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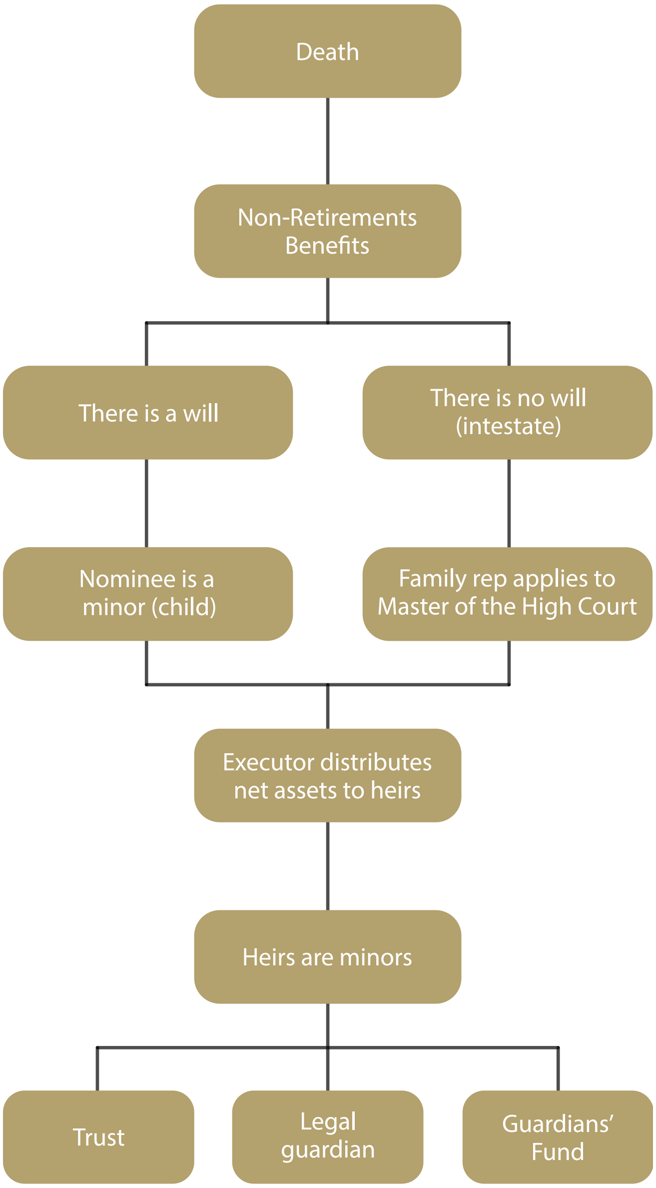
Non-retirement fund benefits – what can happen upon death

By David Hurford, Chief Executive Officer

When it comes to the inheritance of minor heirs upon the death of a parent, the treatment of financial benefits varies depending on the type of benefit. In our last issue of *Fairheads Times* we touched on two sources of benefits emanating from retirement funds: the retirement fund credit and so-called approved group risk insurance cover provided by the retirement fund. In this follow-on article we look at the **non-retirement** fund benefits/assets and how these can intentionally or unintentionally be dealt with upon death.

The adjacent diagram sets out the situation.



Note that retirement fund benefits fall outside your estate but non-retirement fund benefits are dealt with in your estate. This leads me to the first and absolutely vital point to make, which is that you need a will. It is astounding how many people in South Africa do not have a valid will. This is perhaps the most important document you will ever have drawn up in your lifetime and it is advisable, even if your estate is small, to obtain expert advice. Not only does your will set out how you would like your assets to be distributed upon your death and, in particular, how you would like your minor children to be cared for, it also lifts the massive administrative burden of dealing with intestate succession on those you leave behind. For this article we will assume that a valid will has been drawn up.

Regarding the winding up of a deceased estate, note that there are two different processes; one for estates below the value of R125,000, referred to as "Section 18(3) Estates" and one for estates above the value ▶

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of R125,000. In the first instance there are not many formalities to be met and most family members can attend to the process themselves. When the value of the estate is above R125,000, the Administration of Estates Act sets many requirements which have to be met by the executor of the estate.

THE IMPORTANCE AND ROLE OF THE EXECUTOR

The executor has a highly responsible role to play as they literally "step into the shoes of the deceased" and will have full power to deal with the assets as they wish. Anyone may be nominated as an executor of an estate, but it is important to note that the Master of the High Court will not appoint anyone in the event of death unless the executor or agent is qualified to comply with all the various laws and provide security for the full value of the estate assets if required. If one prefers to appoint a spouse as executor, she or he normally then appoints an agent to assist as that agent will have the necessary expertise.

The executor needs to obtain a Letter of Executorship from the Master before they can start winding up your estate (a process which unfortunately is currently a lengthy process arising partly from delays and maladministration at the Master's Offices around the country). Essentially, the Letter of Executorship confirms the executor's legal right to manage the deceased's assets, pay debts, and distribute the remaining assets to the beneficiaries named in the will or as per the laws of intestacy if there is no will.

DIRECTING THE EXECUTOR

It is common practice for testators in their will to stipulate that a testamentary or will trust be set up to cater for their minor children. Here, a trust deed needs to be drafted and registered, trustees need to be appointed and the administration and investments overseen by them, typically through a trust company or similar. Typically, a monthly income will be paid to the guardian/caregiver and capital requests disbursed on request for expenses such as education fees or medical needs, with the residue paid out to the beneficiary when they reach the age of majority or such age as provided for in the trust deed.

As we have written before, an umbrella trust is a very powerful alternative to a stand-alone trust as it is cost-effective with an existing professional board of trustees and no need to register a trust deed (another process that is delayed on account of the state of the Master's Office). You can read about Fairheads Legacy Trust product on our website.

An alternative to a trust is for the testator to appoint a guardian to accept monies on behalf of the minor child. For example, a spouse could appoint the surviving spouse in the event of their death. This may all sound well and good but there are often unforeseen risks involved: the minor's assets will form part of the guardian's estate and could be claimed by creditors in the event of bankruptcy; also, will the guardian ring-fence the sum and make sure it is used for the specific child for whom it is intended?

WHAT IF YOU DIE WITHOUT A WILL?

It is not a desirable option to die intestate, that is without a will. This is because the residue of your estate (after payment of debts, costs and taxes) must be distributed to heirs under the Intestate Succession Act of 1987, which may not reflect what you may have intended. (The rules of intestate succession are explained on page 6 of this issue in the article titled "What if a minor passes away?")

If there is no will, there is no nominated executor to wind up the estate. The family needs to approach the Master to appoint an executor after consultation with interested parties.

Furthermore, a minor child's inheritance will be paid into the state-run Guardian's Fund which is unfortunately less than ideal for managing inheritances for minors.

The main disadvantages of the Guardian's Fund include: bureaucratic hurdles in accessing funds, potential delays in processing claims, relatively low interest rates compared to other investment options, concerns about security and administration issues, and the need to justify every expense to the Master of the High Court when withdrawing money for a beneficiary's needs, potentially impacting their quality of life.

CONCLUSION

This article highlights various scenarios for dealing with minors' inheritances when it comes to non-retirement fund benefits. If one thing is clear, it is vital that you draw up a will, with the help of an expert, to ensure that your wishes are carried out as you intend. It is also important to review your will regularly, ideally every year, but certainly upon life-changing events such as marriage, divorce or the birth of a child.

> *If one thing is clear, it is vital that you draw up a will, with the help of an expert*

MESSAGE FROM THE CEO

David Hurford

2024 was a year of significant changes to the retirement fund and fiduciary landscape, including the Two-Pot retirement system and new reporting requirements for trusts in line with South Africa's aim to be removed from the grey list of the global Financial Action Task Force.

With the changes largely behind us, we refocus on three key areas in 2025:

- Impact investing with a view to making a difference to the country's infrastructure and developmental needs and creating more robust communities for our members to retire into. The impact investing article in this issue of Fairheads Times provides a powerful summary of the type of impact generated through our investments, and should serve as a reminder for all South Africans to do their part to improve our country for all.
- Deeper education and awareness of inter-generational wealth transfer. Here, our lead article sets forth the treatment of non-retirement fund assets in a deceased estate and emphasises the very important but often ignored need to have a valid will. Our strength and prosperity is often shaped by the generations before us.
- Stronger cooperation with targeted social services, in order to ensure better outcomes for our members and beneficiaries, for example by supporting initiatives offering small business internships, making sure the families we work with receive the social services they need and generally arming them with the information they need to make better decisions.

The above strategic focal areas are aligned with the Fairheads Value Statement of "acting respectfully, doing the right thing for the right reason to ensure our clients are safe with us", and we look forward to reporting back on progress.

Elsewhere in this issue we explain what happens to a minor's benefits should they tragically pass away.

We also run a market update as a guest article, with thanks to Prescient Investment Management.

I hope that you enjoy the read. Feedback is always welcome!

Kind regards
David

Measuring impact investments

By Olefile Moea, Chairperson, Fairheads Umbrella Beneficiary Fund

South Africa desperately needs investment into infrastructure, be this transport, healthcare, clean energy, water, or education. In the process, jobs need to be created and small businesses boosted, with a focus on youth and women-led businesses.

Government is stepping up its efforts. In the National Budget speech the Finance Minister announced that infrastructure investment will receive R46.7 billion in additional government funding, which will form part of R1.03 trillion planned to be spent over three years. This investment aims to speed up economic growth, financial inclusion, and infrastructure development.

The private sector needs to come alongside government and so the reduction of red tape surrounding public private partnerships is to be welcomed, as is Operation Vulindlela, a joint initiative of the Presidency and National Treasury to accelerate the implementation of structural reforms and support economic recovery.

It is within this context that the trustees of the Fairheads Umbrella Beneficiary Fund have been carefully increasing the allocation of funds to impact investments.

Mabatho Seeiso, Independent Chair and Trustee of the Fairheads Umbrella Beneficiary Fund, explains:

"Impact investing is investing with the objective of generating a financial return whilst generating a social return or a positive environmental impact. You do not need to give up returns in order to do impact investing; instead, impact investing can enhance returns.

We understand that for our investments to have real impact for our members, they have to generate sufficient returns for their needs whilst ensuring that they live in an environment in which they can thrive, where there are job opportunities, good social services and where socio-economic challenges such as crime and poverty are minimised.

Impact investing seeks to address these challenges by investing directly in the economy in areas that are much needed for the economy to grow, such as roads, rail, water infrastructure, renewable energy, hospitals and education etc.

As more and more funds flow into impact investing, we should see a visible positive change in the economy of South Africa in the interest of its citizens. There is now a firm understanding that a sound investment strategy that has members at its centre will not only focus on risk and returns but will also make a positive social impact because this is what is best for members."

The fund selected by the trustees of the Fairheads Umbrella Beneficiary Fund is the RisCura Impact Fund of Funds, a fund comprising other funds managed by underlying investment managers, with a focus on black-owned private equity managers. These managers in turn select projects or companies into which to invest for impact. The investments are broadly aligned with the objectives of the South African National Development Plan and the United Nations Sustainable Development Goals: see below.

Tshandu Ramusetheli, CEO of Maia Capital, provides insight into their investment focus: *"At Maia Capital, we have carved out a niche in addressing societal challenges through impact investing by developing a robust Theory of Change. This framework aligns our investments with nine pre-identified social and economic issues, primarily focusing on empowering women. To date, we have positively impacted over 500 women, with 99% coming from historically disadvantaged backgrounds. More than 50% of our portfolio companies' employees are women, and over 40% of new jobs created in the last reporting period went to women. Remarkably, we have achieved these outcomes while delivering positive alpha on returns for our investors, exemplifying our commitment to generating social impact alongside financial performance."*

MEASURING THE IMPACT

One of the challenges facing impact investing worldwide is to quantify the impact and to obtain data that is congruent. To overcome this, the RisCura fund requires from its portfolio companies a six-monthly investment report with the same indicators across the board, detailing how capital has been deployed and quantifying the impact. In this way, RisCura is helping to improve the South African impact investing ecosystem.

Here are some of the impacts generated by some of the underlying funds over their latest reporting period:

- R1,2 million in cost savings for women through Maia FinCredit. Maia FinCredit strives to improve access to financial products for low-to-middle income households in South Africa to alleviate the rising cost of living; by focusing on women, financial inclusion is boosted. Women in South Africa spend 90% of their income on the household compare to men who spend 33% of theirs.
- 94,236 tons of greenhouse gas emissions avoided through investments in the Maia portfolio
- 2,441 additional learner capacity added at schools in South Africa through the Old Mutual EduFund
- Six new schools built to date through the Old Mutual EduFund
- A 100% bachelors pass rate achieved in 2023 for matric learners benefiting from the Old Mutual EduFund
- R2 billion of capital deployed to 3,539 residential apartments close to major employers and commercial nodes via the Africrest residential properties investment in the Futuregrowth portfolio (the average monthly rental of the Africrest residential properties is R6,828, contributing to our impact in the affordable housing space)
- R1,8 billion in healthcare and health via investment into Busamed Private Hospitals.
- Approximately 3,216 jobs supported.

What if a minor passes away? What happens to the remaining assets?

Olefile Moea, Executive Director

Umbrella trusts and beneficiary funds house the assets left to minor dependents; the source of the assets can be retirement fund death benefits in the case of beneficiary funds or testamentary and other non-retirement fund payouts in the case of trusts.

Sophisticated models are used to set out how much money can be paid out annually as regular income support payments to the child's caregiver, and capital payments paid out for annual educational or other critical expenses. The model is calculated so that the benefit is not depleted before the child reaches the age of majority at 18 or the age as provided in the trust deed; and is eligible to receive their remaining benefit.

As far as possible, the trust or beneficiary fund should aim for there to be an amount remaining at this time so that the child, now an adult, can continue with their schooling, get a tertiary education, or start up a small business.

But what happens if tragedy strikes and the child dies before they reach age 18?

First, it is important to understand some context around our beneficiaries and members. Almost 70% of the children who Fairheads looks after are cared for not by their parent, but by a caregiver, who is defined in the Children's Act 38 of 2005 as any person other than a parent or legal guardian who factually cares for a child. It is not uncommon for the caregiver not to approach the courts to obtain legal guardianship of the child as this can be an expensive and onerous process.

If a child dies, any remaining benefit in the trust or beneficiary fund is paid to the child's estate. It is unlikely that they would have prepared a will (although in South Africa, you are able to draft a will once you reach the age of 16 years old, as long as you are of sound mind), and any money paid to the estate will be dealt with in terms of the Intestate Succession Act 81 of 1987.

The process is overseen by the Master of the High Court, where the caregiver or guardian must make representation to the Master that they be appointed as the child's representative. This involves submitting a range of documents, including:

Olefile Moea

- The death notice
- An original or certified copy of the death certificate
- All original wills or documents intended as such (if any)
- Next-of-kin affidavits
- Completed inventory forms (essentially a list of all assets)
- A list of creditors of the deceased (essentially a list of all liabilities)
- Nominations by the heirs for the appointment of a Master's representative
- Undertaking and acceptance of Master's directives
- A declaration confirming that the estate has not already been reported to another Master's Office or Magistrates Court.

Once all the forms and documents have been submitted and the fees paid, the Master will then consider the application. Where the estate is below R250 000, the guardian or caregiver is issued with Letters of Authority, and where it exceeds R250 000 the guardian or caregiver is issued with a Letter of Executorship. While the scope of authority granted to the executor and the representative is different, these letters essentially allow them to open a bank account in the name of the late child's estate and for funds to be paid to the account.

While the published service level agreement (SLA) for appointing a representative or executor is 120 days, recent turmoil within the Master's office has resulted in long delays.

INTESTATE SUCCESSION

As mentioned, where the child did not prepare a will, the laws of intestate succession will apply. These laws in essence set out who receives the assets/ benefits. Put simply, the money is paid out in order as follows:

- The spouse of the deceased (it is unlikely that the child would have been married), then
- The descendants of the deceased (it is unlikely that the child would have had children of their own), then
- The parents of the deceased, then
- The siblings of the deceased (only if one or both parents are predeceased), then
- Extended family (nieces, nephews, aunts, uncles or cousins).

In circumstances where the child has no spouse, no children, their parents have predeceased them, and there are no siblings and no relatives, the estate will be forfeited to the state.

In summary, when a minor beneficiary of an umbrella trust or minor member of a beneficiary fund dies, the remaining benefits are paid to their estate. While the process described above sounds relatively straightforward, it can prove to be overwhelming for many who have never dealt with these types of matters before. Add to that the inefficiency of the Master's Office and this can be a truly daunting experience.

Fairheads comes alongside families to provide guidance on the process to be followed to help ease the burden as far as possible at a time of grieving.

BENEFICIARY FUNDS FOR ELDERLY DEPENDANTS

Case study

Following a previous Fairheads Times article where we observed that beneficiary funds can usefully be employed for managing and administering for the care of elderly dependants, this case study shows in practice what the options are and how a beneficiary fund can be an optimal solution.

Fairheads was approached by a retail retirement annuity fund to explain to an individual what a beneficiary fund is and how it could be used for older dependants. The deceased had benefits in the annuity fund and, upon her death, a lump sum was payable to her mother who has dementia. The brother of the deceased was responsible for taking care of his mother and was not dependent on the deceased, and therefore was not awarded a share of the death benefit. The trustees of the fund made the decision to pay the lump sum for the care of his mother to a beneficiary fund on behalf of the mother so that her financial needs could be met.

However, the deceased's brother had no knowledge of what a beneficiary fund was and was not happy with the decision. Fairheads discussed it with him and sent him information about beneficiary funds and how they work, following which he agreed to have the money paid to the beneficiary fund. The fund is now dealing directly with the frail care facility to address the mother's needs, while working with her son to make sure he has all the information needed to fulfil his duty of care to her.

Market update

By Bastian Teichgreeber, Chief Investment Officer, Prescient Investment Management

Since President Donald Trump took office, headlines have consistently sent shockwaves through global news channels - and increasingly, through financial markets. Recent weeks in particular have highlighted this pattern, marked by heightened volatility and a sharp repricing of risk assets. Equity prices across the globe fell aggressively. Safe-haven assets rallied as investors fled to safety. Credit spreads widened, Emerging Market Debt and Currencies sold off, and volatility indicators like the VIX spiked. The Federal Reserve is now once again priced for rate cuts, signaling that the market sees policy risks not just as a domestic issue, but one with global implications.

What started as a U.S.-centric market event has quickly spilled over into global assets. This is no surprise to us. In today's interconnected world, global supply chains are deeply interwoven. The repercussions of aggressive tariff policies are not confined to the origin country; they ripple through every link in the chain. What we find particularly telling is the response of the U.S. dollar. In a risk-off environment such as this, conventional wisdom would suggest dollar strength - especially in the face of new tariffs. Yet, we've observed the opposite: a weaker dollar and weaker US Treasuries. This hints at a deeper vulnerability in the U.S. economy and raises an uncomfortable possibility: that Trump's economic nationalism could, ironically, "make America poor again."

Central to the tariff discourse is a critical misunderstanding concerning the nature of trade imbalances. The current U.S. tariff policy is fundamentally grounded in a bilateral mercantilist misconception, asserting erroneously that trade surpluses inherently represent economic vigour, whereas trade deficits signify economic frailty. This interpretation contradicts established macroeconomic frameworks. Standard current account theories indicate that trade imbalances primarily reflect a nation's internal savings and investment dynamics, rather than trade policies themselves. Typically, a nation experiencing a trade deficit is characterised by a savings shortfall relative to investment. Consequently, utilising tariffs as a mechanism to correct trade deficits can lead to inefficient resource allocation, disruptions in capital flows, and overall reductions in economic welfare.

Employing a systematic and analytical investment approach, one can categorise the Trump administration's tenure into two distinct macroeconomic periods. The initial phase was marked by elevated market optimism, underpinned by anticipated fiscal stimulus through tax reforms, deregulation measures, and infrastructure development initiatives. These policies were initially perceived as supportive of economic growth, leading to favourable performance in risk-oriented asset classes. However, we have subsequently transitioned into a second phase, characterised by increased market apprehension. Priorities have notably shifted from tax relief towards tariff implementation, from regulatory easing towards fiscal austerity, and from facilitating skilled immigration towards enforcing stricter border control. Markets are progressively recognising that the economic repercussions associated with protectionist and isolationist measures are substantially greater than initially projected.

Forward-looking inflation indicators, such as breakeven inflation rates and inflation swaps, have recently moved lower. This comes as no surprise to us at Prescient. We have long argued that while tariffs may cause a once-off price shock, the long-term drag on growth from reduced global trade and consumer confidence exerts a much more sustained disinflationary pressure. The consumer tax implicit in tariffs acts as a brake on household spending, and as demand weakens, so too does inflation.