



## CIRCULAR

Reference: Guideline for Trustees Remuneration  
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### GUIDELINE FOR REMUNERATION OF MEDICAL SCHEMES' TRUSTEES

1. On 18 November 2011, the Council for Medical Schemes (hereinafter referred to as the Office) issued [Circular 45 of 2011](#) which enclosed the draft discussion document in respect of the Board of Trustees' (hereinafter referred to as the Board) remuneration. Comments from medical schemes were invited.
2. As expected the Office received a number of well reasoned and insightful comments from the medical schemes industry (hereinafter referred to as the Industry). The comments were reviewed by the Office and it was evident from the comments that there is no common practice and/or process undertaken by medical schemes when decisions concerning the remuneration of trustees are taken. It was further noted that the inconsistencies are primarily driven by the different remuneration philosophies and procedures that exist within the Industry.
3. In order to gain insight on the remuneration strategies prevalent within the Industry, it was resolved by the Office to appoint an independent person with extensive experience in this area to conduct a comprehensive study.
4. On 6 November 2013 the Office published [Circular 47 of 2013](#) announcing the appointment of Ernst & Young Advisory Services (Pty) Ltd (hereinafter referred to as EY) as the preferred candidate to conduct a detailed study on the current practices of remunerating trustees within the Industry.

5. The Industry was encouraged to support the study by participating in the survey and one-on-one interviews to be conducted as part of the study.
6. The findings and the recommendations from the study are discussed below.

## **THE STUDY**

7. The overall objective of the study was to gain insight on the current practices applied by medical schemes to remunerate trustees. The objectives of the study were to:
  - 7.1.Undertake a detailed analysis of current remuneration practices with regards to Board and Sub-committees within the Industry.
  - 7.2. Review the differences and/or similarities in remuneration philosophies and practices within the Industry.
  - 7.3. Propose a Guideline for Trustees Remuneration of the Industry.
8. The key findings of the study by EY are discussed below:

### **8.1. Current remuneration practices:**

- 8.1.1. From the current legislation and past papers released or commissioned by the Office it was noted that the Medical Schemes Act 131 of 1998, as amended (hereinafter referred to as the MS Act) does not regulate the amount or structure of remuneration paid to trustees. It does, however, require annual disclosure of remuneration and reimbursements by the Board to the Registrar (section 57(8) and Regulation 6A of the MS Act) and section 29 of the MS Act provides for the medical schemes' rules to include remuneration provisions.
- 8.1.2. It was noted that there is inconsistent descriptions of what the role and responsibility of a trustee is or should be within the Industry. On the one hand, the role is viewed as that of strategic oversight with management running the day to day affairs. On the other hand, the role is viewed as that of strategic oversight with a management role i.e. taking responsibility for the day-to-day execution of operational activities.

8.1.3. It was noted that only one of the twenty four (24) registered open medical schemes does not remunerate its trustees and just above 50% of the registered restricted medical schemes do not remunerate their trustees.

8.1.4. A total of fifty three (53) medical schemes (17 open schemes and 36 restricted schemes) representing 84% of all the beneficiaries of medical schemes participated in the survey. The online survey revealed the following salient factors in respect of the current remuneration practices:

8.1.4.1. It was noted that of the fifty three (53) medical schemes that participated in the survey, only thirty three (33) medical schemes (17 open and 16 restricted schemes) remunerate their trustees.

8.1.4.2. 45% of the schemes that remunerate trustees indicated that remuneration is paid per meeting, while 30% indicated that their trustees are remunerated on a monthly basis.

8.1.4.3. 79% of the schemes (75% open schemes and 82% restricted schemes) that remunerate trustees indicated that they determine trustee fees on a meeting attendance basis.

8.1.4.4. Only 18% of the schemes that remunerate trustees indicated that they determine trustee fees on an hourly rate basis.

8.1.4.5. 36% of schemes (50% of open schemes, and 24% of restricted schemes) that remunerate trustees indicated that they pay a fixed annual fee (also referred to as a retainer or base or holding fee).

8.1.4.6. Only 15% of the schemes that remunerate trustees indicated that they pay honoraria to trustees and no scheme pays their trustees incentive-based remuneration.

8.1.4.7. About 8% of the schemes that remunerate trustees indicated that they pay trustees to perform consulting services.

8.1.4.8. 27% of the schemes (25% of open schemes and 29% of restricted schemes) that remunerate trustees indicated that they remunerate trustees for attending conferences or training events over and above the attendance or accommodation costs.

## 8.2. Differences and/or similarities in remuneration philosophies within the Industry

8.2.1. The online survey revealed the following salient factors in respect of the differences and/or similarities in remuneration philosophies and practices within the Industry:

8.2.1.1. It was noted that all the medical schemes indicated that they apply the King Code of Governance Principles for South Africa (The Institute of Directors in Southern Africa) September 2009 (hereinafter referred to as the KING III Code) and the King Report on Governance for South Africa (The Institute of Directors in Southern Africa) September 2009 (hereinafter referred to as the KING III Report) as a reference point in the governance of their Boards.

8.2.1.2. 58% of the schemes (81% of open and 35% of restricted schemes) that remunerate trustees have a remuneration committee that deliberates on trustee remuneration.

8.2.1.3. 67% of the schemes (75% of open schemes and 59% of restricted schemes) that remunerate trustees obtain member approval of trustee remuneration at the annual general meeting (hereinafter referred to as the AGM).

8.2.1.4. Furthermore, respondents that remunerate their trustees were asked to rate the importance of various 'elements' in the determination of the remuneration of trustees, as either 'high', 'low', or 'no influence'. Of all the 'elements' posed in this question, the 'level of responsibility' of the trustee (i.e. Chair or Member) received the highest number of votes under 'high' of 23 out of 33. This was followed by 'number of meetings' and then 'preparation time for meetings'.

8.2.1.5. However, when the respondents were asked to rate the importance of the following 'elements' in the determination of the remuneration of their trustees the following 'elements' received more votes under the 'no influence' option than 'high' or 'low':

8.2.1.5.1. Type of board or committee (14 out of 33 = 42.4%);

8.2.1.5.2. Level of competence of the trustee (18 out of 33 = 54.5%);

8.2.1.5.3. Duration of board meetings (17 out of 33 = 51.5%);

8.2.1.5.4. Years of service (27 out of 33 = 82%) and

8.2.1.5.5. Trustee qualifications (19 out of 33 = 57.6%)

8.2.2. It is evident from the responses above that there is definitely no common practice or standard for determining trustees' remuneration within the Industry.

### **8.3. Guideline to inform trustees and sub-committee remuneration**

8.3.1. The guidelines as set out in this segment are based on the current legislation for regulating medical schemes (the MS Act), the recommendations by EY based on the abovementioned study and the KING III Report.

8.3.2. It is submitted that regulating the size and/or the structure of the fees payable to trustees is impossible in the absence of any empowering legislation in this regard. However, the urgent need to build and adopt an integrated and appropriate remuneration philosophy for the Industry is self-evident. It is thus the Office's intention to review the provisions of Regulation 6A of the MS Act with the aim of addressing the current gaps which exist in our legislation.

8.3.3. The Office strongly believes that the non-profit motive of medical schemes and the public interest of affordable healthcare must override any temptation to pay fees equivalent to non-executive directors of profit making entities. It is implicit therefore that fees paid to trustees should in any event be lower than fees paid to non-executive directors.

#### **8.3.4. Accordingly the Council for Medical Schemes hereby provides the following Guideline in respect of Trustees Remuneration:**

8.3.4.1. All the medical schemes must ensure that the role of a trustee is clearly defined in the schemes' rules as that akin to a non-executive to eliminate the 'role blurring' alluded to above in paragraph 8.1.2. Accordingly, it is recommended that the definition of the role of a trustee should be based on the following:

8.3.4.1.1. The Board appoints the executive to manage the day-to-day affairs of the medical scheme.

- 8.3.4.1.2. The Board delegates the collective management responsibilities to the Principal Officer. The Principal Officer therefore executes the Board's decisions.
- 8.3.4.1.3. The role of a trustee is therefore one of strategic oversight, dealing with long term sustainability issues and delegates the execution to the executive structure.
- 8.3.4.2. In view of the fact that almost all medical schemes apply the principles of the KING III Report as a reference point in the governance of their Boards, it is submitted that all the medical schemes that remunerate their trustees must take into account the principles of the KING III Report on Governance read together with the King III Remuneration Practice Notes when taking decisions about their approach to trustee remuneration and developing their TRP.
- 8.3.4.3. All the medical schemes that choose to remunerate their trustees should develop a Trustee Remuneration Policy (hereinafter referred to as the TRP) which clearly sets out the scheme's approach to trustee remuneration. The TRP should first be approved by the Board and/or a Remuneration Committee (if one exists) and then it must be tabled at the annual general meeting for a vote by the members of the medical scheme.
- 8.3.4.4. Since the role of a medical scheme trustee is akin to that of a non-executive, it is difficult to motivate why the fee structure for a medical scheme's trustee should be significantly different to the fee structure of a non-executive director. Accordingly, it is submitted that all the medical schemes that choose to remunerate their trustees must ensure that the composition of their fee structure for trustees is consistent with the principles of the KING III Report read together with the King III Remuneration Practice Notes.
- 8.3.4.5. All the medical schemes that choose to remunerate their trustees should take note of the fact that the fees payable to non-executive directors of JSE listed companies or private companies are not an appropriate reference point for comparison or benchmarking purposes. This is due to the important and distinguishing fact that medical schemes are non-profit organisations.
- 8.3.4.6. No medical scheme should pay any fees for consulting services performed by a trustee for the medical scheme or the Board as this impinges on his/her independence and increases the risk

of a conflict of interest between the role of a trustee and that of a consultant. Trustees should remain independent at all times and should operate in a non-executive capacity.

- 8.3.4.7. No medical scheme should pay trustees any remuneration for attending conferences or training events over and above the attendance or accommodation costs. Attending a conference and accommodation costs should be a sufficient reward.
- 8.3.4.8. Section 29(c) of the MS Act provides that the rules of a medical scheme shall provide for the remuneration of officers of a medical scheme. Accordingly, all the medical schemes that remunerate their trustees are hereby directed to ensure that their rules clearly define the manner in which they reimburse or remunerate their trustees as well as the process involved in determining such reimbursement or remuneration.
- 8.3.4.9. All the medical schemes that remunerate their trustees must ensure that the fees payable to trustees are approved by the members in advance during the AGM and not retrospectively, as it is the case with some medical schemes.
- 8.3.4.10. At least 21 days prior to holding the AGM, all medical schemes that remunerate their trustees must provide their members and the Office with all the information pertaining to the proposed remuneration of trustees to be approved during the AGM. This includes any documents which indicate how the proposed fees were determined as well as the persons involved.

9. Having regard to the above, all the medical schemes that remunerate their trustees are requested to report in writing to the Office on the measures taken to further the implementation of the abovementioned guideline.

10. Kindly submit your report to Mr Thamsanqa Diniso, Senior Investigator, Compliance and Investigations at [t.diniso@medicalschemes.com](mailto:t.diniso@medicalschemes.com) by **28 November 2014**.



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