

NOTICE OF THE COURT APPROVED SETTLEMENT OF THE CLASS ACTION

IF YOU ARE A MEMBER OF THE TRANSNET SECOND DEFINED BENEFIT FUND (TSDBF) OR THE TRANSPORT PENSION FUND (TPF) (collectively the “FUNDS”), PLEASE READ THIS NOTICE AS THE IMPLEMENTATION OF THE SETTLEMENT AGREEMENT AFFECTS YOU.

THE MEMBERS OF THE FUNDS INCLUDE:

- EVERYONE WHO RECEIVES A PENSION FROM ONE OF THE FUNDS
- EVERYONE WHO IS AN ACTIVE MEMBER OF THE TPF (EACH EMPLOYEE OF TRANSNET SOC LIMITED, SOUTH AFRICAN AIRWAYS SOC LIMITED (SAA) OR THE PASSENGER RAIL AGENCY OF SOUTH AFRICA (PRASA) WHO CONTRIBUTES TO THE TPF)

Class Action Litigation

Geyser & Coetzee Attorneys (the **Class Legal Representatives**) represented Mr JPH Pretorius and Mr MD Kwapa (the **Class Representatives**) in the class action against the TPF, the TSDBF and Transnet SOC Ltd (**Transnet**) on behalf of the members of the two Funds (the **Class Action Litigation**). The Class Action Litigation was initiated for claims arising from:

- an allegation that a representative of Transnet’s predecessor and the predecessors of the Funds made a promise to the members of the Funds in 1989. The alleged promise was that pensions would increase each year by a rate of at least 70% of inflation;
- an allegation that Transnet took over its predecessors’ obligation to pay an amount into the old pension funds (these are the funds that were ultimately replaced by the Funds) that were necessary to maintain the old pension funds in a sound financial position; and
- an alleged unlawful donation made by one of the new pension funds to Transnet.

The Class Action Litigation was certified by the High Court on 31 July 2014. Pensioners and other members of the TSDBF and the TPF are members of the Class.

Agreement by parties to settle Class Action Litigation

The Class Legal Representatives and the Class Representatives signed a Settlement Agreement (**Agreement**) with the Funds and Transnet on 11 December 2019. The parties to the Agreement applied to the High Court for a court order that the Agreement should settle and dispose of the Class Action Litigation, and be made binding on the parties to the Class Action Litigation and all the members of the Class.

Settlement Agreement approval hearing

The Agreement was presented to the High Court on 18 February 2020 and the High Court ordered that a notice be published in newspapers advising interested parties of the Agreement and calling interested persons who wished to object to the Agreement to do so by no later than 31 March 2020. The necessary publications were made in newspapers and by email and post. Objections were filed with the High Court.

The Agreement approval hearing was held on 17 June 2020 and the High Court considered written and oral submissions from interested parties.

On **22 June 2020**, the High Court found that the Agreement is reasonable, fair and adequate and granted an order that the Agreement:

- is made an order of court;
- is binding on the parties to the Class Action Litigation, including all the members of the Class; and
- finally settles and concludes the Class Action Litigation.

On **3 July 2020**, the final conditions to the Agreement were fulfilled and the Agreement became effective and unconditional in accordance with its terms.

The relevant terms of the Agreement

The Agreement provides the following benefits for pensioners of the Funds:

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| A special pension increase of 11% will be granted in addition to the statutory 2% increase to all pensioners in the TSDBF and the Transnet sub-fund of the TPF (but not to pensioners in the SAA sub-fund and the PRASA sub-fund of the TPF – see alongside). | On or before 30 September 2020. The Funds aim to increase pensions in August 2020. |
| Pensioners in the SAA sub-fund will be granted a special pension increase to achieve the level of pension they would have had if they had received increases of 70% of inflation (year-on-year changes in CPI) from the date they started receiving a pension. | On or before 30 September 2020. The Funds aim to increase pensions in August 2020. |

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| SAA sub-fund pensioners will receive a lump sum of R10,000 (less tax). | On or before 30 September 2020. The Funds aim to pay this amount in August 2020. |
| All pensioners will receive a lump sum of R10,000 (less tax) and (in addition to the first R10,000 lump sum paid to most pensioners in December 2019 after the Agreement was signed, and to SAA sub-fund pensioners by the end of September 2020). | On or before 31 January 2021 |
| All TSDBF, Transnet sub-fund and PRASA sub-fund pensioners (but not SAA sub-fund pensioners) are guaranteed a total increase of 9% during 2021 (which includes the 2% statutory increase which will continue to be granted in terms of the Funds’ rules). * Important note: PRASA sub-fund is in the process of amending its rules to be able to grant and pay the special increases to its pensioners, and those special increases will take effect when ministerial approval for those rule amendments has been obtained. If that happens after the other pension increases are granted, PRASA sub-fund members will receive an additional amount to catch them up to the amount that they would have received had the PRASA sub-fund rules been amended before 3 July 2020. | During 2021* |
| All pensioners will receive a lump sum of R10,000 (less tax). | On or before 31 January 2022 |
| All TSDBF, Transnet sub-fund and PRASA sub-fund pensioners (but not SAA sub-fund pensioners) are guaranteed a total increase of 6% during 2022 (which includes the 2% statutory increase which will continue to be granted in terms of the Funds’ rules). ** Important note: PRASA sub-fund is in the process of amending its rules to be able to grant and pay the special increases to its pensioners, and those special increases will take effect when ministerial approval for those rule amendments has been obtained. If that happens after the other pension increases are granted, PRASA sub-fund members will receive an additional amount to catch them up to the amount that they would have received had the PRASA sub-fund rules been amended before 3 July 2020. | During 2022** |
| From 2023 a minimum increase of 2% is guaranteed for all pensioners. The Funds must target pension increases of at least 70% of inflation (including the 2% guaranteed increase), and the Funds’ boards will also have discretion to grant greater increases and/or bonuses if affordable, with the employer’s approval (for PRASA sub-fund members this is also subject to the rule amendments mentioned above). | 2023 and beyond |

Settlement and termination of Class Action Litigation

Now that all the conditions of the Agreement have been met, and the High Court has ordered that the Class Action Litigation and the Class’ claims have been settled fully and finally, the Class Action Litigation is terminated.

The Agreement, now confirmed in the High Court order, disposes of any and all claims by any member of a Class against any person relating to the historical funding of the Funds (or their predecessors in title), the Funds’ abilities to grant pension increases greater than 2% per year historically, historical investment and other transactions that did affect or are perceived to have affected those abilities, and the existence or status of the so-called ‘legacy debt’ as referred to in the Class Action Litigation.

Access to the Agreement and court order

The High Court order and the Agreement can be accessed on:

- Geyser & Coetzee Attorneys’ website (www.geysercoetzee.co.za); and
- Transnet’s website (www.transnet.net)

All questions about the new benefits and any other benefits, must be addressed to the Funds’ administrator in the usual manner. The contact details for benefits-related enquiries remains the **Momentum Retirement Administrators Call Centre Number 011 587 8000**.