F I N A N C I A L S E R V I C E S B O A R D

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Enquiries:
Our ref: 12/12/1
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FSB

CIRCULAR PF NO. 78

(To all self-administered pension funds and all insurers who underwrite pension funds.)

SECTION 14 OF THE PENSION FUNDS ACT, 1956: AMALGAMATIONS AND TRANSFERS

1. No transaction involving the amalgamation or transfer of any business carried on by a registered fund with that of any other person is valid unless the provisions of section 14 have been complied with. The only transaction which does not fall within the ambit of section 14 of the Act is the voluntary transfer, by an individual member, of his benefit upon cessation of his employment with his employer. Any other transaction constitutes a transfer of the business of a fund and therefore requires the Registrar's sanction in terms of section 14(1)(e) of the Act to be of force.

2. The scheme mentioned in section 14(1)(a) must be submitted in the prescribed format (as set out in Annexure A) and must contain all the relevant information regarding the following:

   2.1 Registered name and reference number of both funds;

   2.2 The purpose of the scheme;

   2.3 A clear indication of the rules of both funds authorising the transfer;

   2.4 The effective date of the transaction;

   2.5 The description and values of assets to be transferred.

2.6 The number of members, deferred pensioners and pensioners:

a) to be transferred.
b) remaining in the transferor fund

2.7 Whether or not the transfer is directly or indirectly based on any agreement between the employer of the fund and a third party, on an agreement between two funds, an agreement between a union and an employer or on any other agreement whatsoever.

Copies of the relevant agreement must be submitted. Such a copy shall, as is the case with all other correspondence, be treated as confidential.

2.8 A special report signed either by the valuator or the principal officer of each fund (when the fund is not subject to actuarial scrutiny) to the effect that the proposed transaction will not render the fund unable to meet the requirements of the Act, or to remain in a sound financial condition. If the proposed transaction will have the effect that the transferor fund will cease to exist, the special report must also indicate that there will be no members, assets or liabilities upon completion of the transfer and that the registration should be cancelled as is provided in section 27(1)(a) of the Act. After the transfer has been completed, the fund's auditor must certify that there are in fact no members, assets or liabilities left in the fund. Such certificate together with the Certificate of Registration or Provisional Registration must be forwarded to the Registrar before actual cancellation may be effected.

The valuator of the transferor fund (or the principal officer when the fund is not subject to actuarial scrutiny) must in a special report set out the basis and method followed to calculate the transfer values. If the fund is subject to actuarial valuations and the basis used to calculate the transfer values differs from the basis used to calculate the fund's liabilities at the last actuarial valuation, the reason for using a different basis must be stated and the effect thereof on the transfer values estimated. The special report should also provide sufficient particulars to enable the registrar to determine whether the transferring members, deferred pensioners' and pensioners' reasonable benefit expectations have been met, including information on the fund's past and future policy regarding pension increases. The funding level (the position at the last actuarial valuation is adequate) must be stated and it must be clearly indicated how any overfunding or underfunding is reflected in the transfer values. The valuator must express his opinion as to whether the reasonable benefit expectations of the transferring members have been complied with.

The valuator of the transferee fund (or the principal officer when the Fund is not subject to actuarial scrutiny) must in a special report provide sufficient particulars to enable the registrar to determine whether the transferring members, deferred pensioners' and pensioners' reasonable benefit expectations have been met including the benefits granted and the fund's policy regarding pension increases. The funding level (the position at the last actuarial valuation is adequate) must be stated. The valuator must state his opinion as to whether the reasonable benefit expectations of the transferring members, deferred pensioners and pensioners have been complied with.

3. Should two or more funds wish to enter into a reciprocal transfer agreement or an agreement covering transfers over a period of time, the valuators of the funds or the principal officers, as the case may be, may submit an initial scheme as set out in Annexure A omitting the particulars required in paragraphs 2.4, 2.5 and 2.6. Those paragraphs may then be completed on a new form at a later stage when the particulars become available.

4. The documentation mentioned in this Circular must be submitted to the registrar by the **principal officer of the transferee fund.**

5. Kindly acknowledge receipt and confirm that a copy of this Circular has been handed to your valuator (if applicable) by signing and remitting the attached acknowledgement. The provisions of this Circular will come into effect on 1 April 1993 and replace PF Circular No. 68 of October 1988.

Yours faithfully

REGISTRAR OF PENSION FUNDS
potcopy

(Die Omsendbrief is ook in Afrikaans beskikbaar)

ANNEXURE A

Section 14(1): SCHEME FOR THE PROPOSED TRANSFER OF BUSINESS FROM THE .... *(Transferor fund)* (12/8/.........) TO THE .... *(Transferee fund)* (12/8/......).

1. The purpose of the scheme:

   ....

   ....

   ....

2. The transfer will be effected in terms of rule(s):

   Transferor fund: ....

   Transferee fund: ....

3. The effective date of the transaction is:

   ....

4. List assets to be transferred at market value:

Description	Value Transferred
	R
....	....
....	....
....	....

5.

	Members	Deferred Pensioners	Pensioners
Number transferred	....	....	....
Number remaining in the transferor fund	....	....	....

6. Is the transfer directly or indirectly based on any agreement between the employer or the fund and a third party or on an agreement between two funds?

....

NOTE: If the answer is yes, certified copies of the relevant agreement should be included.

SPECIAL REPORT OF TRANSFEREE FUND IN TERMS OF SECTION 14(1)(b)

1. The transfer will not render the transferee fund unable to meet the requirements of the Pension Funds Act, 1954 or to remain in a sound financial condition.

2. In my opinion the reasonable benefit expectations of the members, deferred pensioners and pensioners transferred have been met.

3. The benefits granted to the members correspond to the amount transferred and constitute the following:

   ....

   ....

4. In my opinion the reasonable benefit expectations of the existing members of the transferee fund have not been detrimentally affected.

5. Funding level.

   ....

   ....

6. Fund's past policy regarding pension increases.

   ....

   ....

7. Fund's future intention regarding pension increases.

....

....

Signature: ....

Name in print: ....

SPECIAL REPORT OF TRANSFEROR FUND IN TERMS OF SECTION 14(1)(b)

1. The transfer will not render the transferor fund unable to meet the requirements of the Pension Funds Act, 1954 or to remain in a sound financial condition. The transferor fund will cease to exist after the transfer has been effected and as there will be no members, assets or liabilities left after the transfer, its registration should be cancelled. (Delete whichever is not applicable).

2. In my opinion the reasonable benefit expectations of the members, deferred pensioners and pensioners transferred have been met and are fairly represented by the transfer values.

3. In my opinion the reasonable benefit expectations of the remaining members, pensioners and deferred pensioners have not been detrimentally affected.

4. Basis and Method to calculate Transfer Values.

....

....

....

....

Note: Reference can be made to previous statutory valuation reports submitted.

5. Reasons for using a different basis as the basis used at last actuarial valuation, (if applicable) and the effect thereof on transfer values.

....

....

6. Funding level.

....

....

7. How is the funding level reflected in transfer values?

....

....

8. Fund's past policy regarding pension increases.

....

....

9. Fund's future intention regarding pension increases.

....

....

Signature: ....

Name in print: ....

CERTIFICATE BY PRINCIPAL OFFICER AND TRUSTEE

We, ... and ....
(State the full names of both Principal Officers)

hereby certify that

(i) The provisions of the rules of both funds have been complied with regarding the scheme,

(ii) The members involved in the transfer have been properly informed, in writing, of the effect of the proposed scheme on their pension benefits in the following way:

....
....

Note: A copy of the standard letter, Circular or a pro-forma letter must be attached.

(iii) No member has become entitled to a cash refund of part of the contributions made by him or on his behalf to the fund, except for payment of tax payable to the Commissioner of Inland Revenue.

Signed on this .... day of .... 199.. .

....	....
PRINCIPAL OFFICER (Transferor fund)	TRUSTEE (Transferor Fund)

Signed on this .... day of .... 199.. .

....	....
PRINCIPAL OFFICER (Transferee fund)	TRUSTEE (Transferee Fund)