

FINANCIAL SERVICES BOARD

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PENSION FUNDS ACT, 1956: SECTION 13B

EXEMPTION OF INVESTMENT ADMINISTRATORS FROM COMPLIANCE WITH SECTION 13B(1)

1. Section 13B(1) of the Pension Funds Act, 1956 ('the Act') says the following:

"No person shall administer on behalf of a pension fund the investments of such a pension fund, or the disposition of benefits provided for in the rules of the fund, unless the registrar has in a particular case or in general granted approval thereto and the person complies with such conditions as the registrar may from time to time determine in the particular case or in general."

2. Any person who administers the investments of a pension fund subject to regulation in terms of the Act, is itself subject to regulation and supervision in terms of the Financial Advisory and Intermediary Services Act, 2002 ('FAIS').
3. Section 45(1) of FAIS makes it clear that, when it was enacted, the legislature did not intend that providers of a category of financial services be subject to regulation in terms of more than one statute. As FAIS is the more appropriate statute in terms of which the providers of investment administration functions should be regulated and supervised, it is proposed in the Financial Services Law General Amendment Bill now before Parliament that the reference to the administration of investments be removed altogether from section 13B(1).
4. Accordingly, in terms of section 13B(4) of the Act and with effect from the date of this Circular, investment administrators are hereby exempted from the provisions of section 13B(1) of the Act, if and to the extent that section 13B is applicable to the services that they provide to retirement funds registered in terms of the Act.

ROSEMARY HUNTER
Deputy Registrar of Pension Funds

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