Personal Finance

Determinations highlight overcharging

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Recent history has shown that life assurance companies have little compassion for their policyholders, particularly when they are having difficulties. Instead, when contributions are not paid, they excessively confiscate investors' savings.

In a number of cases, life companies have insisted on levying penalties even when their product-floggers have mis-sold – in some instances, fraudulently – their products.

But when policyholders have challenged some of the life assurance companies about the amount of the penalties, the policyholders have been partially refunded, but on condition that they do not talk about the settlements, to avoid creating bad publicity for the life companies.

Earlier this year, Personal Finance reported on an retirement annuity (RA) fund member who had a penalty on his savings of R267 000 reduced from R47 000 to R18 000 on condition that he did not disclose the details of his case to the media.

In April this year, Personal Finance revealed that, on virtually identical policies involving the same investment amounts by the same investor, Old Mutual and Sanlam calculated totally different potential penalties.

The Sanlam product was worth R474 752. The penalty was calculated as R14 974, or 3.1 percent of the investment value. The Old Mutual product was worth R483 736. The penalty was R54 786, or 11.33 percent of the investment value.

Recent determinations by the Ombud for Financial Services Providers, Noluntu Bam, and the Pension Funds Adjudicator, Muvhango Lukhaimane, have highlighted the issue of excessive penalties.

Bam's determinations:

* In June, Bam ruled in the case of Mr and Mrs V. They were 69 and 66 years old respectively when, in early 2008, Charlene van Niekerk, a representative of Kampstone Financial Services, sold each of them an Old Mutual Max Investment Committed Plan with a 15-year term. The policies had recurring monthly premiums of R2 000 and R5 000.

The couple made nine withdrawals and then stopped paying the premiums. Initially, the penalties amounted to R46 370 and R16 367 respectively. But, as a result of Bam's intervention, Old Mutual reduced the penalties by R30 827 and R10 183.

Bam found that Kampstone had not properly informed Mr and Mrs V about the potential penalties and ordered it to repay the couple R12 042 on one policy and R6 203 on the other.

In response, Old Mutual's general manager, Adrian Burke, said the company's administration systems are "not automated in respect of multiple causal event charges". As a result, he said, it "is unfortunately possible for errors to occur".

* In May, Bam ordered a financial adviser, Jacobus Geldenhuis, of Fugio Financial Services, to repay two brothers more than R1 million in penalties levied by Momentum, because Geldenhuis had "grossly" mis-sold them two life assurance policies.

When Personal Finance questioned Momentum about the size of the penalties relative to the accumulated savings, the company discovered it had overcharged the brothers by R800 000 – despite the fact that Bam had asked Momentum to check the amount before issuing her determination against Geldenhuis.

The brothers had wanted to invest R1.2 million and R1.5 million in an endowment policy, but Geldenhuis had drawn up a fraudulent contract that stated they would invest these amounts annually for 10 years.

Lukhaimane's determinations:

* In June, Momentum agreed to reduce, by R38 386, a penalty of R172 095 that it had imposed on the savings of a member of the Momentum RA Fund after four causal events.

Lukhaimane checked Momentum's calculations with an independent actuary, who found that the reduced penalty itself was "excessive" and reduced it by a further R10 390.

* In June, Lukhaimane ordered Liberty Life to reduce significantly the penalties it had levied on two Liberty RA Fund policyholders who had been hit with penalties of R80 901 and R81 742, or 19 percent of their respective fund values. The policyholders were warned that they would be hit with a further penalty of 19 percent if they withdrew their funds. In other words, the total penalties would have come to 34 percent of their fund values.

Liberty appointed an actuary, who calculated that the maximum penalty should have been 11 percent.

* Also in June, Lukhaimane, following a complaint about a penalty, ordered Momentum and its Momentum RA Fund to repay undisclosed interest, plus interest on the interest, it had charged an RA member, which enabled Momentum to pay an adviser an upfront commission on contributions that would be paid for 28 years.