

FINANCIAL SERVICES BOARD

Rigel Park 446 Rigel Avenue South Erasmusrand Pretoria South Africa
PO Box 35655 Menlo Park Pretoria South Africa 0102
Tel (012) 428-8000 Fax (012) 347-0221 e-Mail info@fsb.co.za
Int +27 12 428-8000 Int +27 12 347-0221 Toll free 0800110443
Internet: <http://www.fsb.co.za>



Enquiries: Mr M Codron D. Dialling No.: (012) 428-8160
Our ref: 12/12/1 Fax: (012) 422-2994
Date: 28 June 2004 e-mail: mikec@fsb.co.za

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

CIRCULAR PF NO. 115

Clarification of issues regarding the application of Regulation 36, applications for valuation exemption in terms of Regulation 2, small surpluses and deficits

This Circular seeks to clarify certain issues regarding the application of Regulation 36. applications for valuation exemption in terms of Regulation 3, small surpluses and deficits

- 1. The board of a fund has the right to advance the surplus apportionment date where the expiry of valuation-exemption occurs earlier than the financial or scheme year-end following 7 December 2003**

Where the expiry of valuation-exemption occurs earlier than the financial or scheme year-end following 7 December 2003, the board may elect to perform the surplus apportionment at this date rather than the date specified in Regulation 36 (section 15B(1)(b)).

- 2. Applications for extension in terms of section 33**

If funds anticipate difficulty in meeting the deadlines, application should be made to the Registrar in terms of section 33 to apply for extension of the deadline by which their schemes for the apportionment of their actuarial surpluses must be submitted. Reasons for such application for extension must accompany the application. The effective date for the scheme cannot be delayed but it can be advanced.

3. Certification required where funds failed to submit triennial certificates by actuaries in accordance with Regulation 2

If a fund was registered before 7 March 2002 and the fund complied with Regulation 2 up to the surplus apportionment date, the Registrar will consider retrospective application for valuation-exemption from the fund provided such application is accompanied by a certificate from the actuary covering the matters referred to in Regulation 2 for the full period from the expiry of the last approval of valuation-exemption, or inception, as the case may be, until the surplus apportionment date. In such cases, no valuations will then need to be submitted in respect of the period prior to the surplus apportionment date.

4. Abbreviated returns

Where funds have satisfied certain criteria, an abbreviated process for the valuation, “nil scheme” submission, and re-application for valuation exemption may be followed at the surplus apportionment date if the fund satisfies any of the following sets of conditions:

A. The fund was registered prior to 7 March 2002 and –

- (i) operated a mechanism for the automatic distribution of actuarial surplus at the end of each financial or scheme year,
- (ii) the fund did not operate any form of reserve account,
- (iii) the actuary is satisfied that the profits that have arisen on the exit of members in the prior year is less than the cost of a surplus apportionment scheme; and
- (iv) the fund complies with the conditions of Regulation 2 as amended with effect from 24 January 2003, and would have complied with those conditions prior to the surplus apportionment date if they had been in effect.

If all the above conditions are satisfied, the attached forms A1, A2 and A3 should be completed and submitted to the Registrar.

B. The fund was registered prior to 7 March 2002 and –

- (i) The fund had a reserve account;
- (ii) The administrators are able to confirm that the reserve account was not used for the benefit of any individual member or selected group of members or for the reduction of the employer contribution due in respect of any period after 7 December 2001;
- (iii) The reserve account has been split into an investment reserve and a contingency reserve account to cover the cost of surplus apportionment on a basis that is detailed in Form B2

- (iv) The actuary is satisfied that the balance in the contingency reserve account at the surplus apportionment date is insufficient to meet the costs of a surplus apportionment scheme; and
- (v) The fund will comply with the conditions of Regulation 2 as amended with effect from 24 January 2003, and would have complied with those conditions prior to the surplus apportionment date if they had been in effect.

If all of these conditions are satisfied, the attached forms B1, B2 and B3 should be completed and submitted to the Registrar.

- C. The fund was registered on or after 7 March 2002 and complied from inception with the conditions of Regulation 2 as amended from 24 January 2003.

If this condition is satisfied attached forms C1, C2 and C3 should be completed and submitted to the Registrar.

5. Distribution of amounts released from contingency reserve accounts after the surplus apportionment date

If the board determines, after approval by the Registrar of a surplus apportionment scheme or after submission of a “nil scheme” to the Registrar, that an amount can be released from a contingency reserve account, such amount creates surplus after the surplus apportionment date, and this surplus may be apportioned in terms of section 15C. Section 15C determines how “future surplus” may be distributed between the member and employer surplus accounts, and will be dealt with in terms of the rules, or, if the rules are silent, by decision of the board “taking into account the interests of all the stakeholders in the fund”.

Former members may be entitled to benefit from the distribution of actuarial surplus as at the surplus apportionment date in terms of section 15B, but have no enforceable right to benefit from the distribution of any actuarial surplus that arises in the fund thereafter.

6. Small surplus

No exemption can be granted to a fund from carrying out a surplus apportionment exercise. Actuarial surplus is determined in the valuation as at the surplus apportionment date. It is determined after deducting the balances in the investment reserve account and any contingency reserve accounts and after adding any amount resulting from adding the “past surplus utilized improperly” (section 15B(6)). One of the contingency reserve accounts will contain a reasonable estimate of the likely costs of surplus apportionment.

REGISTRAR OF PENSION FUNDS

FORM A1

“Nil Scheme” submission in respect of theFund (12/8/.....) where the Fund distributed any surplus or deficit arising during the year automatically at the end of each year and never had a reserve account of any form.

Certificate by the Fund

1. Surplus apportionment date:
.....
2. The Fund is a defined contribution fund.
3. No pensions are paid from the Fund. On retirement, the member's individual account balance, less any amount paid in cash, is used to purchase an annuity policy from a registered insurer.

OR

Any pensions paid from the fund are fully secured through annuity policies purchased from insurers and owned by the Fund.

[Delete which is not applicable]

4. All liabilities of the fund, to the extent that they exceeded the value of the member's individual accounts were fully underwritten by one or more registered insurers
5. As far as can be established, the fund has never had an account to which surplus assets could be allocated and therefore it may safely be assumed that there has been no improper use of actuarial surplus by the employer, as described in section 15B(6) of the Act.
6. In terms of its rules, any surplus or deficit which arose in the Fund during a financial / scheme year was distributed to the surviving members at the end of the financial / scheme year. The only actuarial surplus available as at the surplus apportionment date to be apportioned was the total of any profits enjoyed on the exit of members in the year prior to the surplus apportionment date. This was quantified and is less than the cost of surplus apportionment.
7. The information given to the actuary was accurate and complete.

I,, (full name), duly authorised by the Fund
by way of a resolution of the Board dated....., declare that the information given
above is correct to the best of my knowledge and belief.

Signed:

Capacity:

Date:

FORM A2

**Certificate by the Valuator in respect of the valuation of the
.....Fund (12/8/.....) as at the surplus apportionment date and
valuation-exemption for the period from inception of the Fund, or date of last
expiry of valuation-exemption.**

1. Date of the valuation:
2. The purpose of the valuation is to confirm that there is no actuarial surplus at the surplus apportionment date and that the principles of operation of the Fund over the period from inception of the Fund, or date of last expiry of valuation-exemption, whichever is the later, satisfied the requirements for valuation-exemption in terms of Regulation 2.
3. I have used information supplied by the administrators of the Fund concerning the rules of the Fund, the systems with which it is administered, the assets, the members' individual accounts, the value of withdrawal profits earned by the Fund in the year prior to the valuation and the estimated cost of surplus apportionment. I have confirmed that the data matches the information provided to the board of the Fund at the corresponding year-end.
4. The only contingency reserve account holds the lower of the estimated cost of a surplus apportionment scheme and the value of the withdrawal profits earned by the Fund in the year prior to the valuation date.
5. The valuation results are as follows:

Number of Active members	
Paid-up members	
Assets at fair value	A
Current liabilities	C
Assets available to meet past service liabilities	$D = A - C$
Total of members' individual account balances	E
Contingency reserve account for the cost of surplus apportionment	F
Accrued liabilities	$G = E + F$
Actuarial surplus	$D - G$ (which should equal zero)

6. The board has certified that there are no instances of past improper use of surplus by the employer (section 15B(6)) in the history of the Fund.
7. I declare, that, to the best of my knowledge and belief, there is no actuarial surplus available for distribution.

8. I have scrutinised the rules and the method of operation of the Fund since
- the issue of the previous certificate of valuation-exemption,
 - or
 - since the inception of the Fund,

[Delete which is not applicable]

and declare that, effective(the surplus apportionment date for the Fund), to the best of my knowledge, the Fund has complied with the following requirements, as contemplated by Regulation 2:

- (a) all members of the fund, other than pensioners, were entitled to a defined contribution type benefit;
 - (b) all liabilities of the fund, to the extent that they exceeded the value of the member's individual accounts were fully underwritten by one or more registered insurers;
 - (c) any pensions paid from the fund are fully secured through annuity policies purchased from insurers and owned by the Fund; and
 - (d) the fund did not have any reserve accounts other than those allowed in terms of Regulation 2(d) as published on 24 January 2003.
9. In respect of the period since the issue of the previous certificate, *or* the inception of the fund, [delete which is not applicable]:

- (a) The method used to allocate investment returns to individual accounts is based on sound principles, and has been as follows:

.....
.....
.....

- (b) The rate of investment return is not smoothed, i.e. the full net investment returns are allocated to member accounts in the fund. The implementation of this policy does not endanger the financial soundness of the fund.

OR

The rate of investment return passed on to members is smoothed, and I am satisfied that:

- (i) the rate is reasonable in relation to the gross investment return earned by the fund, net of reasonable expenses, and
- (ii) the mechanism used to smooth the rate does not endanger the financial soundness of the fund i.e. in the event of negative investment return, benefits will be reduced accordingly.

[Delete which is not applicable]

- (c) The treatment of expenses (including the premiums paid for the insurance of death and disability risks) is based on sound principles and has been as follows:

.....
.....

Signed:

Name in block letters:

Date:

FORM A3

Certificate by the valuator in support of the renewal of valuation-exemption for theFund (12/8/.....) for a three year period after the surplus apportionment date.

1. I have scrutinised the rules and declare that, with effect from (the surplus apportionment date for the Fund), the Fund complies with the following requirements, as contemplated in Regulation 2:
 - (a) all members of the fund, other than pensioners, were entitled to a defined contribution type benefit;
 - (b) all liabilities of the fund, to the extent that they exceeded the value of the member's individual accounts were fully underwritten by one or more registered insurers;
 - (c) any pensions paid from the fund are fully secured through annuity policies purchased from insurers and owned by the Fund; and
 - (d) the fund did not have any reserve accounts other than those allowed in terms of Regulation 2(d) as published on 24 January 2003.
2. To the best of my knowledge, there is no danger of the Fund not complying with conditions (a) to (d) in paragraph 1.
3. The assets are suitable considering the liabilities of the fund.
4. In my opinion, continued exemption from the appointment of a valuator and triennial valuations as contemplated in sections 9A and 16, of the Act, respectively is warranted.

Signed:

Name in block letters:

Date:

“Nil Scheme” submission in respect of theFund (12/8/.....) where the Fund held, at the surplus apportionment date, a reserve account which is insufficient to fund the cost of surplus apportionment but the Fund is otherwise compliant with Regulation 2, and there is no history of transactions that would indicate any past surplus utilised improperly in terms of section 15B(6).

B1. Certificate by the Fund

1. Surplus apportionment date:
2. The Fund is a defined contribution fund.
3. No pensions are paid from the Fund. On retirement, the member's individual account balance, less any amount paid in cash, is used to purchase an annuity policy from a registered insurer.

OR

Any pensions paid from the fund are fully underwritten in terms of annuity policies purchased from insurers and owned by the Fund.

[Delete which is not applicable]

4. The liabilities of the fund, to the extent that they are not funded by the amounts standing to the credit of members' individual account balances are fully underwritten in terms of policies purchased by the fund from one or more insurers.
5. The Fund has a reserve account. With effect from 7 December 2001, this reserve account has been split into an investment reserve account, an expenses reserve account to cover the fund's actual liabilities for expenses and a contingency reserve account to cover the fund's contingent liabilities including the cost of surplus apportionment. This split was based upon the history of transactions in the Fund and the basis used is detailed in Form B2 signed by the Valuator.
6. There is no actuarial surplus or amounts in respect of "past improper utilisation of surplus" to be distributed in terms of section 15B(5).
7. The information given to the actuary is correct and complete.

I,, (full name), duly authorised by the Fund by way of a resolution of the Board dated....., declare that the information given above is correct to the best of my knowledge and belief.

Signed:

Capacity:

Date:

**Certificate by the Valuator in respect of the valuation of theFund
(12/8/.....) as at the surplus apportionment date**

1. Surplus apportionment date:
.....
2. I valued the Fund in order to determine any actuarial surplus at this date.
3. I investigated the principles of operation of the Fund over the period from inception of the Fund, or date of last expiry of valuation-exemption, whichever is the later.
4. I have used information supplied by the administrators of the Fund concerning the rules of the Fund, the systems upon which it is administered, the assets, the members' individual accounts, the balance in the reserve account and the estimated cost of surplus apportionment. I have confirmed that the data matches the information provided to the board of the Fund at the corresponding year-end.
5. The only contingency reserve account/s held provision/s for anticipated expenses for the cost of the surplus apportionment scheme. The investment reserve account held a provision to smooth investment returns in future and its method of operation prevented it from ever having a debit balance. I am satisfied that the amounts included in such accounts are reasonable. (Delete what is not applicable.)
6. The basis used to determine the split in the reserve account between the investment reserve account, the expense reserve account and the contingency reserve account to cover the cost of the surplus apportionment was as follows:
.....
.....
7. The valuation results are as follows:

Number of Active members	
Paid-up members	
Assets at fair value	A
Investment reserve account	B
Current liabilities	C
Assets available	$D = A - B - C$
Total of members' individual account balances	E
Amounts held in the contingency reserve account for the cost of surplus apportionment	F
Total liabilities in respect of past service	$G = E + F$
Actuarial surplus	$D - G$ (which should equal zero)

8. The board has certified that the financial history of the fund has been scrutinized and no instances which fall within section 15B(6) were found.

9. I declare, that, to the best of my knowledge and belief, there is no actuarial surplus or amounts in respect of past improper utilisation of surplus available for distribution.
10. I have scrutinised the rules and the method of operation of the Fund since
- the issue of the previous certificate of valuation-exemption,
 - or
 - since the inception of the Fund,

[Delete which is not applicable]

and declare that, effective(the surplus apportionment date for the Fund), to the best of my knowledge, the Fund has complied with the following requirements, as contemplated by Regulation 2:

- (a) all members of the fund, other than pensioners, were entitled to a defined contribution type benefit;
 - (b) all liabilities of the fund, to the extent that they exceeded the value of the member's individual accounts were fully underwritten by one or more registered insurers;
 - (c) any pensions paid from the fund are fully secured through annuity policies purchased from insurers and owned by the Fund; and
 - (d) the fund did not have any reserve accounts other than those allowed in terms of Regulation 2(d) as published on 24 January 2003.
11. In respect of the period since the issue of the previous certificate, *or* the inception of the fund, [delete which is not applicable]:
- (a) The method used to allocate investment returns to individual accounts is based on sound principles, and has been as follows:
.....
.....
.....
 - (b) The rate of investment return is not smoothed, i.e. the full net investment returns are allocated to member accounts in the fund. The implementation of this policy does not endanger the financial soundness of the fund.

OR

The rate of investment return passed on to members is smoothed, and I am satisfied that:

- (j) the rate is reasonable in relation to the gross investment return earned by the fund, net of reasonable expenses, and
- (ii) the mechanism used to smooth the rate does not endanger the financial soundness of the fund i.e. in the event of negative investment return, benefits will be reduced accordingly.

[Delete which is not applicable]

- (c) The treatment of expenses (including the premiums paid for the insurance of death and disability risks) is based on sound principles and has been as follows:

.....
.....

Signed:

Name in block letters:

Date:

FORM B3

**Certificate by the valuator in support of the renewal of valuation-exemption for the
.....Fund (12/8/.....) for a three year period after the
surplus apportionment date.**

1. I have scrutinised the rules and declare that, with effect from (the surplus apportionment date for the Fund), the Fund complies with the following requirements, as contemplated in Regulation 2:
 - (a) all members of the fund, other than pensioners, were entitled to a defined contribution type benefit;
 - (b) all liabilities of the fund, to the extent that they exceeded the value of the member's individual accounts were fully underwritten by one or more registered insurers;
 - (c) any pensions paid from the fund are fully secured through annuity policies purchased from insurers and owned by the Fund; and
 - (d) the fund did not have any reserve accounts other than those allowed in terms of Regulation 2(d) as published on 24 January 2003.
2. To the best of my knowledge, there is no danger of the Fund not complying with conditions (a) to (d) in paragraph 1.
3. The assets are suitable considering the liabilities of the fund.
4. In my opinion, continued exemption from the appointment of a valuator and triennial valuations as contemplated in sections 9A and 16 of the Act respectively, is warranted.

Signed:

Name in block letters:

Date:

FORM C1

“Nil Scheme” submission in respect of theFund (12/8/.....) where the Fund was registered on or after 7 March 2002 and the Fund has complied with the conditions in Regulation 2 as issued on 24 January 2003 from inception.

C1. Certificate by the Fund

1. Surplus apportionment date:
2. The Fund is a defined contribution fund.
3. Date of registration:
4. No pensions are paid from the Fund. On retirement, the member's individual account balance, less any amount paid in cash, is used to purchase an annuity policy from a registered insurer.

OR

Any pensions paid from the fund are fully secured through annuity policies purchased from insurers and owned by the Fund.

[Delete which is not applicable]

5. All benefits paid in excess of members' individual account balances are fully insured.
6. The Fund was registered after 7 March 2002. The Fund has complied with the Act and therefore cannot have any uses of actuarial surplus as described in section 15B(6) of the Act.
7. As the provisions introduced by the Pension Funds Second Amendment Act, 2001, have applied from inception of the Fund, there is no surplus to be apportioned in terms of section 15B.
8. The information given to the actuary is correct and complete.

I,, (full name), duly authorised by the Fund by way of a resolution of the Board dated....., declare that the information given above is correct to the best of my knowledge and belief.

Signed:

Capacity:

Date:

FORM C2

**Certificate by the Valuator in respect of the valuation of theFund
(12/8/.....) as at the surplus apportionment date**

1. Date of the valuation:
2. The purpose of the valuation is to confirm that there is no actuarial surplus at the surplus apportionment date and that the Fund has complied with the conditions for valuation-exemption in respect of the period up until the surplus apportionment date.
3. I have used information supplied by the administrators of the Fund concerning the rules, the systems upon which the Fund is administered, its assets, the members' individual accounts, the investment reserve account and any contingency reserve accounts. I have confirmed that the data matches the information provided to the board of the fund at the corresponding year-end.
4. I am satisfied that the balances in the investment reserve account and the contingency reserve accounts are appropriate and that any balance in the employer surplus account has been credited to this account in terms of transactions approved in terms of section 15E.
5. The valuation results are as follows:

Number of Active members	
Paid-up members	
Assets at fair value	A
Investment reserve	B
Current liabilities	C
Assets available to satisfy the liabilities of the fund	$D = A - B - C$
Total of members' individual account balances	E
Contingency reserve accounts: (detail each, with its objective and balance)	F
Accrued liabilities	$G = E + F$
Actuarial surplus	$D - G$ (which should equal zero)

6. As the Fund was registered on or after 7 March 2002, no utilisation of surplus as described in section 15B(6) is possible.
7. I declare, therefore, that, to the best of my knowledge, there is no actuarial surplus available for distribution.
8. I have scrutinised the rules and the method of operation of the Fund since the issue of the previous certificate of valuation-exemption, or the inception of the Fund, as appropriate, and declare that, effective(the surplus apportionment date for the Fund), to the best of my knowledge, the Fund has complied with the following requirements, as contemplated in Regulation 2:

- (a) all members of the fund, other than pensioners, were entitled to a defined contribution type benefit;
- (b) all liabilities of the fund, to the extent that they exceeded the value of the member's individual accounts were fully underwritten by one or more registered insurers;
- (c) any pensions paid from the fund are fully secured through annuity policies purchased from insurers and owned by the Fund; and
- (d) the fund did not have any reserve accounts other than those allowed in terms of Regulation 2(d) as published on 24 January 2003.

9. In respect of the period since the issue of the previous certificate, *or* the inception of the fund: [delete which is not applicable]

- (a) The method used to allocate investment returns to individual accounts is based on sound principles, and has been as follows:

.....

- (b) The rate of investment return is not smoothed, i.e. the full net investment returns are allowed to member accounts in the fund. The implementation of this policy does not endanger the financial soundness of the fund.

OR

The rate of investment return passed on to members is smoothed, and I am satisfied that:

- (ii) the rate is reasonable in relation to the gross investment return earned by the fund, net of reasonable expenses, and
- (ii) the mechanism used to smooth the rate does not endanger the financial soundness of the fund i.e. in the event of negative investment return, benefits will be reduced accordingly.

[Delete which is not applicable]

- (c) The treatment of expenses (including the premiums paid for the insurance of death and disability risks) is based on sound principles and has been as follows:

.....

Signed:

Name in block letters:

Date:

FORM C3

Certificate by the valuator in support of an application for renewal of valuation-exemption for theFund (12/8/.....) for a three year period with effect from the surplus apportionment date.

1. I have scrutinised the rules and declare that, with effect from (the surplus apportionment date for the Fund), the Fund complies with the following requirements, as contemplated in Regulation 2: [RTH recommend changes as before]
 - (a) all members of the fund, other than pensioners, were entitled to a defined contribution type benefit;
 - (b) all liabilities of the fund, to the extent that they exceeded the value of the member's individual accounts were fully underwritten by one or more registered insurers;
 - (c) any pensions paid from the fund are fully secured through annuity policies purchased from insurers and owned by the Fund; and
 - (d) the fund did not have any reserve accounts other than those allowed in terms of Regulation 2(d) as published on 24 January 2003.
3. To the best of my knowledge, there is no danger of the Fund not complying with conditions (a) to (d) in paragraph 1.
3. The assets are suitable considering the liabilities of the fund.
4. In my opinion, continued exemption from the appointment of a valuator and triennial valuations as contemplated in sections 9A and 16 of the Act respectively, is warranted.

Signed:

Name in block letters:

Date: