



THE FIDUCIARY INSTITUTE OF SOUTHERN AFRICA



ESTATE PLANNING TRUSTS WILLS ESTATES BENEFICIARY FUNDS

Beneficiary funds are a uniquely South African vehicle, introduced in 2009 to receive, administer, invest and pay the death benefits due to the dependants of deceased retirement fund members, most commonly minor children.

Beneficiary funds are modelled on umbrella trusts but are regulated under the Pension Funds Act and as such are subject to the strict governance and compliance regime supervised by the Financial Sector Conduct Authority and the Prudential Authority.

How does money end up in a beneficiary fund?

Section 37C of the Pension Funds Act places an onerous duty on the boards of retirement funds to deal with the benefits of a deceased retirement fund member. These benefits are excluded from the estate of the deceased member, and it is the retirement fund trustees who must decide who will receive them. They must carefully consider all the dependents of the deceased, decide on an equitable split between them, and for minors, determine the most appropriate mode of payment.

Where the guardian or caregiver is not able to manage large sums of money, the trustees will pay the money to the beneficiary fund. The guardian or caregiver can also elect to have the money paid to the beneficiary fund should they choose to.

Retirement fund trustees should consider, among other things:

- The guardian's personal financial and educational circumstances;
- Evidence that the guardian has squandered money in the past or been declared insolvent or had a business declared insolvent;
- Any indication that the guardian intends to use the money for something other than the minor's benefit;
- Experience in handling large sums of money or any investments;
- Whether the guardian has a legal disability (mental disability, under curatorship / administration / spendthrift).

Not all beneficiary funds are created equal

Retirement fund trustees must select a beneficiary fund which has a solid track record of managing money on behalf of children, is independent from the investment manager and has an impeccable governance regime, including rules, policies and procedures. What are the benefits of a beneficiary fund?

While the primary purpose of a beneficiary fund is to protect minor dependents assets and make sure that these benefits are stretched as far as possible, there are other benefits as well, such as institutional investment expertise and pricing, professional trusteeship and an entirely tax-exempt environment.

So how does it work?

Each member (dependent) of a beneficiary fund has their own sub-account which is separately accounted for. Investments are allocated according to the member's individual needs. Family consultation around how the beneficiary fund works, how they can access its service and what they can claim for is a critical part of ensuring that the money is used for the benefit of the member.

The beneficiary fund allows for capital to be distributed by way of regular income paid to the guardian or caregiver, adhoc capital requests to pay for educational and other related services, or final termination payment when the child reaches the age of majority.

A regular income can be paid to the guardian or caregiver to cover the daily living needs of the member. If the regular income is not required, it will be reinvested, and the capital will grow.

Priority is given to paying education costs of the member. These include school fees, stationery, transport or uniform costs. Importantly, there must be a mechanism to ensure that capital is not over-distributed so that the money lasts until the member has completed their education.

When the member reaches the age of majority, the benefit is paid to them if they so choose, or they can opt to leave the money in the beneficiary fund until they need it.

This information was provided by David Hurford, CEO of Fairheads Benefit Services.