

FINANCIAL SERVICES BOARD

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INFORMATION CIRCULAR PF NO. 1 OF 2017

RESPONSIBILITY FOR SUBMISSION OF ANNUAL FINANCIAL STATEMENTS AND PENALTY NOTIFICATION FOR THE LATE SUBMISSION AND NON-SUBMISSION OF 2015 ANNUAL FINANCIAL STATEMENTS

1. BACKGROUND

- 1.1 Section 15(1) of the Pension Funds Act, 1956 ("the Act") requires a fund to submit its annual financial statements to the Registrar of Pension Funds ("Registrar") within 6 months of the expiration of its financial year:

"Subject to the provisions of subsection (4), every registered fund shall, within six months as from the expiration of every financial year, furnish to the registrar such statements in regard to its revenue, expenditure and financial position as may be prescribed, duly audited and reported on by the auditor of the fund."

- 1.2 Section 7C(2)(b) of the Act requires a board of management ("board") to act with due care, diligence and good faith when pursuing its object of directing, controlling and overseeing the operations of a fund. Another important object of the board, in the present context, is contained in section 7C(2)(f) of the Act, which determines that in pursuing its object the board shall-

"(f) have a fiduciary duty to members and beneficiaries in respect of accrued benefits or any amount accrued to provide a benefit, as well as a fiduciary duty to the fund, to ensure that the fund is financially sound and is responsibly managed and governed in accordance with the rules and this Act; and"

2. RESPONSIBILITY TO SUBMIT ANNUAL FINANCIAL STATEMENTS

- 2.1 In terms of section 15(1) of the Act, the board of a fund is responsible for the submission of annual financial statements to the registrar. In the absence of an extension granted by the registrar, the failure by the board of a fund to submit the prescribed annual financial statements to the registrar within the required six month period as determined in section 15(1) of the Act is therefore a contravention of the Act as well as a non-compliance with the object and duties of the board. Therefore, boards are reminded that the late or non-submission of prescribed annual financial statements may cause the registrar to consider that such boards are not fit and proper to hold office in terms of section 26(4) of the Act.
- 2.2 Funds are also informed that the late submission of the prescribed annual financial statements by boards of funds makes it difficult for the registrar to fulfil his mandate and to perform his supervisory functions. In addition, it results in inaccuracies and delays in compiling industry statistics as well as for the registrar to timeously compile and submit his annual report to the Minister of Finance in terms of section 34 of the Act.

3. PENALTIES

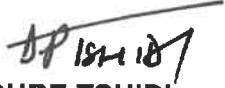
- 3.1 Section 37(2) of the Act enables the registrar to issue administrative penalties for the non-compliance with various sections of the PFA-

"The registrar may impose an administrative penalty in the case of any failure by a pension fund, administrator or third party to submit to the registrar or any other person within a period specified in terms of this Act or in a directive or condition imposed by the registrar in terms of the Act, any scheme, statement, report, return or any other document or information required in terms of this Act to be submitted, not exceeding R1 000 or such other amount prescribed by the registrar for every day during which the failure continues."

- 3.2 This section provides that the registrar may impose a penalty not exceeding R1 000.00 for each day from the day after a return or information is required to be submitted until the date of submission thereof to the registrar.
- 3.3 Funds are hereby informed of the registrar's intention to give notice to non-compliant funds of his intention to impose a penalty of **R60 (sixty rand) per day** for the late or non-submission of **2015** annual financial statements as prescribed in Board Notice 77 of 2014. Notification letters will be issued to the relevant funds shortly and funds will be provided an opportunity to respond to the notification as stipulated in the letters.

3.4 Funds are reminded to make provisions for penalties where applicable.

Yours faithfully

A handwritten signature in black ink, appearing to read 'Dube Tshidi', with a horizontal line drawn above it.

DUBE TSHIDI
REGISTRAR OF PENSION FUNDS