

FINANCIAL SERVICES BOARD

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

CIRCULAR PF NO. 123

Section 14 Full Transfers & Surplus

INTRODUCTION

1. This circular attempts to clarify the approach that the Registrar will follow in respect of approving applications for transfer in terms of section 14 of the Pension Funds Act, Act 24 of 1956 ("the Act") where all the members are to be transferred out of the transferor fund ("full transfer") and where the Registrar has not approved a surplus apportionment scheme in terms of section 15B of the Act, or recorded a "nil" surplus scheme for the transferor fund.
2. The Registrar's concern is that a full transfer may leave a fund without a board of management to fulfil the fund's duties up to the time when the registration of the fund is cancelled.

SECTION 14 FULL TRANSFERS

3. The Registrar will only consider the approval of full transfers in the following circumstances:

Funds that satisfy the requirements of a "nil" surplus scheme

- 3.1 The Registrar must record the "nil" surplus scheme before the section 14 full transfer will be considered;

OR

Board Members: Dr Cyrus Rustonjee (Chairperson) Mr Abel Sithole (Deputy Chairperson) Mr Brian Hawksworth Ms Jabu Mogadime
Ms Nosipho Molope Prof P J Sutherland Ms Louisa Mojela Ms Hilary Wilton
Executive Officer: Mr RJG Barrow



All other funds, including funds where there is uncertainty as to whether or not the requirements of a “nil” surplus scheme will be satisfied

3.2 In these cases an application may be submitted for the members’ accrued liabilities and corresponding assets to be transferred.

3.3 In addition, the rules of the transferor fund should allow for the following:

3.3.1 The board of the fund’s term of office will be extended for a period of at least 3 years from the effective date of the full transfer.

3.3.2 Where the board of the fund is no longer properly constituted, the Registrar may appoint one or more independent persons to the board.

This should be done to ensure that, *inter alia*, the fund completes and submits a surplus apportionment scheme (or “nil” surplus scheme, if appropriate) and to ensure that the fund applies for cancellation of registration in terms of section 27 of the Act.

3.3.3 The reasonable cost of any intervention by the Registrar and/or remuneration of independent board members should be payable from the assets of the fund.

If the rules of the transferor fund do not allow for the conditions outlined above, the existing board of the fund should duly amend the rules before their term of office expires.

4. After the Registrar has approved a full transfer, the balance of the assets remaining in the transferor fund must either be apportioned in terms of an approved scheme (refer to section 15B of the Act) or, where the Registrar recorded a “nil” surplus scheme, transferred in terms of a subsequent section 14 application.



FOR REGISTRAR OF PENSION FUNDS