Association for Monitoring and Advocacy of Government Pensions (AMAGP)

NPO Registration No: 198-822

SEMPER VIGILANS

The Association for Monitoring and Advocacy of Government Pensions: A volunteer independent group of pensioners and civil servants concerned about the long term viability of the GEPF and sustainability of its return on investments.

www.AMAGP.co.za

GEPF Watchdog - Waghond

GEPF Forum

GEPF your investment, your future

NEWSLETTER NO 15 of 2023

AMAGP – Association for Monitoring and Advocacy of Government Pensions
AR – annual report
BOT – Board of Trustees [of the GEPF]
FSCA – Financial Sector Conduct Authority [previously the FSB]
GEPF - Government Employees' Pension Fund
PIC – Public Investment Corporation
PSA – Public Servants' Association
ROI – return on investment
SCOF – Standing Committee on Finance
SCOPA - Standing Committee on Public Accounts
SLAPP - Strategic litigation against public participation
SOE – state owned entity

The Government Employees Pension Fund (GEPF) is Africa's largest pension fund. We have more than 1.2 million active members, in excess of 450 000 pensioners and beneficiaries, and assets worth more than R1.61 trillion. GEPF is a defined benefit pension fund that was established in May 1996 when various public sector funds were consolidated. Our core business, which is governed by the Government Employees Pension Law (or GEP Law), as amended, is to manage and administer pensions and other benefits for government employees in South Africa. https://www.GEPF.gov.za/ dd 23 December 2023.

***WE ARE THE OWNERS OF THE GEPF** and we have the right to expect the GEPF BOT and the PIC to manage and invest OUR money in a responsible and profitable way, to the advantages of members and pensioners. Note the misbalance: the single pensioner on the BOT representing all 450 000 pensioners and the 15 representatives from the multitude of trade unions and government departments representing the 1,2 million contributing members.*

The AMAGP does not want any GEPF member to leave the Fund, because it still is the best pension fund in the RSA. BUT, we as members and owners of the Fund have the duty to protect and safeguard it against abuse.

The Editor's Word

It is a pity so much of the newsletter is about doom and gloom. Unfortunately, the threat against our Fund doesn't generate much good news. Good news is mostly about our investments that are performing well. Again unfortunately, such news is only available by thorough scrutiny and is a full time job. AMAGP are unpaid volunteers.

The election next year requires you, dear reader, to vote. I recommend checking your voting station. I had the opportunity of helping at our local voting registration station on registration day recently, and was unpleasantly surprised at how many people's polling stations had changed since the 'government' changed the borders of polling areas. Not far away but enough to make it uncomfortable.

The size and bulk of the just released 2023 GEPF AR requires analyses to determine what it actually reports. And what it doesn't. AMAGP is slowly working through it and will let you know in due course what we have found, what we haven't found and what we think.
Volunteers to help are still required!!!! The lack of volunteers to protect your Fund is deplorable to say the least.

Our Fund is a defined benefit fund, meaning the 'government' is legislated to make up any shortfall in the Fund, which it hasn't been doing for at least the last decade in any case. Consider, if the 'government' is bankrupt, after possibly squandering your Fund's funds too, where is your pension money going to come from? Perhaps action is required if your consideration leads to you to serious concern.

Reminding you of Project 'My Secure Pension': Who is willing to contribute R100 per month to free the state employees' pension fund from toxic political control?
Explained fully in newsletters 7 of 2023 and 8 of 2023
If you are not yet a member, join AMAGP by clicking on
https://amagp.coffeecup.com/forms/amagp membership/
and follow the instructions. Within a brief period, you will get a response and a membership number.
To donate to AMAGP and to this project to litigate against the status quo, please arrange with your bank for a monthly stop order to AMAGP's bank account: Bank – FNB, branch: Brooklyn 251345, cheque account 627 4334 7454, use your (new) membership

Read the 'My Secure Pension" progress report at the end of this newsletter. There is an Afrikaans version too.

Expect to see many 'government' handouts in the next few months runup to the election, as well as any number of bills rushed through parliament to expand 'government' control. On a more sober note, expect violence linked to election campaigns with prospective candidates being in danger.

Dear reader, take note of the Ombud for the GEPF. If all else fails, the Ombud is the next step.

It seems ample funds are always available for Board and Management for specialist advisors but not pension increases. This reflects poorly on the process followed in appointing the members of the Board and Management. Who are paid a generous allowance by the GEPF in addition to their normal monthly salary.

NOW FOR NEWS FROM THE MEDIA

The Auditor General presented the latest report on the results of the last year's auditing. Although there is good news, the bad news drags it down.

A letter to the press by Zirk Gous about the expected non-increase in pensions for your interest.

The NHI Bill may be destined for never-never land if the 'government' steamrollers it through. The reserve funds of the many medical funds would certainly start off NHI but leave a vacuum once all the funds are gone and 'government' budget doesn't replace what we had had.

The JSE is also shedding, in this case a steady decline in listed entities. This leads to investments being concentrated in fewer opportunities with greater risk to ROI. As our Fund is the largest single investor in the JSE it is cause for concern.

The GEPF has evidently instituted a committee specially for oversight over and monitoring of unlisted investments. If we add this to the suspension of a PIC executive recent it is difficult to be excited and easy to be concerned.

An opinion from an academic that goes against expectations, in that he is convinced Eskom has sufficient resources to terminate loadshedding. Hmmm.

Then a case for privatisation to recover the economy. This can result in our Fund's income escalating markedly, but don't get excited about the possibility without a major 'government' change.

The demise of Tongaat Hulett is sad but inevitable. Our investment might break even if the original investment figure and ROI are considered.

Remember: *Read the 'My Secure Pension" progress report at the end of this newsletter*.

NEWSNUUSNEWS

Synopsis

South Africa kisses R22 billion goodbye – thanks to government

BusinessTech
Staff Writer
29 November 2023

The Auditor General of South Africa (AGSA) has presented the latest national and provincial audit outcomes for 2022/23, flagging increasing pressure on government finances due to spending irregularities and suspected fraud and corruption.

This comes despite a more positive turn in audit outcomes, with the AGSA noting a respectable increase in clean audits from provincial and national departments and SOE. Of 418 audits, 147 (35%) outcomes were unqualified (clean).

162 audits were unqualified with findings, 69 were qualified with findings, 4 were adverse with findings, and 5 were disclaimed with findings. Worryingly, 31 audits were outstanding due to non-submission of financial statements, late submissions or other delays in the auditing process.

This includes state-owned companies like Denel and SAA, and the Compensation Fund and UIF, which did not submit financial statements by deadline – and Alexkor and Prasa, which submitted statements late.

While the overall audit outcomes improved, the AGSA identified a host of weaknesses in reporting from the state, including things like cost overruns, reported statements that were unreliable and unverifiable, performance indicators being excluded or missed, and medium targets not being achieved.

Administration review

The biggest punch, however, came in with the massive R22bn in financial losses that the AGSA attributed to wasteful expenditure and irregularities from the state during the current term (2019-2024). The AGSA flagged R7,62bn in wasteful expenditure over the last five years, along with R14,34bn in financial losses attributed to 240 cases of non-compliance, suspected fraud and material irregularities.

These instances vary, including poor payment practices (such as late payments or payment for goods not received), no benefits received from money spent by the government (eg, paying for leases on unoccupied buildings), unfair procurement processes, neglected maintenance and poor planning. According to the AGSA, these have placed an added and unnecessary burden on the state's finances, which are already under severe pressure.

It noted that over R386bn of government guarantees are exposed to state-owned enterprise borrowing programmes. At the same time, SOE have reported poor growth, unsustainable operational challenges and high debt-servicing costs. "Several (SOEs) appear to be at risk of defaulting on their debts," it said. On top of this, state departments are also on the hook for over R113bn in claims made against them – R68bn in the healthcare sector alone.

"Government is self-insured and does not budget for claims," the AG said, adding that payments for these claims are made from funds budgeted for service delivery – meaning South Africans at large pay the price for this mismanagement of finances.

Of the 266 cases of material irregularities identified by the AGSA, 240 have resulted in material losses amounting R14,34bn. Most of these incidents (157) are related to procurement and payment losses. The next biggest hole is in interest and penalties (34 cases) and resource management (28 cases related to poor spending).

On the positive side, the AGSA has made progress in addressing some of these losses, with 79 material irregularities resolved, and around R1,3bn recovered, R700mn in the process of being recovered, and over R500mn of further losses prevented. However, in many cases, the appropriate actions required by departments to address the issues have not yet been taken.

The AGSA said that the state needs to activate an "accountability ecosystem" to address these issues, as the state currently operates on a culture of no accountability and consequence. It also needs to address its inefficiencies in resource management and inadequate intergovernmental planning.

Comment

The good and bad news. There is some improvement but it needs lots of political will to enforce accountability.
Note SOE on the verge of defaulting. Note Several owe our Fund many millions. I suspect some of the defaulters not named might be debtors to the Fund.

Synopsis

By Zirk Gous
4 December 2023

Dear Editor,
Attached a 'Letter from Readers' for your discretionary placement.

Bad expectations for state pensioner increases 2024

For the ten year period 2013 to 2022 state pensioners received annual increases in their pensions equal to the inflation rate.

In 2023 however the GEPF pleaded poverty for 2021-2022:

- growth in investments: only R201bn - increase of 9,6%, and
- return on investment: only 11,1%

The result: an annual increase for state pensioners of only 75% of the inflation rate in 2023.

BUT: the 2022-23 GEPF figures are even worse:

- growth in investments: only R27bn - an increase of 1,2%
- return on investment: 3,5%

The bad news for state pensioners: the GEPF 'poverty level' grew dramatically in 2022-23. The result: do not expect a pension increase that equals the inflation rate in 2024.

Comment

This brief view after the recent GEPF AR. As you all should know, 'government' departments haven't honoured its contribution to the GEPF for at least the last decade, which is part of the pension funding challenge reported, quietly, in the notes to the financial statements in every AR.
\Would it be amiss to wonder if the decrease in ROI followed after the continuing increase in the number of brokers at the GEPF?

Synopsis

NHI Bill will be tied up in court for decades

Daily Investor
Shaun Jacobs
3 December 2023

Organised business groups have said they will challenge the NHI Bill in court if it is passed in its current form, as it is fundamentally unworkable and being pushed through without proper deliberation.

B4SA, alongside Business Unity South Africa (BUSA), wrote to the National Council of Provinces (NCOP) and the Deputy President on Monday to urge them to delay a vote on the NHI Bill. They urged the NCOP to send the Bill back to Parliament's Select Committee on Health and Social Welfare, to properly consider the constitutional issues with the NHI Bill raised by four provinces and a range of stakeholders.

"This amounts to a serious and significant procedural lapse, and a violation and disregard of Parliament's own public participation model, fundamentally undermining the principles of participatory democracy on which our Constitution is based," they said.

"For the National Assembly and the NCOP to disregard proposed amendments that will have a beneficial and tangible impact on citizens in the interest of rushing the Bill through Parliament is unconstitutional."

"They need to apply their minds carefully and cautiously. We are going to act in haste and repent at leisure if it is passed now," Kingston told 702. While B4SA accepts the need for universal healthcare, they believe it must be sustainably funded, provide high-quality healthcare, and be implemented properly after due process.

When asked why such an important Bill would be pushed through without due consideration, Kingston said it was being used to score political points. "It is a fundamental pillar of the election campaign, and they want to be able to demonstrate to the population that they are delivering the NHI," he explained.

Kingston also warned that if the Bill is pushed through in its current form, it will be tied up in the courts for decades. "If it goes forward as it is currently being proposed, then no doubt, not only ourselves but a number of other stakeholders from civil society and the private sector will engage with that process."

"There will be litigation, which serves nobody any useful purpose."

Litigation will cause further damage to the country's economy by increasing uncertainty and investor anxiety. "As a country, at our peril, will this Bill be rushed through. For something as important as this, we are running the risk that the uncertainty it creates will stop people investing in South Africa at a time when it is critical they do," Kingston said.

Comment

While we know the NHI Bill isn't what it should be if world trends are considered and funding it isn't budgeted for. Such nationalised health systems can work well in first world countries but has been proved to be already failing in many of them, including the UK. With our bankrupt 'government' what is the prognosis for a working NHI? When the current health fund's funds have been exhausted in the NHI, the 'government' budget won't have been increased to make up the shortfall.
Note the political point Kingston refers to.
The logical place to look would be our Fund, isn't it?

Synopsis

South African retirements under threat from shrinking JSE

Daily Investor
By Bianke Neethling
9 December 2023

The spate of delistings seen on the JSE over the past few years could pose a significant threat to South Africans' retirement funds. This is feedback from Sasfin Asset Consulting's head of advice, Johan Gouws.

Twenty years ago, there were over 470 listed companies on the JSE. Today, this number is around 287. Particularly in the past few years, the JSE has seen a spate of delistings, a trend projected to get worse.

In 2022, AmaranthCX rang the warning bells for a string of delistings from the JSE. The company said South Africa had 332 listed companies across the JSE and the three challenger stock exchanges at the beginning of 2022.

AmaranthCX director Paul Miller said, that during the first half of 2022, 18 companies were delisted from the JSE and other exchanges. Fourteen more companies are in the formal process of delisting or are subject to corporate action likely to result in their delisting. There are also 16 companies suspended from trading or which have not been able to publish their financial results.

AmaranthCX's research suggested that at least 32 companies, potentially far more, will delist from South African stock exchanges this year. This means there are fewer companies for asset managers to invest in on behalf of retirement funds and the members of those retirement funds, Gouws said.

"If you just look at the structure of a retirement fund, regulations require them to have a default 'life-stage strategy'." "Any member that is part of a fund that doesn't make a specific choice will invest it according to the strategy."

This strategy, he explained, states that the further you are away from retirement, the more risk you can take in your portfolio to get the best growth. "This means that Regulation 28 of the Pension Fund Act allows a retirement fund to invest up to 75% of the fund in growth assets like listed stocks locally or offshore.

Therefore, most retirement money in retirement funds is held as high equity multi-asset class funds. "And we can see that for these high growth portfolios where most of the investments of members are invested, around 40% to 45% of the whole is in South African listed shares."

"So that is why whatever happens to the JSE and the shrinking JSE, it really has quite a few implications for retirement funds and specifically the asset managers that are supposed to manage that." He said the shrinking JSE has led to concerns around bigger concentration risk because there are now fewer stocks available to invest in.

Fewer stocks mean asset managers, specifically larger asset managers, have to take larger positions in certain stocks. This also exposes retirement fund members and asset managers to liquidity risk.

For example, when an asset manager wants to sell out of a fund within a specific time, they may not be able to do so because there is not sufficient liquidity in the fund, and they will, therefore, have to sell at much lower prices than they would have.

Gouws specified that these risks are not reasons for panic. "But I do think we need to look at this and think about how we can manage the increasing potential risk of what I've just explained in terms of concentration risk and liquidity risk," he said.

In addition, he said there are measures to counter the shrinking JSE. For example, Regulation 28 now allows retirement funds to invest up to 45% offshore. "I'm not saying they must go to 45% because it brings with it also its own currency risk, but we're saying that about 30% to 35% is what a lot of the studies are showing is where the optimal point is."

Comment

A very real concern. With fewer investments possible, the concentration on the fewer left means disaster when they, possibly, fail. It also means exploring alternative investment opportunities, always with ROI in mind. Our Fund is restricted in offshore investments, of which we have more than we expect, but still less than the 15% the Fund is allowed. Offshore investments have their own challenges.
A very real challenge when you want sell is that there are no buyers.

Synopsis

GEPF 2023 ANNUAL REPORT: ISIBAYA (UNLISTED) INVESTMENTS

According to the 2023 AR GEPF a very interesting and welcome development is taking place.

It is reported that the board of the GEPF decided that a separate committee was necessary to ensure that the GEPF's unlisted portfolio, managed by the PIC, receives adequate oversight and monitoring time and resources. The Advisory Committee was, therefore, formed.

More particulars about this new committee appears in the annual report.

This development should be welcomed by all concerned. Proper oversight of the GEPF unlisted investments has become essential. For too long particulars about the unlisted investments were kept secret or questions when reporting to Standing Committees of Parliament were evaded or vaguely answered by both the GEPF and PIC. In some cases, information about serious matters like the theft of R150mn at Daybreak Farms (an Isibaya Investment) in 2021 were simply not reported to the parliamentary committee concerned.

The last time presumably full particulars about Isibaya Investments were reported to a parliamentary committee was on 18 October 2016. It then only took place because of severe pressure by Messrs Alf Lees and David Maynier of the DA. It is clearly remembered that Mr Maynier on that date expressed his doubt whether full particulars were revealed.

Since then, it was often vaguely reported that X% of the unlisted companies were "underperforming". This "underperformance" apparently now amounts to more than 40%. But still billions are poured into these investments.

Perhaps this new committee will see to it that an updated list containing ALL particulars be submitted to the relevant Standing Committee of Parliament.

Comment

It is doubtful that more detail of the unlisted investments will be made available. What isn't doubtful is the continued underperformance of these investments, and apparent lack of diligence in investing in such. Is this why pension increases aren't keeping up with inflation?

Synopsis

Suspended PIC exec's R4,5mn 'suspicious transactions'

Amabunghane
Tebogo Tshwane
December 2023

Confidential audit committee documents obtained by amaBhungane reveal that at least five whistleblower reports accusing Chief Operating Officer Vuyani Hako of nepotism and corruption were circulated before he was suspended in June 2022.

Forensic investigators appointed by the PIC have recommended reporting suspended Hako to the police. This comes after a lifestyle audit, triggered by a whistleblower report, uncovered "suspicious transactions", with transfers exceeding R4,5mn directed into Hako's home loan accounts.

Hako, who occupies the fourth most powerful position in the PIC, was placed under precautionary suspension in June 2022 after allegations of misconduct were made against him. He remains suspended 18 months later.

At the time of his suspension the PIC provided no detail about the nature of the allegations. Now, confidential board audit committee documents reveal that in response to the whistleblower reports, the PIC instituted various investigations, including a lifestyle audit by Fundudzi Forensic Services, which uncovered a series of "suspicious" payments and transfers into Hako's bond accounts, beginning the month after he was appointed COO in December 2020 and continuing until November 2021.

These payments, which according to investigators came from Hako and an in-law, went directly into Hako's bond accounts to settle loans for two of his properties in East London and Centurion. A report of the audit committee's in camera meeting states that, when investigators questioned him about these payments, Hako "failed" to explain the source of the funds.

As a result of these suspicious and unexplained transactions, Fundudzi recommended that the PIC lodge a criminal case against Hako. The audit committee resolved to recommend Fundudzi's forensic report and recommendations to the full Board.

Forensic evidence

A confidential report on the proceedings of a Board audit committee meeting in November 2022 sets out a summary of the forensic auditor's case against Hako. It states that in 2021 Hako paid off his home loans with Rand Merchant Bank for two properties bought in 2015 and 2018 using money he could not adequately account for.

Source of funds?

A separate document, flagged as a "Report of Tax Crime", was leaked to amaBhungane alongside internal PIC documents, speculating on the source of Hako's extra cash, alleging that "it is very likely that … all or some of the monies are traced from a company called Mazwe Financial Services".

Mazwe was the recipient of a R180mn payment in 2021, part of a controversial R294mn PIC loan that also triggered a forensic investigation, but that report purported to find no irregularities in the approval process.

Hako, who was acting CEO, signed the resolution to approve Mazwe's funding application, which had been struggling to gain momentum within the PIC since 2018.

Blowing the whistle

Hako, who was previously the executive head of properties, was appointed as the PIC's operations chief in November 2020. Documents show that after he was appointed as the COO, he remained the head of properties in an acting capacity.

When the Mpati Commission of Inquiry looking at allegations of impropriety in investment decisions at the PIC completed its work in 2019, one of its recommendations was that these two roles, with the addition of a chief risk officer, should be reinstated to strengthen governance in the organisation.

The Wedge

The allegations from whistleblowers kept piling up. One of the whistleblower reports was related to a project to refurbish the Wedge Shopping Centre in Morningside, that supposedly led to the GEPF incurring fruitless and wasteful expenditure.

The renovation of the shopping centre seemingly happened without the requisite approvals. Moreover, a whistleblower report claimed that Hako "told his team not to inform the GEPF about the matter. Staff were too scared to talk about the matter".

Isago

The other complaint was related to the PIC's contentious decision to buy a 60% stake in an empty piece of land located on the N12 highway between Klerksdorp and Stilfontein (known as the Isago@N12 transaction) for an inflated price of R510mn. In its 2020/2021 annual report, the PIC's client, the GEPF, said it had valued the land at just R178mn.

The deal was finalised in 2018 during Hako's time as the head of properties. The audit committee report recorded that a whistleblower report had included allegations that "Hako had struck a deal to pay a bribe of R100mn to a specific military Colonel".

The audit committee resolved to appoint a forensic firm to look into the allegations regarding both the renovations at The Wedge and the Isago transactions, according to the documents.

Suspension

The documents reveal that as early as February 2022, the audit committee had asked the CEO of the PIC, Abel Sithole, to remove Hako as the head of properties, pending investigations into the allegations made against him.

Sithole's response seems to have been discussed in May, and the report of the audit committee chairperson states that the "CEO noted the suggestion from the Committee and stated that Mr Vuyani Hako will continue acting as Executive Head: Properties as the person he was considering to act [in that capacity] was also subject to an investigation."

Unimpressed with Sithole's response, the committee requested that the matter be discussed with the board. A few days later, Hako was suspended.

Comment

Interesting how long the investigation is taking – 18 months suspension on full pay must run into millions already.
Interesting how soon after being appointed COO the whistleblowing started.
Interesting the long time it took for the CEO to act from the time he was informed, about four months.
Interesting how it seems the Mpati Commission's recommendations aren't being implemented, despite the PIC saying they have.
Interesting…

Synopsis

Eskom must tell South Africa the truth

Daily Investor
Bianke Neethling
16 December 2023

Despite significant efforts at Eskom to resolve the country's electricity crisis, South Africa still faces regular power cuts. It raises the question of why the utility has not resolved the problem. This is the view of the University of Johannesburg's Dr Oscar van Heerden, who told Newzroom Afrika that there seems to be no apparent reason why South Africa is still experiencing load-shedding.

"We're just getting so many different answers from different people," he said. Van Heerden said the Electricity Minister took the correct approach when he was elected by visiting individual power plants, identifying the problem, correcting it, and moving on.

"And in that incremental way, you are dealing with maintenance, you are dealing with systems issues, and so forth," he explained. In addition, in the past year, the country has brought the Kusile Power Station's on stream, there have been repairs at Koeberg's reactor one and returned to the gird, and power stations that were previously mothballed have been brought back to the grid.

The country also spends billions on diesel to power Eskom's open-cycle gas turbines to keep up with electricity demand. "And yet the load shedding continues – it is just baffling," said Van Heerden.

One of the major problems is that Eskom cannot be placed under the correct political leadership, as the utility falls under three ministries – Energy, Electricity, and Public Enterprises. "As we speak, there are still tensions between the three ministers as to who is in control, who is in charge of the utility," he said.

"That needs to be resolved, so when they say that administrators are the problem and there's no onus on them to also say we need to also get our house in order, I think something is amiss."

He said when looking at the energy availability factor [EAF] – the electricity available to be put into the grid – compared to demand, there have been times when the EAF is more than demand, yet the country still has load-shedding.

Comment

We know all this. It seems part of loadshedding might be because of political infighting?

Synopsis

Unlocking South Africa's potential: The case for privatisation

Privatisation will attract investment and grow the economy

BizNews
By Mpiyakhe Dhlamini
19th December 2023

South Africa is facing a general collapse of state capacity. From SOE such as Transnet failing to meet their obligations to operate the ports and South Africa's rail network, and Eskom failing to provide electricity, to municipalities failing to maintain roads and provide water and sanitation, it is clear that the public sector has failed in economically sensitive areas. To fix these problems we need to bring in the private sector.

Bringing in the private sector, if it is done correctly, would have many benefits. It would allow greater competition, thus providing an incentive to improve, instead of what we have currently with the failure of companies like Eskom and Transnet bringing the entire economy to a standstill.

Apart from competition, bringing in the private sector would also bring in non-government sources of investment into infrastructure like roads, rail, energy, and ports. South Africa's fiscal situation has deteriorated to an extreme level. Revenues can only improve meaningfully if the economy grows meaningfully, but that cannot happen while critical network industries like transport and energy as well as municipal infrastructure are all collapsing.

That means to the extent that the problem can be solved by investment, the government cannot provide this investment without reducing spending on things like health, education, and grants. Everyone knows this is not politically feasible for the government, so the investment has to come from the private sector. To attract private capital the owners of the capital need a way to deal with the risk, so they need to have greater control.

If the government wants private investment in Eskom's power stations, for example, or in building new power stations, the private investors should be able to run the power station without interference and they should be able to set the price at which they sell their electricity into the grid. Government regulation should be minimal and only focused on safety and protecting the environment – not achieving socio-economic objectives.

Bringing in the private sector would also bring greater efficiency. Private parties have to make a profit. They cannot rely on gaining political control over taxes to make up for bad management at a company. If a private company fails to consistently make a profit, it cannot rely on bailouts from the National Treasury so it would eventually die.

When it comes to SOE like Transnet and Eskom, the government should simply privatise assets – making sure, of course, not to sell the assets from one SOE to one group of private investors, to avoid replicating the current monopolies.

South Africa's state-owned giants can be privatised in various ways. One potentially attractive way would be to simply give shares in the company to employees of that company.

Of course, the employees are unlikely to have the money to capitalise the company if it requires more capital, so they would most likely need to sell their shares. This would run the risk of the shares ending up with one group. So the best way to privatise, in my opinion, is to auction off the assets belonging to each SOE separately.

In the case of Eskom, Eskom would continue running the transmission grid but the power stations would be sold off individually. The part of the distribution grid owned by Eskom would also be auctioned off piece by piece based on locales that make sense. Government would need to make sure that not only are separate companies bidding for these assets, but these parties don't have significant overlaps in ownership.

The same goes for Transnet.

The rail network can be sold off, and the ports too. The current idea to bring in private operators without changing ownership of these assets does not provide enough assurances to the private investor for the risk they would be taking. When it comes to the rail network, it can be sold off in sections that make economic sense, for example the Joburg-Durban line can be sold as one thing.

When it comes to sea ports, it would depend on what makes sense. Can the government sell off docking berths and continue owning the port or do they need to sell the whole thing? In each case the option that makes the most economic sense must be chosen.

When it comes to local infrastructure, municipalities have to consider privatisation too. To the extent that they are unable to maintain their water and electricity infrastructure (much of the distribution grid is owned by municipalities) then they have to sell it to the private sector. The private sector would need to find a way to monetise municipal roads, for example, whether tolls or some other means make sense for each situation.

When it comes to privatising municipal infrastructure, the principle is that any tax revenue generated from economic activity on infrastructure formerly owned by a municipality should go to that municipality. This revenue dimension is the main reason why municipalities might be reluctant to privatise. Going forward we need to find a more permanent answer to the question of municipal revenue. Perhaps it makes more sense when revenue is split between national, provincial, and local governments for local governments to get a greater share.

After all, things like public schools and hospitals can potentially be run at the local level, so why should we pay a provincial and national bureaucracy for those things? What value do they add? In fact, this is true for most things except the military, border control, and foreign affairs.

Privatisation is an idea whose time has come.

Argentina's new president, Javier Millei, has made similar expense of the economy, makes no sense. South Africans need to provide an answer for proposals in his country.

Maintaining government monopolies when the government is failing to provide the services, at the more than 40% of able-bodied adults who are unable to find jobs and that answer will need to include the economic growth that privatisation would enable.

Comment

You can't fix problems with the same thinking that caused them. The 'government's' seeming fixation on controlling absolutely everything, possibly as part of the last step of the democratic revolution as reported previously, won't solve our economic and financial woes, as that's what seems to have caused them.
Summarily privatising also isn't the answer, although the long term supply of utilities by private suppliers have been successful all over the world. State supply of utilities worked well in SA up to 1994…

Synopsis

Analysis: Who is behind the Tongaat Hulett [THL] bid battle?

Amabhungane
By Sam Sole
13 December 2023

- The Vision and RGS consortiums are battling it out to buy the bank debt that would give them control over Tongaat Hulett. Both have a somewhat controversial pedigree.
- Other sugar industry heavyweights have weighed in following a damning judgment which found that the Business Rescue Practitioners had illegally withheld statutory payments worth nearly R2bn.

Things have been sour for sugar giant THL since 2019, when a new management team uncovered accounting failures and alleged fraud that led to a R12bn reversal in the company's valuation. The criminal trial of key former directors is yet to get properly underway.

What has emerged and is of particular concern is the opaque nature of the various deals between management, the lender banks, state funders such as the IDC and the PIC, as well as, latterly, the business rescue practitioners (BRP).

The failed Rudland gambit

I started with the attempt in early 2022 by THL management to hand control of the company to the controversial Rudland family of Zimbabwe. Following the collapse of the Rudland deal, THL was placed in voluntary business rescue while the BRP sought a buyer who could inject enough cash to keep the banks, still owed about R7bn, at bay.

Preferred Bidder

In July the BRP announced the preferred bidder: Kagera Sugar, a little-known Tanzanian producer, which had submitted a R3,56bn bid. There followed furious lobbying and media campaign by two other bidders.

One was the Zimbabwean Sovereign Wealth fund. The fund had attempted to bid for Tongaat's Zimbabwe assets, but was rebuffed by the BRP, who did not want to break up the company, whose Botswana, Mozambique and Zimbabwe sugar operations are not financially distressed.

Indeed, part of the parent company's woes stem from its inability to access profits from Zimbabwe because of the country's exchange control restrictions.

Blurry Vision

The other party, aggrieved by the selection of Kagera, was the Vision consortium (previously Terris), a rival bidder characterised by various somewhat opaque offshore constituents.

Vision's front man in South Africa is IT mogul Robert Gumede, represented via Guma Agri and Food Security Ltd (Mauritius). Alongside Guma in the consortium is Amre Youness's Terris AgriPro, also registered in Mauritius, which is owned by the Terris Fund SPC registered in the Bahamas.

The technical partner in the consortium, Pakistan's Almoiz Industries, was slammed by a Pakistan Sugar Inquiry Commission report in May 2020, which accused the company of cheating both farmers and the tax authorities.

Undisclosed Zimbabwean interests are represented by Mauritian company Remoggo PCC, described as an investment holding firm with a portfolio of investments in Zimbabwe and the region. Rutenhuro Moyo is the Managing Partner at Remoggo and has served on the board of THL's Zimbabwe subsidiary Hippo Valley Estates since 1 August 2020.

Kagera blocked

Following the nod for Kagera, the Vision group wrote to the BRP objecting to the decision and also to the IDC, which it accused of favouring Kagera. The IDC was persuaded to conduct an internal inquiry, which led to a senior executive resigning, allegedly for approving a funding commitment for Kagera without the necessary authority.

By October, Kagera appeared to be struggling to raise finance and a new name appeared: the Mozambican family owned RGS Group, which reportedly submitted a R6bn bid, almost double that of the preferred buyer.

That left the process somewhat in limbo, until a *City Press* article on 5 November trumpeted, "*Robert Gumede's consortium takes control of Tongaat Hulett".*

The story suggested that Vision had outsmarted everyone by doing a deal directly with the lender group of banks by buying THL's debt (at a discount) to assume a controlling position as the largest creditor. This would effectively block everyone else because Vision/Terris would have the majority vote at the creditors meeting to approve the business rescue plan.

It seemed the deal was sewn up.

Not so fast

However, to clinch the deal Vision had to come up with the money.

To understand that we need to take a step back and examine how the South African sugar industry is regulated.

SASA and the Sugar Industry Agreement

Sugar production is important to the South African economy. Evidence before court was that the industry generates in excess of R18bn annually and creates between 65 000 and 85 000 direct jobs, along with 350 000 indirect jobs. As Judge Vahed noted, sugar is particularly significant for the rural areas where cane is grown and local economies are boosted by the proximity of sugar mills and the infrastructural support they bring.

Because sustaining the sugar industry is a matter of national importance, the South

African Sugar Association (SASA) has statutory recognition and powers.

Sugar is globally oversupplied and South Africa is vulnerable to dumping by international producers. To counter this threat the government imposes anti-dumping duties on imported sugar.

In addition, the Sugar Industry Agreement creates a revenue-sharing regime through which local sugar production is regulated.

The overproducer

THL is an overproducer against its regulated quota and must pay into the general fund for redistribution to other growers, millers and refiners. The internal transfers that are managed by SASA can be large.

Around the time it was placed in business rescue, THL received an assessment of levies from SASA for more than R400mn. It did not pay.

Following the institution of business rescue, the BRP took the view that they were entitled in law to suspend these payments, and so the bill owed by THL has now grown to almost R2bn.

These debts have a knock-on effect in the industry. In court papers another large producer, Illovo Sugar, said that THL's non-payment had, as of 31 March 2023, caused Illovo to suffer a loss of R153mn.

Litigation

The industry was so concerned about THL's non-payment that in June 2023 another big player, RCL Foods, lodged an urgent interdict to stop the BRP from convening a meeting of creditors to consider the rescue plan that was then on the table, because it did not make provision for the outstanding levies to be recovered.

That interdict was withdrawn only because the BRP postponed the creditors meeting, promising to pursue a high court ruling on whether the business rescue provisions of the Companies Act allowed them to suspend payments and treat SASA as just another unsecured creditor which might get paid a few cents to the rand when the business was finally sold or liquidated.

That issue ended up before Judge Vahed. On 29 November, by agreement with the parties, he handed down a one line ruling dismissing the BRP case with costs and giving notice that the full judgment would be handed down on Monday 4 December 2023.

The urgency to obtain clarity on whether THL was entitled to withhold those levies was based on a deadline set by the creditors for the business rescue plans to be published by 29 November, in order to ensure that a vote on these plans could be held by Friday 8 December.

The ruling should have given the BRP pause, despite the absence of a full judgment. Potentially it instantly punched an extra R2bn hole in THL's balance sheet and called into question the business rescue process.

Instead, the practitioners published the Vision plan and the RGS plan, in which they maintained that the court was wrong to dismiss their application and that they intended to appeal.

A damning judgment

When the full judgment was published on 4 December it eviscerated the BRP case.

It found THL obligations to SASA were statutory (derived from law) not contractual, and therefore could not be suspended by business rescue. "To put it bluntly: if a company cannot comply with its statutory obligations, then it cannot be rescued and must seek liquidation."

Judge Vahed found that, given that payments had been suspended in breach of the legal obligations, SASA must receive preference in the business rescue.

Given this ruling, RCL Foods and SASA launched urgent applications to stop the creditors' planned Friday 8 December vote on the Vision or RGS business plans. At an urgent hearing in front of Judge Vahed, counsel for the BRP agreed the vote would have to be postponed, but only until Thursday 14 December, because the IDC, which was funding the business rescue, was going to shut off the taps.

The interdict will now be argued on Wednesday 13 December and Vahed will have to give a snap judgment on whether the vote can go ahead the next day.

Questions for the BRP

The Mozambican bidder, RGS, has delivered an extraordinary series of allegations, in effect accusing the BRP's of manipulating the rescue process. But RGS is not the only critical voice.

In its urgent interdict to stop the vote, RCL Foods was scathing about the BRP decision to publish the two rescue plans despite Vahed's judgment.

In their provisional answer (both sides will file more complete papers on 13 December) BRP representative Gerhard Albertyn said they still believed the proposed rescue plans were lawful and viable.

Rather liquidate?

However, in an affidavit in support of RCL Foods, Illovo Sugar took aim at the business rescue outcomes, pointing out that THL's liabilities have increased by over R3bn in 6 months. "THL's state of insolvency is rapidly increasing," Illovo alleged.

It noted that according to the first business rescue plan published by the BRP on 31 May 2023, THL had assets to the value of R5,9bn and liabilities in the amount of R9,9bn as of 30 April 2023.

Now, according to the RGS and Vision plans published at the end of November, liabilities as of 31 October 2023 have increased to R13bn, while there has been no increase in the value of the assets. Notably, this deterioration flowed from THL's debt to the IDC for loans made since the start of the business rescue. This had increased from R613mn to R2,1bn.

The other major liability was indebtedness to SASA, which had grown to R1,6bn according to figures contained in the rescue plans.

Illovo said there were still many regulatory, procedural and financing hurdles: "The business rescue proceedings therefore may continue for many months, or even years."

In its replying affidavit the Sugar Association was unequivocal: the BRP decision to suspend payments to SASA was ruled unlawful by Judge Vahed, which in turn rendered the business plans unlawful. SASA must be paid, *finished and klaar*.

Tongaat Hulett bidder in scathing attack on business rescue process

Amabhungane
By Same Sole
13 December 2023

Leaked letters have blown the lid off backroom battles that THL rescue bidder RGS alleges show that the BRP have attempted to sideline them in favour of a rival bid led by IT mogul Robert Gumede.

The allegations amount to claims that the BRP's acted contrary to the best interests of THL Limited (THL) and its creditors by frustrating efforts by Mozambique based RGS to make an offer that appears better for all concerned than others the BRP have been pursuing.

And, in the latest drama surrounding the business rescue process, RGS has launched an urgent application to force the BRP to table their bid for a vote by creditors, arguing that Gumede's consortium has failed to raise the necessary cash.

In their court papers RGS also take aim at the Lender Group of banks which holds some R7,7bn of THL debt and was poised to do a deal to sell their claims to Gumede's Vision consortium, allowing him to take control of the business rescue vote by taking their place as the dominant creditor.

They also noted, "We do not have a deal with the PIC, nor have we been promised therefore our plan is not depended on the PIC. We can confirm that Vision has an agreement with the Lender Group that is conditional on Vision's plan being adopted by creditors.

The PIC did not answer questions about its decision, merely saying, "The PIC is not collaborating with any party in this regard. Any interpretation of the PIC's position as a shareholder of THL outside of the business rescue process would be speculative until a business rescue plan is presented and approved by the required majority of creditors, both in number and in value, at a duly constituted creditors meeting.

Comment

Companies registered in Mauritius and the Bahamas immediately make me suspicious, because of previous suspicious PIC/GEPF dealings with SPV registered in Mauritius.

It seems the THL business rescue isn't going to be resolved soon. Whatever the outcome, our investment in THL isn't anymore. We are only going to get some cents on the Rand, whenever the business rescue is finalised, the GEPF AR 2022/3 shows it has already discounted the loss.

This is just one of those investment failures that can't be foreseen.

THE GEPF WATCHDOG / WAGHOND FACEBOOK PAGE

Welcome to our page!!

The GEPF Watchdog/Waghond Facebook page is the social media platform of the non-profit organisation "The Association for the Monitoring and Advocacy of Government Pensions" (AMAGP). The AMAGP has only one agenda point – safeguarding the GEPF against looting and mismanagement.

We are the owners of the GEPF, and we have the right to expect the GEPF Board of Trustees, and the PIC, to manage and invest OUR money in a responsible and profitable way. To the advantages of members and pensioners!

Most of our GEPF members are content with the fact that pensioners still get their monthly pension and perhaps a non-inflation related increase sometimes. They are convinced by GEPF newsletters and ambitious GEPF Annual Reports that our Pension Fund is in a superb condition. The AMAGP newsletters, annua reports and press releases tell a different story.

Our Facebook and AMAGP are together more than 59 000 members and continually growing, but this isn't enough. The continued growth confirms the ever increasing concern pension fund members and pensioners have about the future of their pensions.

As a member of the GEPF (working or retired), this Facebook page will keep you updated about any developments affecting the health of YOUR Pension Fund. It also provides you with the opportunity to participate in the debate and raise issues of concern.

Please read the articles that are posted on the wall, BUT also under "files and FEATURED". You can get further information on our website – there is no reason to be in the dark regarding our/your Pension Fund, and what you must do as a member.

This page will only have any value for you if you join the AMAGP. Note there are no membership fees, but we urgently need your financial support for legal actions and other projects. You don't have to do any work for the AMAGP if you do not wish to do so – BUT your membership will add one more voice to AMAGP convince the government our pensions remain ours, not theirs to misuse.

VRYWARING

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My Veilige Pensioen: Opvolg Verslag: Desember 2023

Meervoudige AMAGP verslae oor projek 'My Veilige Pensioen' vanaf Mei 2023 verwys
My Veilige Pensioen se doelwit is om die volhoubaarheid van die Staatsdienspensioenfonds te verseker deur die politieke beheer waaraan die Fonds onderwerp is, ter syde te stel – indien nodig deur litigasie. Die bedreiging vir ons fonds is reeds in die 18e eeu deur die Franse ekonoom Frederick Bastiat (1801-1850) soos volg saamgevat: '*When plunder becomes a way of life for a group of men in society, over a period of time they create for themselves a legal system that authorises it and a moral code that justifies it'*

Met die volhoubaarheid van die fonds voor oë het ons AMAGP lede genader vir 'n finansiële bydrae om die komende litigasie-kostes te help befonds.

Hiermee 'n vorderingsverslag aan lede oor hoe die projek vorder sowel as die bestuur van die bydraes ontvang.

Projek vordering: Die projek word in noue koördinasie met die vakbond Solidariteit bedryf. Promotion of Access to Information Act (PAIA) aansoeke is deur beide Solidariteit en AMAGP gerig aan die Tesourie, die Public Investment Corporation (PIC) en die Government Employees Pension Fund (GEPF). Geeneen van die instansies het binne die statutêre tydlyne die inligting/dokumentasie soos versoek blootgelê nie. Ons volgende stap is om nou die howe te nader ten einde blootlegging af te dwing. Eers na die uiteindelike ontvangs van die inligting, kan ons begin litigeer oor die geldigheid van bepaalde wetgewing. Dit is 'n 4 na 6 jaar projek

Samewerking: Ons huidige samewerkings met Solidariteit is op 'n vertrouensbasis. Dit is nodig dat ons die basis sal formaliseer deur 'n vaste ooreenkoms wat onder andere die finansiële verpligtinge van die partye sal uitspel. Ons het in beginsel ooreengekom vir 'n vergadering hieroor en sal 'n datum vir die gesprek finaliseer.

AMAGP het geen vasgestelde lede bedrae nie en alle bydraes is op donasie basis. Ons aksies word gedryf deur vrywilligers. Voor die aanvang van 'My Veilige Pensioen' was daar maar ongeveer 50 lede wat bydraers was. Met 'My Veilige Pensioen' het die getal bydraers gestyg na ongeveer 180 wie se bydraes wissel vanaf R50 to R100 per persoon per maand. Dit lewer 'n konstante stroom van inkomste vir die projek en daar is nou reeds R240 000 in 'n beleggingsfonds gereserveer vir die projek.

Ons is dankbaar vir elke donasie maar die belegging sal beduidend moet groei om voorsiene litigasie kostes te kan dra. Elke lid word dus versoek om hierdie projek aan mede-pensioenarisse bekend te stel. AMAGP ontwikkel ook nou 'n bewuste werwingsprojek wat ons geografies gaan uitrol. Die beskeie bydraes van groot getalle pensioenarisse gaan deurslaggewend wees vir die sukses van hierdie projek.

Groete
Zirk Gous
Namens AMAGP 7 Des 2023

My Secure Pension: Progress Report December 2023

Various AMAGP reports regarding project 'My Secure Pension' as from May 2023 refers.
The purpose of 'My Secure Pension' is to enhance the sustainability of the Government Employees Pension Fund (GEPF) by challenging the political control to which the Fund is subjected to – if need by via litigation. The threat to the fund is neatly summarised by the words of the French economist Frederick Bastiat (1801-1850): *'When plunder becomes a way of life for a group of men in society, over a period of time they create for themselves a legal system that authorises it and a moral code that justifies it'.*

In pursuit of the sustainability of the fund, AMAGP approached our members for financial support to carry the cost of future litigation.

This is a progress support to members on the status and management of the project including the management of donations already received from members.

Project progress: This project is developed in coordination with the trade union Solidarity. Applications in terms of the Promotion of Access to Information Act (PAIA) were directed by AMAGP and Solidarity towards the Treasury, the GEPF and the Public Investment Corporation. None of these institutions disclosed the information/documentation as requested within the statutory stipulated timelines. Our next step now will be to approach the courts to enforce disclosure. Only after said disclosure, can we start litigating about the validity of the applicable acts of parliament. This is a 4-to-6-year project.

Co-operation: Our present co-operation with Solidarity is on a goodwill principle. It is necessary to formalise this into a written agreement detailing inter alia the financial responsibilities of the two parties. We have agreed to a formal meeting on this and will agree on a date.

AMAGP has no membership fee for members and members, prior to 'My Secure Pension', contributed if they so wish for our expenses. With 'My Secure Pension' we specifically noted the cost implications of litigation and requested members for voluntary donations to cover said. This was met with a positive response and presently about 180 members make donations of between R50 and R100 per month. This provides for a steady stream of income – to such an extent that an amount of R240 000 has been deposited into a 'call-account' reserved for the project.

We are grateful for members' contributions but litigation in the high court will necessitate more. Each member is requested to introduce this project to friends and other state pensioners. AMAGP is at present developing a recruitment drive which will be rolled out geographically. This will be a project where the small contributions of many state pensioners will contribute to successfully sustaining our valued pension fund for many years to come.

Regards
Zirk Gous
For AMAGP 7 December 2023