

FINANCIAL SERVICES BOARD

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INFORMATION CIRCULAR PF 1 OF 2014

NOTIFICATION OF REGISTRAR'S INTENTION TO IMPOSE ADMINISTRATIVE PENALTIES IN TERMS OF SECTION 37 OF THE PENSION FUNDS ACT, 1956

1. In terms of section 37(2) of the Pension Funds Act, 1956 ('the PFA'), the registrar of pension funds ('the registrar') may impose an administrative penalty of up to R1 000 a day in the case of any failure by a pension fund ('fund'), administrator or third party to submit to the registrar or any other person within a period specified in the PFA any scheme, statement, report, return or other document or information required to be submitted in terms of the PFA.
2. In order to ensure fair administrative action and before the registrar imposes a penalty, section 37(3) of the PFA requires that the registrar must, in writing –
 - (a) inform the administrator, pension fund or third party of his or her intention to impose a penalty;
 - (b) specify the particulars of the alleged non-compliance;
 - (c) provide reasons for the penalty intended to be imposed;
 - (d) specify the amount of the penalty intended to be imposed (R1 000 a day);

- (e) invite interested persons to make written representations to the registrar within a period specified by him or her on the matter including, for example, on –
 - (i) whether the imposition of the penalty is justified and appropriate in the context of the specific circumstances of the fund and the reasons why the scheme, report, return or other document or information was not submitted to this office on time; and
 - (ii) if it is, whether, in those specific circumstances, the rate at which the penalty is to be levied, or the total amount of the penalty, should be lower than the maximum possible and the reasons why a lower rate, or lower total amount, suggested by the interested person would be appropriate.
- 3. In terms of section 16(1) of the PFA a registered fund must, once at least in every three years and as at the expiration of the fund's financial year, cause its financial condition to be investigated and reported upon by a valuator. A copy of the statutory actuarial valuation report prepared by the valuator must be submitted to the registrar and another copy or an accurate summary of the statutory actuarial valuation report must be sent to every employer participating in the fund. Section 16(9) of the PFA permits the registrar to reject a statutory actuarial valuation report by notifying the fund of the reasons why the registrar is of the opinion that it does not correctly reflect the financial condition of the fund. If the registrar rejects a valuation report it has the effect that the valuation report is regarded not to have been furnished to the registrar.
- 4. In terms of section 16(2) of the PFA the statutory actuarial valuation report prepared by the valuator of the fund must be deposited with the registrar within twelve months from the valuation date.
- 5. The registrar is concerned that some funds fail to submit their statutory actuarial valuation reports in time, which makes it impossible for the registrar, in terms of her statutory obligations, to regularly monitor the financial condition of these non-compliant funds.

6. The failure to submit statutory actuarial valuation reports constitutes a contravention of section 16(2) of the PFA and the registrar may, in terms of section 37(2) of the PFA, impose administrative penalties for the late submission of these reports.
7. The registrar hereby gives notice of her intention to impose administrative penalties with effect from **1 JULY 2014** for the late submission of statutory actuarial valuation reports by funds. The penalty will be computed from the date of a fund's failure to timeously submit its statutory actuarial valuation report and the amount of the penalty will depend on the representations received in response to paragraph 2(e) above.
8. No penalties will be imposed if funds submit their outstanding statutory actuarial valuation reports to the registrar's office on or before 30 June 2014, or within the time period specified where an extension was granted; or if the fund submits an application to be valuation exempt instead of submitting a valuation report during the said time period.

Yours faithfully



ROSEMARY HUNTER
DEPUTY REGISTRAR OF PENSION FUNDS