DEPARTEMENT VAN FINANSIES · DEPARTMENT OF FINANCE

Republiek van Suid-Afrika   Republic of South Africa

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Datum / Date: 22 September 1989

CIRCULAR P.F. NO. 69
(To all self-administered pension funds and insurers who underwrite pension funds)

FINANCIAL INSTITUTIONS AMENDMENT ACT, 1989 (ACT 53 OF 1989)

1. Attention is drawn to the amendments of sections 19 and 36 of the Pension Funds Act, 1956, contained in sections 8 and 9 of the above-mentioned Amendment Act which shall come into operation on 1 October 1989 in terms of Proclamation No. 168 (Government Gazette No. 12110 of 29 September 1989).

2. These amendments provide for the abolition of the obligation imposed on pension funds to invest 53% of their assets in prescribed assets and empower the Minister to make regulations:

   (a) limiting the amount which and the extent to which a fund may invest in particular assets and to prescribe the basis on which the limit shall be determined and define the kinds or categories of assets to which the limits apply; and

   (b) authorizing the registrar to grant exemptions from the provisions of the regulations.

3. In accordance with the foregoing amendments to section 36 of the Pension Funds Act, 1956, the attached regulation 28 which was published under Government Notice 1920 (Government Gazette No. 12079 of 1 September 1989) and which will come into operation on 1 October 1989, was issued by the Minister. The regulations were formulated in consultation with the pension fund industry.

4. It should be noticed that reference to pension funds in the definition of "pension fund organization" in section 1 of the Pension Funds Act, 1956, includes provident funds. This circular therefore applies to both pension and provident funds.

5. Investment portfolios are to be reported on annually by the fund's auditor whilst the valuator to the fund (where applicable) will be required to comment annually on the structure of the fund's assets and their appropriateness in relation to matching the liabilities of the fund. An appropriate return will be prescribed shortly for these purposes and will have to be submitted to this Office on an annual basis within six months after year-end.

6. Funds shall continuously remain within the prescribed investment limits but may approach the registrar for an exemption as referred to in paragraph 2(b) on exceeding these limits where funds:

(a) can demonstrate that exceeding the limits is prudent in the circumstances pertaining to a particular fund;

(b) initially or in restructuring of an investment portfolio, experience temporary difficulties in complying with the prescribed requirements; or

(c) as a result of extraordinary fluctuations in market values, experience difficulties in complying with the prescribed requirements.

In the case of paragraphs (a) and (b) funds should approach this Office with a prior written application for exemption, furnishing full reasons why compliance with the limits is not possible or not in the interest of a fund and to what specific extent the exemption is needed. In the case of paragraph (c) funds should either take the necessary action to rectify the position as soon as possible or approach this Office without delay in writing for an exemption.

7. Attention is invited to the provisions in paragraph (2) of the aforementioned Regulation 28, whereby policies of insurance issued to pension funds shall not be deemed to be assets of such funds if:

(i) the policies are <u>not linked</u>; or

(ii) the policies are linked <u>but</u> certificates are obtained from the insurer's valuator indicating that the assets held by the insurer in respect of his net liabilities under the said policies, meet with the requirements of the <u>new regulation 34</u> published in aforementioned Government Gazette under Government Notice No. 1922 made under the Insurance Act, 1943 (Act 27 of 1943).

In terms of the provisions of paragraph (3) of the aforementioned Regulation 28, the value of other linked policies form part of the total value of assets of funds and funds must obtain written details at the end of each of their financial years from the valuator of the insurer concerned.

8. The provisions of the Financial Institutions (Investment of Funds) Act, 1984 (Act 39 of 1984), must be kept in mind, and in particular sections 2 and 3 thereof. It is imperative that the trustees of pension funds shall at all times observe the high standards of integrity, care, diligence, impartiality and independence prescribed by the aforementioned Act and ensure that the same high standards are maintained by the officials, agents and advisers of funds, so as to ensure that all transactions (investments and disinvestments) concluded on behalf of a fund are negotiated at arm's length and that no person gains any improper advantage at the expense of the fund.

9. Kindly acknowledge receipt of this circular and confirm that a copy thereof was handed to the fund's auditor and valuator (where applicable) or the principal officer in the case of an insurer, by signing and returning the attached acknowledgement form to this Office.

REGISTRAR OF PENSION FUNDS

(Afrikaans op keersy)