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To all approved administrators, privately administered funds and insurers who underwrite pension funds

CIRCULAR PF NO. 113

Clarification of the treatment of past surplus utilised improperly as defined in section 15B (6) of the Pension Funds Act, 1956 (Act No 24 of 1956).

1. Addition of past surplus utilised improperly to the actuarial surplus

The board shall determine any amount arising in terms of section 15B (6) of the Act at the surplus apportionment date and shall add such amount to the actuarial surplus revealed by the investigation in terms of section 16, before determining whether a surplus apportionment scheme is required in terms of section 15B.

2. Investigation of past surplus utilised improperly

When applying section 15B (6), the board may:-

(a) Ignore events that occurred prior to 1 January 1980.

(b) Exclude from section 15B (6) (c) any event in which the board recognised prior service with the employer as pensionable service, if such recognition redressed a previously discriminatory practice.

(c) Deduct from the amount determined in terms of section 15B (6), the present value at the surplus apportionment date of any additional contributions which the employer committed to pay to the fund for such uses, where such present value accumulates past contributions paid into the fund at the nett investment return earned by the fund over the corresponding period, and discounts future contributions at the rate of interest assumed by the actuary in the investigation at the surplus apportionment date in terms of section 16.

(d) Minimise the time within which the employer shall fund any cost associated with the uses listed under section 15B (6), provided that such period shall not, without the prior approval of the Registrar, exceed 9 years.

3. Approval in terms of the proviso in section 15B (6) of the Act

The approval referred to in the proviso to section 15B (6) of the Act may be demonstrated by any one of -

(a) approval by at least 75 per cent of members;

(b) an agreement setting out the distribution signed by persons who were elected or who were appointed by trade unions who represented the members; or

(c) proof to the Registrar's satisfaction, after a clear and comprehensive communication exercise, that stakeholders were given a reasonable opportunity to object to the distribution and any objections received by the board of the fund were addressed to the satisfaction of the persons concerned."

REGISTRAR OF PENSION FUNDS