older on 1 March 2021 and is still a member of the same provident fund: these members will contribute to the vested pot and the same rules apply to them as applied before 1 March 2024.

Treasury will allow these older members to opt into the two-pot system and contribute to a savings pot and retirement pot after 1 March 2024. If they do opt in, it is likely they would then lose all the compulsory annuitisation vesting on their ongoing contributions after 1 March 2024 (so would have to annuitise more of their retirement benefit).

Emmigration – a change for pension and provident funds

If a member emigrates from South Africa and ceases to be a tax resident (amongst other circumstances) they will be able to access their retirement pot and vested pot as a lump sum withdrawal subject to the 3-year rule that currently applies only to members of a retirement annuity fund, pension preservation fund or provident preservation fund. It is envisaged that they will be able to access their savings pot during the three years period along the same lines as other members.

Defined benefit funds are in the two-pot system on the basis of pensionable service

Defined benefit funds will calculate the one-third contributions to the savings pot based on one-third of the member's pensionable service increase. The two-thirds contributions to the retirement pot will be based on two-thirds of the member's pensionable service increase with effect from 1 March 2024.

Defined benefit funds members will also have an allocation from their vested pot to their savings pot (seeding) as at 1 March 2024, which will be done through a past service adjustment.

Legacy retirement annuity funds can be exempted

The proposed exemption for “legacy retirement annuity fund” policies from the provisions of the two-pot system is going ahead. Treasury recognises that, without the exemption, these funds would have to be re-designed.

To qualify for the exemption, the legacy retirement annuity fund will have to submit a declaration to the Financial Sector Conduct Authority (FSCA) and must exhibit the following features:

- the legacy retirement annuity fund policy must have been entered into before 1 January 2022;
- pre-universal life policies or conventional policy with or without profits;
- universal life policies with life or lumpsum disability cover; and
- reversionary bonus or universal life policies as envisaged in the insurance legislation.

The FSCA may verify that the legacy retirement annuity funds meet the exemption criteria.

Deductions

Deductions under section 37D of the Pension Funds Act, for example for housing loans, divorce orders and maintenance orders will need some attention and the Pension Funds Act will be amended. It appears that deductions can only be made from the retirement pot and the vested pot, not the savings pot. The draft legislation still needs refinement in this regard, but the process has started.

Necessary amendments to the Pension Funds Act to align it with the two-pot system have been drafted, In addition, there are a number of other amendments included in the draft legislation. For example, to allow for compensation order in criminal proceedings granted (in terms of section 300 of the Criminal Procedure Act, 1977) to be taken into account when benefits are withheld as a result of misconduct at the employer. In addition, the amendment specifies that future maintenance orders will not be deducted and paid over as a lump sum (as is sometime sought to be ordered) but, for example, as monthly amounts.

Still a way to go

The two-pot system proposals (as depicted above) are just that – proposals. Thus, they may change before the legislation is finalised. The draft legislation will go through a comment period, public hearings and Parliament. There will be a great deal to communicate to members, some of which, for example the taxation aspects, is complex. While we all must wait for the final legislation, the industry is working on what it can do now, in order to be ready on time.

Aon South Africa (Pty) Ltd, Actuarial, Healthcare & Retirement Fund Consultants
The Place, 1 Sandton Drive, Sandhurst, Sandton, 2196
P O Box 78367, Sandton, 2146
+27 11 944 7000 | www.aon.co.za

Aon South Africa (Pty) Ltd is an Authorised Financial Services Provider | License # 20555.
Aon Limpopo (Pty) Ltd, an authorised Financial Services Provider, FSP # 12339