FINANCIAL SERVICES BOARD

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CIRCULAR PF NO. 97

(To all self-administered funds, all fund administrators and the administering insurers of funds exempted in terms of section 2(3)(a) of the Act)

INVESTMENT RETURN ACROSS THE PERIOD FROM THE EFFECTIVE DATE OF A TRANSFER IN TERMS OF SECTION 14 TO THE DATE OF PAYMENT

This circular inserts two additional questions into the forms required to be submitted in terms of Circular PF 78 and advises funds that certain transfers in terms of section 14 of the Pension Funds Act, 1956, which expose the transferor fund to significant risk, will not be approved.

1. Most transfers of membership have an effective date which is earlier than the date of application for the certificate in terms of section 14 of the Pension Funds Act, 1956. The report submitted to the Registrar in accordance with Circular PF 78 states the market value of the assets to be transferred at the effective date but not the investment return which will accrue on the transfer value from the effective date to the date of payment.

2. Normally, this investment return is the investment return earned on the assets of the transferor fund, positive or negative (defined as the "fund rate of return" for the purposes of this Circular). In this case, the financial situation of the transferor fund will not be adversely impacted by the terms of the transfer, if the market falls between the effective date of the transfer and the date of payment.

3. When a fixed rate of interest is agreed, or "call interest" is specified, the transferor fund is exposed to the risk that the investment return earned may be less than such agreed rate of interest. In order to protect against this risk (unless it is trivial because of the size of the transfer relative to the remaining fund), the trustees should either disinvest the assets to be transferred and invest in an instrument that will earn the agreed rate of interest, or the trustees must hedge the investment performance of the assets to be transferred in such a way that the required rate is earned.

4. If the transferor fund is exposed to a significant risk and has not protected itself in this way, the valuator to the transferor fund should qualify his statement that "the reasonable benefit expectations of the remaining members, pensioners and deferred pensioners have not been detrimentally affected" in the Special Report of the Transferor Fund as set out in Circular PF 78.

5. Section 14(1)(c) requires that the Registrar should be satisfied that the scheme "is reasonable and equitable....and that the proposed transactions would not render any fund which is a party thereto ...unable to meet the requirements of this Act or to remain in a sound financial condition". The Registrar cannot, therefore, approve a transfer whose terms could leave the transferor fund in a significantly worse financial position, because the trustees of the transferor fund have not protected the fund in the manner described in paragraph 3. The Registrar therefore requires to know whether the transferor fund is exposed to such risk prior to approving the transfer, and will decline to approve a transfer where the valuator has qualified his statement as outlined in paragraph 4 above.

6. The following questions will therefore be inserted as 4A and 4B into the description of the scheme for the proposed transfer in Annexure A to Circular PF 78:

"4A State how the assets to be transferred will be adjusted for investment return earned across the period from the effective date to the date of payment:
....
....
....
(The default should be the investment return earned by the transferor fund, positive or negative, i.e. the "fund rate of return".)

4B Where a rate other than the fund rate of return is used to adjust the market value of the assets from the effective date to the date of payment, state what action has been taken to protect the Fund against a fall in the value of the investments across this period:...
....
....
...."
(The revised format of the returns under Circular PF 78 is attached.)

7. Where applications have already been submitted to the Registrar without these questions, these two questions should be answered in a separate certificate signed by the valuator or principal officer of the transferor fund and sent to the Registrar. The Registrar will require such a certificate before approving any transfers, with immediate effect. The administrator should submit such certificates in respect of applications already in progress at the Registrar's office.

8. Where the Registrar considers an application which does not include such a certificate, or which does not conform to the revised format required in terms of Circular PF78, the Registrar will refer the application back to the administrator and ask that a separate certificate be completed in terms of paragraph 7 above.

Yours faithfully

A. Swanepoel

REGISTRAR OF PENSION FUNDS

4(b) Where a rate other then the fund rate of return is used to adjust the market value of the assets from the effective date to the date of payment, state what action has been taken to protect the Fund against a fall in the value of the investments across this period:

....

....

....

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.

Signature: ....

Name in print: ....

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 (as at effective date):

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

4(a) State how the assets to be transferred will be adjusted for investment return earned across the period form the effective date to the date of payment:

....

....

(The default should be the investment return earned by the transferor fund, positive or negative, i.e. the "fund rate of return").