



COSATU Parliamentary Submission on

## Demutualisation

with reference to the Finance Committee's consideration of the Insurance Second Amendment Act and the Demutualisation Levy Bill, 18 August 1998

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### Contents

1. Background to COSATU's objection to demutualisation
  2. Specific problems with Demutualisation
  3. Recommendation
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#### 1. Background to COSATU's objection to demutualisation

COSATU has for many years been campaigning for the democratisation of the Mutuals in order to see to it that their considerable resources could be used more effectively in promoting economic development.

In our 1996 *Social Equity and Job Creation* document COSATU, together with the other major trade union federations, argued that: "Mutual insurance companies such as Old Mutual and Sanlam are nominally controlled by policy-holders, but in practice are controlled by their managers. These companies control and manage large sums of provident fund contributions from workers yet grant no real ownership rights to workers"

On this basis we proposed that: "Organised labour and other representatives of policy holders, be given immediate representation on the governing structures of the mutual companies, and that these companies be requested to commence negotiation through Nedlac on this proposal. Thereafter, appropriate legislative changes should be introduced through parliament."

At COSATU's recent Central Committee meeting held in June this year, it was resolved that: "Workers, as major policy holders in Old Mutual and Sanlam, reject the unilateral decision by the Mutuals to strip the policy holders of the right to collectively control these institutions and to shift control of major assets to international investors. We therefore resolve to campaign against demutualisation and the use of workers' money to promote it."

Despite our well known demands and proposals in this important area, the trade unions were never given the opportunity as the collective representatives of workers and many policy-holders to participate in the restructuring of the Mutuals. Instead the management of the Mutuals went ahead unilaterally, presumably to pre-empt the democratisation of these institutions.

COSATU is not persuaded by the deluge of pro-demutualisation propaganda which, at some cost, has been circulated by the management of the Mutuals, in order to convince policy-holders to vote in favour of demutualisation.

We remain convinced that the proposed restructuring will have a negative impact for a number of reasons, most significantly as it will further entrench the power of the existing management and weaken the potential for policy holders to assert influence over a significant portion of the country's retirement resources.

This is most unfortunate, particularly as this centralisation of control happens at the very time when those who have been previously excluded from the governance of the retirement industry are beginning to exercise their rights to oversee the workings of the industry in order to promote its potential for assisting in democratic economic development.

Parliament itself has encouraged the promotion of this principle of democratisation when it passed the legislation which requires that 50% of trustees on retirement funds should be employee, or worker, representatives. COSATU believes that the same democratic principle should apply at a macro-level in the retirement industry, but that the corporatisation of the proposed demutualisation will lead to increased centralisation of social assets and remove the residual right which all policy holders and members of the retirement funds currently have.

Any *short-term* gains which may flow from a de-mutualisation, pale in significance when compared to the *long-run* economic and developmental potential of a democratically restructured retirement industry which could serve as a key component of an expanded social sector in our economy. COSATU's 1997 *September Commission Report* emphasized that the goals of transforming the retirement industry could include:

- Influencing investment patterns so that investment generates real productive activity and jobs,
- Replacing the way enterprises are currently managed with democratic governance,
- The use of profit generated from enterprises in the social sector to benefit workers and communities, and
- Tying the control of capital and assets to local community/worker ownership, and so limit the ability of capital to abandon communities or South Africa.

## 2. Specific problems with Demutualisation

1. **Change in legal form prevents collective control and democratic governance:** Demutualisation entails a change in the legal form of Sanlam and Old Mutual from mutual assurers to a company, listed in terms of the Companies Act.

This change pre-empts a broader public policy debate on whether a more appropriate structure should be adopted for a sector that wields enormous economic influence through its main business of managing workers' retirement benefits, which are regarded under ILO norms as a form of deferred wage. For example, organised labour and other representatives of policy holders should be given representation on the Mutual's governing structures. A key objective of such increased democratisation would be to influence the Mutual's investment policies towards increased job creating real investment.

2. **Listing will lead to centralisation of control:** When policy holders are issued with free shares in the newly incorporated companies, this is likely to lead to a centralisation of control in the hands of a few, as shares will be bought by the wealthy as they are more readily sold by lower income earners.
3. **The historically privileged stand to benefit more:** More information is required as to whether the composition of policy holders is disproportionately weighted in favour of the economy's historical insiders. If this is the case, the redistributive effect of the issue of 'free shares' to policy holders will be negligible and the historically skewed distribution of wealth will be reinforced by the demutualisation. This situation should be avoided as the resources of the Mutuals should be used to benefit a greater number of South Africans through progressive, socially sensitive, investment policies which will encourage genuine grass roots black economic empowerment. Uncertainty as to the effect on wealth distribution is exacerbated by the fact that the formula for distributing shares to policy holders has not yet been finalised and the extent to which management is going to benefit from the share allocation is not clear. To this extent, Parliament is being asked to endorse a scheme without knowing what its full implications will be.
4. **Sub-optimal economic impact:** It is claimed that the resources released by a demutualisation will 'heat up' the economy by boosting short-term demand, but there has been no discussion on how the vast resources (estimated at about R600bn) of the retirement industry could be used in financing a more stable expansion of the economy's supply-side over the longer-term. For example, instead of relying on once-off de-mutualisation processes, the positive potential of the re-imposition of a modest level of prescribed assets requirement on the huge investment flow of the retirement industry should be considered. Through this requirement a portion of investment could be steered towards productive job-creating activities rather than being caught up in speculative financial markets. A prescribed asset requirement would have the additional benefits of:
  - providing a continuous rather than a once-off effect,
  - resourcing more structured supply-oriented initiatives like mass housing and infrastructure provision, and
  - having a more effective redistributive potential, as investments could aim at equalising services to historically neglected communities.
5. **Increased speculation rather than fixed real investment:** It is interesting to note that the memorandum of the amendment to the Insurance Act which facilitates the de-mutualisation appears to condone an increased focus on speculative activity. It notes that part of the amendment is specifically designed to allow insurers to hold shares in their holding companies as "Every insurer assembles a portfolio of quality assets - particularly equities... and it is accepted that the best shares in this context are shares in companies operating in the financial services sector - of which insurers form an important part". This fear is reinforced by the admission made by the current management of the Mutuals that for them a key objective of the de-mutualisation is to convert the entities into modern financial services companies, looking to maximize

quick returns (or minimize quick losses) without being encumbered by the will of the workers and pensioners whose 'deferred wages' they are gambling with.

6. **Irreversible step:** De-mutualisation is an irreversible step in the sense that once the collective savings and reserves of many decades have been converted into shares on the stock market in the hands of existing policy holders, it will not appear to be possible to return to a Mutual form of ownership. Therefore, the various options for the restructuring of the Mutuals should be carefully considered, and subject to informed public scrutiny and debate, before any particular route is adopted.

### 3. Recommendation

As we are convinced that demutualisation is the wrong path to follow, COSATU is deeply concerned that Parliament should assist in facilitating a proper 'public policy' debate on the de-mutualisation question and on the more general issue of the re-regulation, and in certain cases the re-mutualisation, of the retirement industry and the appropriate mobilisation of its resource base and investments.

It concerns COSATU that most of the information has been filtered to the public by those who have a powerful vested interest in the process. Parliament should lead the way in ensuring that the public is given proper access to unbiased information and should see to it that the questions which we have raised before the Finance Committee today, and the questions of any other interested parties', are adequately answered.

Indeed, Parliament itself should be appraised of this information in order to avoid a situation where it is asked to endorse a scheme without knowing what the legislation's full implication will be.

Taking a cautious view of the long-term impact of demutualisation, would not preclude shorter term developmental and job creating measures such as those to be financed through the envisaged Umsobomvu Trust. COSATU supports the Umsobomvu initiative, but we do not believe that it should be (partly) financed through a once-off levy on demutualisation. An alternative funding proposal for the Umsobomvu Trust, which we intend elaborating on at the forthcoming Presidential Job Summit, would be that all South African workers and business people make a donation to the Trust to the value of one days output of the South African economy. This could be supplemented with a fiscal transfer to the fund.

In summary, it is COSATU's recommendation that Parliament should consider delaying demutualisation pending the outcome of the interaction between COSATU and the Mutuals on this issue (which process is being assessed by today's EXCO meeting of COSATU) and pending the outcome of the following processes, to be steered by Parliament's Finance Committee:

- An inquiry as to how much money is being spent on promoting the de-mutualisation and how much is being spent on fairly expressing opposing views to policy holders and the public.
- A request that Old Mutual and Sanlam release data outlining the race, gender and class analysis of the policy holders so that the developmental and re-distributive

impact of the de-mutualisation can be properly assessed before any legislation is passed on this matter.

- A requirement that the exact formula for distributing shares to policy holders should be made public, including the extent to which current management is going to benefit from the share allocation.
- An inquiry as to whether mechanisms are being put in place to limit the likelihood of a centralisation of control if the bulk of low-income policy holders sell their new shares for immediate disposable income.
- An inquiry as to the extent to which increased speculative investment as a result of de-mutualisation into a 'financial services company' will contribute to a decline in real investment and an increase in job loss in the wider economy.
- An investigation into the options - such as amending the Insurance Act - which will see to that the resources in the multi-billion rand retirement industry are used in a more socially responsible, developmental and job-creating manner. This should include an inquiry into the desirability of a legislatively imposed prescribed asset requirement which requires that companies invest a portion of their annual investments in activities which will boost South Africa's real economy.

- See more at: <http://www.cosatu.org.za/show.php?ID=782#sthash.RXJvPKfX.dpuf>