Beneficiary fraud is an ongoing headache for trustees of retirement funds

LORRAINE KEARNEY

On the death of a retirement fund member, the fund trustees, in terms of section 37C of the Pension Funds Act, must identify and trace the member's beneficiaries. This process is open to fraud.

Karin MacKenzie, the head of the pension law department at Herold Gie Attorneys, says: "Our law recognises a wide range of dependants who potentially qualify for death benefits from pension funds. This includes spouses in customary law marriages and

people who were factually dependent on the member (even though there was no legal duty of support). In these circumstances, it is sometimes not even necessary to fabricate a new identity in order to submit a fraudulent claim. Where there are no other beneficiaries to contest the facts, the claim may be hard to disprove, and it may even be the investigation process itself which triggers the submission of false claims."

MacKenzie says trustees of pension funds require a certain level of proof regarding beneficiaries,

which helps to eliminate fraud. "Beneficiaries are required to

submit sworn statements confirming their dependency and relationship to the member. Where surviving spouses rely on civil marriages, the marriage certificate will be required. However, in marriages under customary law, claimants will not have certificates and will have to prove the relationship through other means. They may submit confirmation from the headman of the clan, and in

some cases where the customary law

marriage is disputed, the retirement

longer available for comparison. Retirement funds need to put strict controls in place to guard against internal fraud. Countermeasures include the proper segregation of functions, a good control environment, not taking

fund may need to obtain evidence

from an expert in customary law."

There are increasing levels of

DNA tests, while not unheard of, are

the expense of the procedure and the

not common. This is due, in part, to

when the DNA of the member is no

sometimes inconclusive results

protection against fraud, she says.

anything on trust, lifestyle audits of employees and the interrogation of changes to the bank account details of beneficiaries, MacKenzie says.

Death, marriage and birth certificates can be cross-checked with the Home Affairs databases, "although in cases where that department's own records have been the source of corrupt data it is obviously of limited assistance".

Dependants are required to provide affidavits and, where necessary, prove their financial interaction with the member through their bank records.

"Other beneficiaries, where these exist, are advised of the claims of their co-beneficiaries and given an opportunity to comment. This will usually expose fraudulent claims, and at least put the fund on notice to

scrutinise them carefully." Her words are echoed by David Hurford, the director of marketing and consulting at Fairheads Benefit Services, who likens it to a moving feast: "The process of proving beneficiaries are legitimate is really strict because of the high level of fraud," he says. "We use multifactoral authentification, but no

steps are foolproof. Ultimately, more layers will be added to the process – as syndicates become aware of a new layer and how to defraud it, we need to add another one."

On a reassuring note, MacKenzie says that any payment a retirement fund makes in respect of a fraudulent claim is an "undue payment", and does not excuse it from making payments to the true beneficiaries once they are identified. "The fund is therefore at risk in the event that it pays out on a fraudulent claim. It has a right of recovery against the perpetrator."

■ IDENTITY THEFT BEHIND MANY CASES OF ESTATES THAT HAVE BEEN DEFRAUDED

HOWto protect your estate from fraudsters

Stealing from the dead may be taboo in many cultures, but there are unscrupulous folk who do just that. To thwart them, you can take steps

to protect your identity and ensure the correct procedures are followed promptly in the event of your death, writes Lorraine Keamey.

When it comes to deceased estates, there are two main types of fraud: identity theft to obtain a false death certificate in order to defraud your estate while you are alive; and identity theft after your death by fraudsters pretending to be your spouse, your beneficiary or your executor in order to raid your estate.

In the case of identity theft while you are alive, fraudsters collect life assurance and policy payouts that are due to you, and if you're drawing a pension, you will suddenly stop receiving it.

Louis van Vuren, the chief executive of the Fiduciary Institute of South Africa, says there are two separate processes that occur on a person's death, both of which are open to fraud. First, there is the estate, dealt with by an executor, which includes investments, cash in bank accounts, and fixed and movable property. Second, there is the person's retirement fund, dealt with by the fund's trustees. If there are no nominated beneficiaries and no dependants as defined in the Pension Funds Act, the proceeds from the retirement fund go into

the estate. Similarly, Van Vuren explains that in the case of life and funeral policies, nominated beneficiaries will be paid out directly. If there are no nominated beneficiaries, the payouts accrue to the estate.

FALSE DOCUMENTS

To raid your estate while you are still alive, fraudsters may use a false death certificate issued by the Department of Home Affairs (DHA), a fraudulent marriage certificate to claim half of your estate based on matrimonial property law, or letters of executorship issued to fraudsters by the Master's Office. Or in the case of a genuine deceased estate, false beneficiaries may lay claim to retirement fund death an ongoing headache for trustees of retirement funds", above).

David Hurford, the director of marketing and consulting at Fairheads Benefit Services, and Karin MacKenzie, the head of the pension

law department at Herold Gie Attorneys, both say fraud is prevalent in pension benefits, particularly unclaimed benefits. MacKenzie says death benefits are typically the most substantial of all types of retirement fund benefits and are attractive to fraudsters for this reason.

"[Fraud in death benefits] does seem to be on the increase, MacKenzie says. "It is getting progressively harder to control access to private information in the technology age, and there are syndicates that exploit this. There have even been cases of fake death certificates submitted to funds where the member is still alive.

"A significant percentage of fraud involves the employees of a fund or its administrator, since they have the necessary access and knowledge to submit claims or to effect fraudulent payments to themselves. However, most cases of fraud in pension funds occur in relation to withdrawal and other benefits – for instance, through the submission of fake withdrawal forms purporting to come from the employer."

For death claims, typically a fictitious identity will be set up, together with a bank account for receipt of the payment, and the relevant affidavits supporting the claim will be submitted to the fund, MacKenzie says. If the fraud is internal, the perpetrators will have sufficient knowledge of the member's details to submit the claim. If it is external, the fraudsters will have obtained information about a person's fund membership from other sources – for instance, employee benefit statements.

It is not unheard of for criminals to scan death notices in newspapers, read obituaries and attend funerals to glean information about a dead person that they can

use fraudulently. Generally with identity fraud, benefits (see "Beneficiary fraud is perpetrators adopt your identity Sankie Morata, the chairman of the after stealing or fraudulently obtaining your identity document and Southern Africa, says identity theft other personal details by means of physical theft, computer hacking, credit card cloning or phishing. They then may use the information



When a relative or someone close to you dies, there are a number of steps you must follow.

 Get a death certificate. A document stating the person has died is completed by the undertaker, funeral parlour or doctor. This is taken to the Department of Home Affairs, which issues a death certificate.

The deceased estate must be reported to the Master's Office. This is usually done by a person who has an interest in the estate, such as a beneficiary. The beneficiary appoints someone such as an attorney, accountant or financial adviser to prepare the documents required by the Master to lodge the estate.

There is one set of documents if there is a will, another set if there is

There is one set of documents if

WHEN A PERSON DIES

the estate is worth more than R250 000, another set if the estate is worth less than R250 000.

If an executor is nominated in the will, the Master will usually appoint that person (or institution) and issue a letter of executorship to that person.

If no executor is nominated in the will or there is no will, the Master will appoint an appropriate person as executor. In such a case, the Master may consult a surviving spouse or other beneficiaries before making the appointment.

If the estate is worth less than R250 000, a letter of authority will be issued by the Master, usually to a family member, to pay the debts and distribute the assets. The person

appointed is not an executor and does not have to lodge formal estate accounts.

The executor must keep in contact with the Master and must lodge the estate accounts (the socalled liquidation and distribution accounts) within six months of being appointed.

If there is no will, a next-of-kin affidavit must be lodged with the Master; if there is no spouse or children, the executor must look for other beneficiaries. This means that, in the absence of a will, even a distant family member may inherit.

The executor must lodge the final documents with the Master after the estate's creditors have been paid, the

inheritances distributed to the heirs. and the estate bank statement is at nil.

WHAT AN EXECUTOR OR

FINANCIAL PLANNER CAN DO Timeously notify credit bureaus and financial institutions that the client is deceased;

Have a list of all assets belonging

to the deceased client; Obtain from a family member or surviving spouse access to and custody of all important documents, including identity documents, birth certificates and passports, and that these documents are

 Ensure the deceased's social media platforms, such as Facebook, Twitter and Linkedln, are closed; and

Ensure emails sent with important documents attached, such as tax returns, are secure.

WHAT YOU CAN DO TO PREVENT FRAUD

You can take the following steps to prevent your estate being defrauded:

Draw up a will.

Appoint a professional executor. Guard and protect your personal information.

 Keep your important documents, such as wills and trust documents, in safe custody.

 Avoid discussing your personal information with strangers.

 Report lost documents as soon as possible with the relevant authorities, namely the police and the Department of Home Affairs.

 Pay attention to random communications or phone calls. Don't ignore calls about life or funeral policies you are said to have taken out; if someone is calling you about a policy you are not aware of, follow up with the provider to ensure your

identity has not been stolen.

Never give anyone your ID book or card as security when applying for credit. A reputable lender would never ask you to do such a thing.

 Only take out life or funeral insurance from a reputable provider. When you discard any documents with personal information on them, either shred or burn them.

Make sure that any pension fund

to which you belong has updated details of your dependants and beneficiaries.

Always report a stolen ID book or card to the Southern African Fraud Prevention Services (www.safps.org.za) on 011 867 2234 or safps@safps.org.za.

 Check your credit report regularly (quarterly) to ensure that no one has managed to obtain credit in your name.

Identity theft after the death of "What the government is doing", to complete the reporting documenan individual can make winding up tation required at the Master's right) has been important for the the estate far more challenging, Office for the letters of executorship assurance industry and consumers or authority.

"In many instances, clients lose their identity documents, and these may fall into the hands of crime syndicates who use them to conduct criminal activities," Mayihlome Tshwete, spokesperson for the DHA, says. "These would include creating fake IDs to access services they are not entitled to."

MORE PREVALENT

Financial Planning Institute of has become more prevalent across the board. Financial planners need to be aware of this and to protect the interests of their clients.

Morata says. There are cases of people being

reported dead when they are still very much alive. "Criminals go to the extent of reporting the estate to the Master's office based on a fictitious death," he says.

A related crime is life or funeral insurance fraud. Once fraudsters have your personal details, Morata says, they can "take out funeral policies on your life and then submit fake death claims".

Fraud has the potential to ruin people's lives and negatively affect the viability of assurance providers, Lee Bromfield, the chief executive of FNB Life, says. Access to the National Population Register (see

in general, he says "The collaboration helps us to efficiently monitor funeral insurance lapses and reduce identity fraud. It is now easier to check if policyholders are deceased or alive. We have drastically improved the detection of fraudulent claims."

Bromfield says even though insurers can now use the National Population Register to verify certain information, it is important for their contact details and those of their beneficiaries.

Morata cautions: "The only way to lessen the chances of an estate being taken from its rightful heirs is for the executor to follow the rules

and regulations of the Acts applicable to administering estates strictly and to be alert to the possibility of fraud."

Financial planners, Morata says, should always have appropriate measures in place to ensure the control and protection of their clients' information, in line with the Protection of Personal Information Act.

DON'T BE A VICTIM

To lessen the chances of becoming a victim, Morata advises that reporting documentation to open a policyholders to keep updating deceased estate is lodged with the Master's Office as soon as possible. According to the Administration of Estates Act, the estate of a deceased person must be reported to the Master within 14 days of the date of death by any person with control or

What the government is doing

In an effort to combat identity theft, the Department of Home Affairs (DHA) has stepped up its security measures through its Online Fingerprint Verification System and its Home Affairs National Identification System (Hanis) to which banks have access.

The department also works with the insurance industry. In January, it met representatives of the South African Banking Risk Information Centre and the Financial Services Exchange, trading as Astute, to discuss identity fraud, irregular insurance claims and related crimes.

The DHA has a memorandum of understanding with life assurer members of the Association for Savings & Investment SA to help tackle the high levels of fraud plaguing the industry. Participating companies have a direct link to the National Population Register so that they can verify various aspects of personal identity and documents such as death certificates – with good results.

The DHA's Verification of Personal Detail system went live on September 9, 2014, and it has had some notable successes. According to Asisa, the number of irregular death and funeral claims detected in 2014 was more than

three times higher than in 2013. In 2014, 7 360 fraudulent claims were stopped, compared with 2 093 in 2013. The value of the fraudulent claims in 2014 was slightly lower at R402.8 million, compared with R524.6 million in 2013.

"We learnt from Astute that, in one instance, an insurer was able to pick up that some death certificates submitted were fraudulent. Through verifying directly with Home Affairs, the insurer was able to detect that these death claims were in fact for individuals that were still alive. Payment of fraudulent claims in excess of R700 000 was therefore successfully stopped," the DHA says.

Through the Verification of Personal Detail system, assurers were able to save on investigative and forensic costs related to fraudulent claims, it adds.

possession of any property or document being or purporting to be a will, of the deceased.

In protecting your assets for your beneficiaries, it is important to draw up a will and appoint a professional executor. It is generally agreed that the cost of a professional executor outweighs the risks of not having one, given the complexity involved in winding up an estate and the potential for fraud.

In the event of your dying and a fraudster turning up bearing a marriage certificate, whether that person can stake a claim to your estate depends on whether the Master accepts the document as authentic or not. An application can be made to declare the marriage certificate fraudulent. Witnesses can be called, but it is a legal process and a court order must be sought.

Van Vuren points out, however, that you don't inherit automatically on the basis of a marriage certificate. A spouse inherits either under a will or under the rules of intestate succession (when you die without a will). This is yet another reason to draw up a will.