



**Public Officers'  
Defined Contribution  
Pension Fund**

# **HIGH-LEVEL SUMMARY OF THE FORENSIC AUDIT REPORT ON THE ADMINISTRATION SERVICES FOR THE FUND**

**PUBLISHED BY THE BOARD OF TRUSTEES**

## 1.

### BACKGROUND TO THE FORENSIC INVESTIGATION

- 1.1. In 2021, the Fund appointed Bowmans Gilfillan (Bowmans), a firm of forensic auditors, to conduct a forensic audit on the administration services of the Fund offered by NBC Lesotho Insurance Company (NBC/NBC Lesotho). At first, the period under investigation was the financial years 2018, 2019 and 2020, this is referred to as the first mandate. However, the preliminary findings indicated that there were anomalies, especially in the areas of Nil Contributors and refunds that seemed to date as far back as the inception of the Fund. Premised on this, the investigation period was extended to include 2008 to 2017. This is referred to as the extended mandate.
- 1.2. The objectives of the first mandate were to determine whether:
  - 1.2.1. The Administrator (NBC) has charged the Fund for services rendered in accordance with existing agreements and whether all payments to / fees charged by NBC can be accounted for;
  - 1.2.2. Any fees not specifically addressed in terms of the existing agreements have been levied and if so, the basis upon which such was calculated, and approval thereof granted;
  - 1.2.3. The fees levied by NBC are industry related and in the best interest of the Fund and/or its members;
  - 1.2.4. Approval was obtained by NBC in relation to the movement of funds between portfolios, if applicable;
  - 1.2.5. The staff compliment and the operational systems of NBC are adequate to cater for the business of the Fund, and the impact of the outcome of the litigations that the parent company of NBC in South Africa had recently been embroiled in has on the efficacy and competency of the Administrator to continue providing administration services to the Fund;
- 1.3. Further to review the 2018, 2019 and 2020 Audited Financial Statements of the Fund, with a view to determining whether such correlates with the findings per their forensic investigation and/or whether any issues emanating from the forensic investigation may be regarded as having a material impact of the said Audited Financial Statements, and;
- 1.4. Conduct interviews with all relevant parties who may have information relevant to the investigation.

## 2.

### SUMMARY OF KEY FINDINGS

2.1. The forensic audit report provides a broad assessment of NBC Lesotho's administration of the Fund, in line with the key objectives of the assignment. In the overall, the findings point to possible discrepancies and overcharges by NBC, governance, legal and operational concerns. The findings are summarised below: -

#### 2.1.1. Possible Discrepancies and Overcharges :

2.1.1.1. The investigation identified that NBC categorises members of the Fund into the following from an invoicing perspective:

- **Active members** –members that still contribute on a monthly basis to the Fund. These contributions are identified by NBC from the various payrolls provided by the Fund to NBC;
- **Nil Contributors** –members that stopped to actively contribute to the Fund;
- **Refunds** –members in respect of whom incorrect deductions had been made that needed to be refunded or persons in respect of whom deductions were made but did not qualify to become members of the Fund.

2.1.1.2. NBC Lesotho's contractual invoicing practice of per member per month was scrutinized. The finding revealed that there seem to be inconsistency in the definition of a **'Member'** such that while the Act and the Rules of the Fund regards a person to be a member as long as they are employed in the Government of Lesotho (GoL), the Service Level Agreement (SLA) between the Fund and NBC defines a member as a person in respect of whom NBC keeps a record in its administration database up until such a member ceases to be a member of the Fund and has been paid all the benefits due to him/her in terms of the Rules of the Fund.

2.1.1.3. According to the findings, based on the definition of a member in the SLA, NBC has been charging the Fund fees per member per month for active members, Nil contributing members and refunds. The investigation revealed anomalies in Nil Contributors and Refunds as some have been charged as way back since the inception of the Fund. The forensic auditor opines that, despite the definition of a "member" in the SLA, the Act and the Rules of the Fund should be superior to other legal arrangements made pursuant to them. Hence, NBC should not have charged the Fund for nil contributors that stay in their administration system beyond six (6) months as per the best industry practice.

2.1.1.4. Further, the investigation revealed that NBC has been charging the Fund in respect of refunds which were not part of their mandate according to the SLA. Though NBC responded that this was assigned to them by the Secretariat, the forensic auditor was not given proof to authenticate this.

2.1.1.5. Premised on 2.1.1.3 and 2.1.1.4, Bowmans opined that NBC has been overcharging the Fund and thus there is need to claim the amount that is calculated to be around M29 Million.

## **2.1.2. Industry-Related Fees:**

2.1.2.1. Comparison of NBC's fees to the industry rates was found to be impossible for the current assignment as the forensic auditor indicated that, at the time of the forensic audit, there were over 5000 pension fund administrators in South Africa.

2.1.2.2. Instead, comparisons were made using fees quoted by other administration service providers who participated in the Fund's 2019 administration tender process. In this case, NBC's quoted fees generally appeared to be industry related.

2.1.2.3. However, this notwithstanding, the audit found it odd that NBC's quote was lower than what it was charging the Fund in the preceding contract that ended September 2019. Bowmans opined that this could mean NBC has not been charging industry related fees.

## **2.1.3. Movement of funds between portfolios**

2.1.3.1. Movement of funds between portfolios was considered and the auditor was able to trace movement of assets since April 2009. In their review of the minutes of the Investment Committee for the period 30 August 2017 to March 2020, all movement of funds were properly approved and where necessary Board ratification was obtained.

## **2.1.4. Adequacy of NBC Structure, Operations and Staff Complement**

2.1.4.1. According to the forensic audit findings, without the monumental support of NBC parent company in South Africa, NBC (Lesotho) would not be able to manage the Fund's administration.

2.1.4.2. The findings further state that although the negative events, i.e. loss of clients, court cases, resignations, etc., may have impacted negatively on NBC (SA), the impact is not so severe that the Administrator would be unable to continue providing administration services to the Fund.

### **2.1.5. Financial Statements and Expenditures**

- 2.1.5.1. Review of the Fund's audited financial statements opined that certain expenses were unusual given the nature of the fund under consideration, where membership is mandatory. Those included the expenses related to the 10<sup>th</sup> Annual Celebration of the Fund, the money month campaign and the donations and prizes given during Public Service Day Celebration in 2018.
- 2.1.5.2. Another area where anomalies were identified was on general ledger where frequent reallocation of expenses were made, which were indicative of poor accounting and irregularities.

### **OTHER CONSIDERATIONS AND FINDINGS**

- 2.2. Though the forensic investigation had specific objectives, the report further provides a broad assessment of Fund's governance and legal issues that need attention as per the below findings: -

#### **2.2.1 Legal Issues/Concerns**

The investigation revealed that the agreement between the Fund and NBC was due to expire on 30<sup>th</sup> September 2019, therefore a call for new tenders was made.

- 2.2.1.1. Following the evaluation of the 2019 administration tender, the Board at the meeting of 26<sup>th</sup> March 2020 resolved to provisionally appoint NBC as the Administrator of the Fund.
- 2.2.1.2. However, on 27<sup>th</sup> March 2020, the Fund was served with a court application by pensioners association seeking to prevent the Board from finalising the award to NBC.
- 2.2.1.3. The Board later resolved that NBC remain the provider of the administration services to the Fund pending the cited case.
- 2.2.1.4. The forensic audit submits that if it was not because of the litigation, the Fund could have paid about M6,479,000.00 less on administration fees. Instead, NBC continued to charge a higher amount of M46.57 per member per month as opposed to the lower fee it quoted in the tender. This was because its administration contract that ended on 30<sup>th</sup> September 2019 was indefinitely extended on the same terms and conditions of the previous contract, inclusive of fees.

## **2.2.2 Governance Issues/Concerns**

- 2.2.1.5. Based on the outcome of results of interviews with the concerned parties, the forensic audit points to concerns on governance issues. These included potential conflicts of interest involving trustees, the former Principal Officer and the service providers. In the case of the service providers the potential conflict was identified to even extend amongst themselves.
- 2.2.1.6. Other governance issues pointed out in the report relates to management of relationships as pertains to the issuance of gifts by the service providers to both Trustees and the Secretariat.

### 3. RECOMMENDATIONS

- 3.1. On the basis of the comprehensive investigation, the forensic auditor made some key recommendations to be considered by the Fund. These include the following:-
- 3.1.1. The Fund should enhance accuracy of its member database, including their contact details and that of their beneficiaries. The Fund should also grant special access to members and employers to update some of the personal details in a bid to improve the database.
  - 3.1.2. Establishment of a steering committee comprising senior human resources offices, Principal Officer, Division of the Fund responsible for benefits administration and the representatives of the Administrator to address membership data challenges and delayed payment of benefits.
  - 3.1.3. The Fund should engage NBC for repayment of identified possible overcharges/claims.
  - 3.1.4. The Board should decide how to conclude the issues around the provision of the administration services separate from the pending case.
  - 3.1.5. For future tenders, the report proposed enhancements to the tender processes of the Fund. These included a refinement of the content and structure of the tender documents to ensure that they provide comprehensive guidelines for potential bidder.

4.

**ACTIONS TAKEN BY THE FUND**

- 4.1 Following the completion of the forensic audit, the Board regarded the contents of the report to be highly sensitive and resolved not to release it to protect the integrity of the implementation of some of the recommendations. Premised on this, a decision was made to keep the forensic audit report confidential until key engagements are concluded. This was found to be in line with best practice when assignments of this nature are undertaken.
- 4.2 However, it came to the attention of the Board that conclusion of post audit processes is taking longer than anticipated, yet stakeholders deserve to know the outcome of the forensic audit investigations. The Board thus resolved to release this high-level summary for its stakeholders.
- 4.3 As at 30<sup>th</sup> June, 2024 the following have been the activities of the Fund in response to the forensic audit:-
- 4.3.1 In May 2023, the Fund proceeded to engage NBC for repayment of identified possible overcharges/claims. The engagements are ongoing.
- 4.3.2 Aware that the legal requirement to appoint the administrator for the Fund after every three years was due in 2023, the Board revoked its decision to allow NBC to remain the provider of the administration services to the Fund pending the court case by the pensioners association.
- 4.3.3 The Fund thereafter issued a tender for provision of administration services in November 2023. However, this process was halted by a court order where NBC was granted an interim relief barring the procurement process. To date, NBC continues to provide the administration services to the Fund.
- 4.3.4 The Fund has engaged the Ministry of Public Service through various human resource offices from the ministries and agencies to deal with the nil contributors. The initiative is also aimed at addressing the challenges in the timely processing of benefits and nil contributions.

Thus, done and signed on behalf of the Board of Trustees on 23<sup>rd</sup> July 2024



**M. Mochebelele (Mrs.)**  
Principal Officer



**N. Lebona (Ms.)**  
Chairperson