

Malus and Clawback Policy

Type of Policy:	Group (South Africa)
Scope of Policy:	Group (South Africa)
Governance Area Addressed:	People Management
Approving Authority:	The Board of Sanlam Limited
Group Exco Sponsor:	Chief Executive
Responsible Person:	Executive Head: Group HR
Frequency of review or update:	Annual
Related Policy	Group Remuneration Policy
Date of next review	December 2019
Version number:	01/2018

1. Introduction

The Sanlam Group Remuneration Policy has “Malus and Clawback” as core remuneration principles.

This Malus and Clawback Policy (“the Policy”) clearly defines these concepts and their application.

The Policy is based on best practice corporate governance principles. Within South Africa there is the further need to ensure compliance with the Insurance Act 18 of 2018. The Act has introduced prudential standards, which include the requirement that provision is made for risk alignment of remuneration for Key Persons and persons who may have a material impact on the risk exposure of Sanlam.

2. Purpose

The overarching intent of this Policy is to align shareholder interests and remuneration outcomes and in particular to ensure that excessive risk taking is not rewarded.

The Policy provides a transparent mechanism for forfeiture or clawback in the event of a ‘trigger event’ as defined in this Policy.

3. Malus and Clawback: definitions and application

Pre-vesting forfeiture of remuneration and repayment of vested remuneration is termed locally and internationally as Malus and Clawback provisions. These terms are defined below:

3.1 “Malus” - the ability of the employer to reduce **partly or wholly** an amount of remuneration which has been granted to the employee, or may be granted in future, but which has not legally vested and is still subject to a vesting condition. Such vesting condition may be a performance condition (financial, strategic and / or individual) and / or a continued employment condition which needs to be met before legal vesting takes place. Whether remuneration is reduced partly or wholly will be determined based on the value of the undue benefit derived by the employee as a result of a defined trigger event taking place.

Examples of remuneration which can be reduced partly or wholly due to Malus provisions include, but are not limited to:

- deferred bonuses (either deferred in cash or in restricted Sanlam shares / investment units / own funds / units in funds under management);
- unvested long term incentives (“LTIs”), which includes all the LTI instruments operated in the Sanlam Group; and
- unvested Outperformance Plan (“OPP”) value (either in equity or cash).

3.2 “Clawback” - the ability of the employer to recover the value of payments (as on payment date) or the value of vested shares (as on vesting date or the reigning market value) after payment has taken place or the shares have legally vested. The recovery of value in terms of Clawback can be **partially or wholly**. Whether remuneration is clawed back partly or wholly will be determined

based on the value of the undue benefit derived by the employee as a result of a defined trigger event taking place.

Examples of remuneration which can be recovered partly or wholly due to Clawback provisions include but are not limited to:

- cash bonuses paid under short term incentive arrangements or any other special circumstances;
- retention payments paid;
- vested LTIs (which includes all the LTI instruments operated in the Sanlam Group), this would include any shares pledged to the Minimum Shareholding Requirements (“MSR”) arrangement;
- Dividends or any other monetary benefits derived from LTI or other any other remuneration arrangement; and
- OPP value which has legally vested (either in equity or in cash).

These examples of remuneration types subject to Malus and Clawback provisions do not constitute all-inclusive lists and the GHRRC has the discretion to extend this Policy to include other types of remuneration.

4. Responsibility

The GHRRC will make recommendations to the Board in relation to the operation of this Policy and the Board will apply this Policy and exercise its due discretion in circumstances covered by this Policy.

The Group CEO or Company Secretary are required to notify the Chairman of the GHRRC and the Chairman of the Board respectively of any circumstances that could constitute a ‘trigger event’ in terms of this Policy as soon as practical.

5. Application of the Policy

This Policy applies to all current and future employees. The Policy may also apply to ex-employees where defined ‘trigger events’ occurred during time of employment. The term employee is used in this Policy in this context.

Key Persons (see Annexure A), Group Exco members and Business cluster Exco members (irrespective of whether or not they are defined as Key Persons) and persons whom the GHRRC of Sanlam Life Limited or Sanlam Limited may determine from time to time to have “a material impact on the risk exposure of the insurer” are particularly included due to their line of sight and influence.

6. Determination of value of undue benefit

A determination will be made of the value of the undue benefit derived by the employee as a result of a trigger event attributable to their conduct / omission. Based on the value of the undue benefit either Malus and / or Clawback will be applied to remuneration awarded after the effective date of this Policy. Where remuneration was awarded prior to the effective date of this Policy and it was explicitly agreed that such remuneration is subject to Malus and Clawback provisions, the terms of that agreement will remain in place. Also refer to “10. Process: responsibility for a ‘trigger event’ and application of Malus and/or Clawback” of this Policy for due process.

6.1 Malus

Malus provisions will be applied to unvested remuneration as defined in this Policy and based on the terms relating to process as described in this Policy.

6.2 Clawback

Clawback provisions will be applied to the employee's pre-tax Rand value on payment date of payments made in relation to bonuses, retention payments, OPP, cash settled LTIs, etc.

Where remuneration vested in equity or Sanlam shares Clawback provisions can be applied as follows:

- 1) To the current market value (pre-tax) of vested LTI instruments awarded after the effective date. This current market value will take into account share price growth / decline and it is the reigning market value (pre-tax) per share at the date of application of the Clawback multiplied by the number of vested LTI instruments which will form the basis of value for the Clawback;
OR
- 2) To the employee's pre-tax value of the LTI as on the vesting date (vesting date is determined in terms of the LTI plan rules and LTI award letters). For avoidance of doubt, it is the employee's pre-tax value of vested LTI on vesting date which is clawed back. On this basis Clawback is not applied to the increased (share price growth) or decreased (share price decline) Rand value of equity / Sanlam shares.

The GHRRC will recommend to the Board, for approval, whether 1) or 2) above should be the basis for Clawback.

7. **Clawback period**

There is no definite period during which Clawback will apply and Clawback provisions may be enforced at any time after payment date or vesting date.

8. **Trigger events for Malus**

Trigger events for Malus, including acts or omissions, include but are not limited to:

- Reasonable evidence of actions or conduct (acts or omissions) which amount to employee dishonesty, fraud, serious misrepresentation and / or gross misconduct.
- Directing an employee, contractor, third party and / or advisor to act fraudulently, dishonestly or to undertake other misconduct.
- Deliberately misleading the Group / relevant business unit / cluster the market and / or shareholders in relation to the financial performance of the Group and / or relevant business unit / cluster and which can be attributed to the employee. This may include misstated financial results of the Group and / or relevant business unit / cluster.
- Reasonable evidence of material error or culpability for a breach of Group policy by the employee or employees acting under the direction / instruction of the relevant employee.

- Breaching their material obligations to the Group, business unit and / or cluster through misconduct (error, omission or negligence).
- Instances where the Group and / or relevant business unit/cluster suffers a material downturn in its financial performance for which the employee is determined by the relevant company process to have some responsibility.
- Instances where the Group and / or relevant business unit / cluster suffers a material failure of risk management, for which the employee is determined by the relevant company process to have some responsibility.
- Events or behaviour of an employee or the existence of events attributable to an employee that have led to censure of the Group and/or a business unit / cluster, by a regulatory authority. This includes events or behaviour that may have had a significant detrimental impact on the reputation of the Group and / or a business unit / cluster, provided that the Board is satisfied that the relevant employee was responsible in full or to some degree for the censure or reputational damage.
- In the Board's discretion, any other circumstances that falls within the scope, intention and / or ethos of this Policy, and that causes some form of damage that is attributable and / or linked to the misconduct (act or omission) of the relevant employee.

9. Trigger events for Clawback

The trigger event for Clawback, including acts or omissions, includes but is not limited to:

- Bona fide or male fide misrepresentation attributable to an employee in instances where for remuneration or incentives, subject to the achievement of performance conditions, the achievement outcome was based on incorrect, misleading or fraudulent representation of information. Had this bona fide or male fide misrepresentation not been present the remuneration or incentives would not have been paid or would not have vested.

In assessing attribution of the bona fide or male fide misrepresentation to the employee due process will be followed.

10. Process: responsibility for a 'trigger event' and application of Malus and/or Clawback

In order to ensure that due process is followed, and to establish whether an employee should be held responsible, fully or partially, for the trigger events and resultant Malus and / or Clawback provisions, the procedural steps set out below may be followed by the appropriate persons / department at Group, business unit or cluster level. The procedural steps serve as a guideline and may be departed from or varied. Should a business unit / cluster / department have their own procedure in place, then this procedure will take precedence.

- 10.1 There will be a review of the situation to understand the impact of the conduct / omission;
- 10.2 There will be an assessment of the proximity of the relevant employee and their level of responsibility regarding the trigger event;
- 10.3 The relevant employee will be provided with written notice of the intended actions and the right to respond in writing within 14 days to raise salient matters;
- 10.4 Upon receipt of such submission from the employee the appropriate persons / department at Group, business unit or cluster level will apply their minds to the submission and take this into account prior to making a finding; and

10.5 Once a finding is made, it will be submitted to the GHRRC and the GHRRC will make a recommendation to the Board for consideration and a final determination, which will be duly conveyed to the relevant employee and then implemented.

11 Effective date and review

This Policy is effective from **1 January 2019** and applicable to all remuneration awarded after this effective date. For remuneration (awarded before 1 January 2019) which has been explicitly agreed with employees as being subject to Malus and Clawback such agreement will remain in place.

The Policy is subject to annual review by the GHRRC and is subject to changes to the relevant legislative framework.

This Policy will not preclude any claim which an employer company in the Group has against an employee in terms of common law.

12 Related policies

- The Sanlam Group Remuneration Policy
- Business and cluster Remuneration Policies (which include all referenced bonus and long term incentive policies as updated from time to time).
- Shareholder approved long term incentive plans

Annexure A

“Key persons” as defined for purposes of the prudential standards, issued in terms of the Insurance Act (and pertaining to remuneration governance), are listed below. This list is subject to any legislative changes, and if certain positions do not appear on the list but are in fact Key Persons in terms of the legislation then they will be included as Key Persons and they will be subject to this Policy.

SANLAM LIFE INSURANCE LIMITED	SANLAM LIMITED
Group: Chief Executive Officer	Group: Chief Executive Officer
Financial Director	Financial Director
Chief Executive: SPF	Chief Executive: SPF
Chief Executive: SEM	Chief Executive: SEM
Chief Executive: Corporate	Chief Executive: Corporate
Chief Executive: SIG	Chief Executive: SIG
Chief Actuary	Chief Executive: Santam
Chief Executive: Market Development	Chief Actuary & Group Risk Officer
Chief Executive: Sanlam Employee Benefits (SEB)	Chief Executive: Market Development
Head of Finance and Operations: Corporate	Executive Head: Group Finance
Chief Executive: Asset Management	Chief Information Officer: GTI
Deputy Chief Executive: SPF	Head of Actuarial Control
Chief Executive: SPF Actuarial	Chief Internal Audit Executive
Chief Executive: SPF Distribution	Head: Group Actuarial and Risk
Chief Executive: SPF Finance	Head: Group Compliance
CEO: Sanfin	Executive Head: Group HR
CFO: Sanfin	Group Company Secretary
CEO: Sanlam Properties	
CEO: Sanlam Private Equity	
Head of Control Function: Finance	
Head of Control Function: IT	
Head of Control Function: Actuarial Control	
Head of Control Function: Internal Audit	
Head of Control Function: Risk Management	
Head of Control Function: Compliance	
Head of Control Function: HR	
Group Company Secretary	

For the sake of completeness, any person falling within the definition of Key Person in terms of the Insurance Act, as set out below is subject to this Policy:

“key person” means—

- (a) *a director;*
- (b) *a senior manager;*
- (c) *a head of a control function;*
- (d) *an auditor referred to in section 32;*
- (e) *a trustee of a trust referred to in section 41; and*
- (f) *a representative and a deputy representative of Lloyd’s or a branch of a foreign reinsurer referred to in section 34.*

“senior manager” means—

- (a) *the chief executive officer or the person who is in charge of an insurer or a controlling company; or*
- (b) *a person, other than a director or a head of a control function—*
 - (i) *who makes or participates in making decisions that—*
 - (aa) *affect the whole or a substantial part of the business of an insurer or a controlling company; or*
 - (bb) *have the capacity to significantly affect the financial standing of an insurer or a controlling company; or*
 - (ii) *who oversees the enforcement of policies and the implementation of strategies approved, or adopted, by the board of directors, and “senior management” has a corresponding meaning .*