



# FURNITURE BARGAINING COUNCIL

for the Western Cape

## PROVIDENT FUND FOR THE FURNITURE INDUSTRY OF THE WESTERN CAPE

### Surplus Communication | Number Three | April 2012

#### INTRODUCTION

This communication follows Communication Number Two, which was issued in August 2011. Some of the information from the previous communication has been repeated, to ensure clear understanding for all parties.

This document is intended to be a brief and simple progress report on the obligations of the Trustees of the Provident Fund for the Furniture Industry of the Western Cape ("the Fund") to comply with legislation that requires that any "surplus" monies in a retirement Fund must be divided amongst eligible stakeholders of the Fund, including any members who have left (resigned, retired, etc.) that retirement Fund.

#### Update

The actuarial report, presented to the trustees in 2011, indicated that as at 30 October 2010, there was a surplus in the Fund.

The actuarial report has been submitted to the Financial Services Board, who will confirm the amount of surplus available for distribution when the proposed plan, called a Surplus Apportionment Scheme (detailing how the surplus is to be distributed amongst eligible stakeholders) is submitted by the Trustees for their approval.

The Trustees of the Fund are in the process of developing a Surplus Apportionment Scheme by following a series of steps:



- The Trustees must appoint a Former Member Representative. This person, who does not necessarily need to have been a former member of the Fund, is responsible for the protection of the rights of the former members. This appointment is expected to be finalised shortly.
- The Trustees are required to facilitate the provision of necessary data in respect of former members (dating back to 1980) to enable the actuary to recommend an equitable allocation of surplus between stakeholders.
- The Trustees are in the process of finalising advertisements in appropriate media publications requesting former members to register their prior membership with the Fund, and provide necessary data. The Trustees need to allow at least 6 months for former members to register.
- Please note that registration as a former member of the Fund is not a guarantee that any surplus payment is due, as this will only be finalised once the authorities have approved the scheme.
- The Surplus Apportionment Scheme must allow for the allocation of surplus in line with the Surplus Act, which will require upgrades to be paid to former members who left the Fund before the Surplus Apportionment Date.
- The proposed Surplus Apportionment Scheme must be communicated to all stakeholders, who are then granted a 12 week period in which to provide feedback.
- The Surplus Apportionment Scheme can then be finalised and submitted to the Registrar of Pension Funds.
- The Surplus Apportionment Scheme must be submitted within 18 months after the Surplus Apportionment Date – that is, by 30 April 2012. Obviously this deadline will not be met, and the trustees have applied for an extension from the Financial Services Board. Given the complexity of the process, many Funds have not been able to finalise their Surplus Apportionment Scheme within 18 months, so this is not unusual.
- The Surplus Apportionment Scheme has to be formally approved by the Financial Services Board before any payments can start. This approval process can take many months, and is unlikely to be finalised before the end of 2012.

### The question everyone will be asking is: Who is entitled to a share of the surplus money?

#### Answer:

The law in this regard says that the first claim on the surplus is from **former members** (i.e. people who left the Fund) and who did not get a fair payment (defined as their “Minimum Benefit” in the Surplus Act) when they left.

Additional payments must thus first be made to all former members of the Fund who did not receive their Minimum Benefit. (“Minimum Benefit” means all member and company contributions, plus Fund interest.)

If there is any surplus left after all former members have received their allocations, the balance of the money can then be divided between all stakeholders, being the current active members of the Fund, the former members of the Fund, and the Employers. The Trustees need to agree a fair allocation in this regard.

Remember that if there is any surplus money left after all former members have received their allocations, and some of this money gets allocated to active members of the Fund, **the money is not available in cash, but will be added to Fund balances.**

If you left the Fund, and re-joined at a later date, and are currently an active member of the Fund, any entitlement you may receive as a former member will be added to your balance in the Fund.

### What happens to former members of the Fund who have died? Will their families receive any money?

#### Answer:

Only former members who were alive at the Surplus Apportionment Date will be entitled to be considered for a benefit. Thus, only the beneficiaries of former members who died after 30 October 2010 would be potentially entitled to a benefit.

### What needs to happen before active members will know if there is any surplus to be allocated to them?

#### Answer:

The administrator of the Fund needs to supply available details of former members to the actuary, who will then calculate which former members are due additional payments. This process will take at least six months to complete, and may include advertisements in appropriate media to try to trace former members where sufficient information is not available to do the necessary calculations.

### This is all very complicated and I don't understand it ! As an active Fund member, what are the key points I need to understand about this process?

#### Answer:

There are three main points to understand at this stage:

1. The process is going to take a **long time** to complete. This is not the fault of the trustees or the administrator of the Fund, but simply due to the complexity of all the required steps, as prescribed in legislation. It is not possible at this stage to give an indication of when the process will be completed.
2. It is unlikely that there will be much money, if any, to distribute to active Fund members as former members who did not receive both their and the Employer's contributions when they left the Fund have to be paid before any surplus can be awarded to active members.
3. **No cash payments** can be made to anyone who is still an active Fund member.