

## **GUIDELINES FOR DEDUCTIONS FROM MEMBERS BENEFITS IN ACCORDANCE WITH SECTION 52 OF THE RETIREMENT FUNDS ACT (2022)**

### **1. Authority**

In exercise of the powers conferred by Section 4 (2) (d) of the NBFIRA Act (2016), *the Regulatory Authority* hereby issues Guidelines for a clear procedure and standard application of Section 52 of the Act by the Board of Trustees.

### **2. Interpretations:**

*Accrued or Total Benefit* is member's fund credit including all interest earned (e.g. investment returns).

*Benefit Payable*, means an amount commutable in terms of the Income Tax Superannuation Regulations and payable to a member upon resignation, dismissal, retrenchment, retirement or an amount payable from a member's preserved benefit.

*Loan*, means personal unsecured loan or credit card facility obtained in the name of a deferred member from a licensed financial institution within Botswana, excluding hire-purchase contracts.

*Medical Expense*, any amount incurred in treatment of terminal ailment or chronic disease of a member, due on the date the member becomes a deferred member or after the date of retirement, prior to purchase of annuity.

*Mortgage Loan*, means a home loan obtained in respect of a principal residence held in the name of a member from a licensed financial institution within Botswana.

*Retiring Member*, a member of a retirement fund who has reached retirement age or retiring in terms of their term of service, in accordance with the fund rules and the Act.

The Purpose of these Guidelines is to provide a clear procedure for assessment and determination of allowable deductions in the context of Section 52 of Retirement Funds Act (2022).

3. Section	Guidance Note
Section 52 (1) (c)	The amount deductible from a pension benefit for a loan or credit card facility <b>default</b> shall be, the <b>amount due from the date</b> the member became a deferred member, excluding early loan settlement amount. Default shall mean the <b>total amount due and payable</b> at the time of request. The amount so deducted shall be paid to the lender.
Section 52 (1) (d)	Trustees shall consider and deduct from a member’s benefit an amount <b>due</b> on repayment of a mortgage loan of a member <b>on the date</b> the member retires on medical ground or the <b>amount due from the date</b> the membership is deferred. For the deferred member the provisions of section 52 (1) (d) (ii) proviso (ii) apply.
Section 52 (1) (d) (i) (aa), paragraph starting with “Provided that...”	The commutable amount due to the retiring member in terms of the Income Tax Regulations shall be the amount used for the mortgage repayment required, however, any additional mortgage repayment may be deducted, prior to the purchase of an annuity for the member.
Section 52 (1) (d) (ii) (bb)	Trustees shall ensure the deferred member requesting such mortgage repayment has never made that request <b>before</b> , including under Section 40 and Regulation 35 of the repealed Retirement Funds Act (2014) and Retirement Funds Regulations (2016) respectively.
Section 52 (1) (d) (ii) (cc)	Trustees shall consider among others as minimum requirements as proof of unemployment of a deferred member: Unemployment Period, Employment History, Affidavits, Bank Statements and other member-owned assets e.g. business income of the member and where applicable Tax enquiries/clearance.
Section 52 (1) (d) (ii) (ee)	Deductions shall only be made <b>once</b> and as a last resort either, for mortgage loan or medical expenses for terminal ailment-chronic disease limited to fifty percent of a member’s total benefits ( <b>Refer section 52 (1) (h)</b> ). The deferred member has to determine or choose which option the member seeks financial assistance for from a pension fund, as a last resort.
Section 52 (1) (h)	The medical expenses shall be limited to fifty percent of a member’s total accrued benefit <b>at the date</b> , at which the member <b>becomes</b> a deferred member.
Section 52 (2)	“...which termination is not a result of retirement or ...” Trustees shall consider that <b>the exception</b> is retirement on medical-ground, stipulated under section 52 (1) (d) (i).

Section 52 (3)	Trustees shall in addition to <b>other deductions</b> stipulated in this Section, require the member to choose <b>only one option</b> among mortgage loan, medical expenses or deductions in terms of section 52 (1) ( e ).This part shall be read together with section 52 (1) (d) (ii) (ee).
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### Quick Guide

	Personal Loan*	Mortgage Loan	Medical Expenses	Conditions of Deduction
Deferred Member	X	X	—	Demonstrate unemployability and access to accrued benefits, as last resort. A loan* in terms of Section 52 (1) (c).
Deferring Member	—	X	X	Option limited to one of three-deductions once i.e mortgage loan or medical expenses or employer loans/guarantees plus any other deductions.
Retiring Member on ill-health	—	X	X	Subject to medical reports.