

98 Box

COSATU 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

Contents

1. Background to COSATU's objection to demutualisation

2. Specific problems with Demutualisation

3. Recommendation

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.

11

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.