

FINANCIAL SERVICES BOARD

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(To all approved administrators, privately administered funds and insurers who underwrite pension funds)

INFORMATION CIRCULAR PF NO. 8 OF 2008

PENSION FUNDS ACT, 1956

METHOD OF PAYMENT OF SURPLUS BENEFITS AS A RESULT OF THE REGISTRAR'S APPROVAL OF A SURPLUS APPORTIONMENT SCHEME IN TERMS OF SECTION 15B

1. The Registrar of Pension Funds has been advised of instances where funds, subsequent to the Registrar's approval of their surplus apportionment schemes in terms of section 15B(1) of the Pension Funds Act, 1956 ("the Act"), want to change the method of payment of the surplus benefits. As a result of amendments and proposed amendments to the Income Tax Act, No. 58 of 1962, certain surplus payments would be exempt from tax.
2. The method of payment of surplus benefits to qualifying recipients, is not regarded to form part of the aspects which is subject to approval in terms of the provisions of section 15B(9) of the Act.
3. As such, despite the requirement for the disclosure of the method of payment of surplus benefits in the surplus schemes contained in Circular PF114, the method of payment may be altered by the board of a Fund without having to apply for the approval thereof.
4. Where the Registrar has already approved a transfer of surplus in terms of section 14 of the Act, which emanated from an approved surplus apportionment scheme, the board would not be able to change the method of payment as the transaction has to be effected in accordance with the approval granted.

5. The Registrar has no objections where the board of a Fund reconsiders the method of payment of surplus benefits after the approval of the surplus apportionment scheme, provided that:
 - 5.1 The change must be in the best interest of the recipient of such benefit; and
 - 5.2 The board of the fund has communicated in a transparent manner, providing reasons for the change, and any objections from beneficiaries have been dealt with appropriately; and
 - 5.3 Such amended method of payment does not contravene any of the provisions of the Act or the Income Tax Act.
6. Where a board effects a change in the method of payment of surplus benefits, the relevant information must be properly maintained by the fund and should be available to the Registrar or representatives of the Registrar upon request or inspection.

Yours faithfully



FOR REGISTRAR OF PENSION FUNDS