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CIRCULAR PF NO 95
(To all self-administered funds or their administrators (where applicable)

PENSION FUNDS ACT, 1956: SECTION 5(4) OF THE ACT - CENTRAL SECURITY DEPOSITORIES (C S D)

1. Purpose of the Circular

   In order to meet minimum international standards in the sphere of clearing and settlement of securities and to remain internationally competitive, it has become imperative that all participants in the South African financial markets, including pension funds, utilise the facilities offered by central securities depositories for custodial purposes. The purpose of this circular is to inform pension funds of the existence and workings of the central securities depository system, to allay any fears board of management of funds may have with regard to their responsibilities should they decide to use Central Security Depositories (CSD) and to encourage funds to use the CSD for custodian purposes if not already doing so.

2. Approved Central Security Depository in respect of Abonds@

   Circular PF No93 dealt in detail with the nominee requirements of the aforementioned Pension Funds Act for assets of funds to be kept by nominee companies and in Annexure A it listed the South African approved nominee companies, inclusive of the Central Depository Nominees(Pty) (Ltd). To enable the establishment of CSD=s in the Republic, the Safe Deposit of Securities Act, 1992, created the regulatory framework for the registration and supervision of such an entity by the Financial Services Board. A CSD for fixed interest instruments Abonds@, namely the Central Depository Limited(ACD Ltd@), came into operation during 1992 and to date, the nominee company of the CD Ltd serves as the custodian for some 95% of all the listed South African bonds that have been designated for electronic settlement by the Bond Exchange of South Africa (BESA).

The utilisation of this custodian facility has the added benefit of facilitating shorter settlement periods, eliminating tainted or fraudulent certificates and assists the owner of such bonds in that once the bonds have been lodged through one of the four participants in the CD Ltd, the subsequent trading of these instruments is not only speedier but less costly to the owner. Lodging bonds in this way is a prerequisite for electronic settlement and this has become particularly important after the introduction of a shortened rolling settlement regime by BESA during November 1997. The contact number in the above regard is (011) 482 2605 or facsimile (011) 482 6699.

3. Operation of the proposed Central Security Depositories in respect of equities.

The envisaged CSD will provide services to CSD participants, entities regulated by either the FSB or Registrar of Banks and who are agents which can deposit and withdraw equities directly from the CSD. The CSD participants will in turn provide services to pension funds. Services provided by the CSD to CSD participants include electronic settlement by book entry transfer of equities, custody balances of dematerialised equities, the opening and maintenance of accounts of participants, acceptance of securities for dematerialisation, withdrawals, inter-participant electronic transfers, electronic pledges with the SARB, on-line access for participants to enquire on their accounts and provision of authorised ownership information to entitled parties. Although the CSD does not know who owns the securities the CSD participants will, in terms of the Safe Deposit of Securities Act, 1992 provide their clients with statements of holdings. This CSD will be regulated by the FSB in terms of the Safe Deposit of Securities Act, 1992. In addition, the CSD will be subject to frequent independent external auditing to ensure the integrity of its systems and processes. As such, the CSD will have to adhere to stringent regulations and will operate within the boundaries of the related CSD rules for equities.

It is envisaged that a CSD for equities will come into operation during the later half of 1998. This is necessary for the move towards share transactions totally electronic (STRATE) the name of the proposed CSD. The Companies Act, 1973 only recognises the position of registered shareholders (members) and not beneficial shareholders who will have to exercise their rights through the CSD. Amendments to the aforementioned Companies Act are being proposed to address the situation.

Yours faithfully

REGISTRAR OF PENSION FUNDS

Notes (1) Circular PF93 on the subject of approval of nominee companies was issued to all self administered funds and their administrations (where applicable)

(2) This Circular can also be found in the index of Circulars (12/12/1) on the Financial Services Board Internet.
Site : http://www.fsb.co.za

Contact information/departments
Retirement Funds and Friendly Societies