

# FINANCIAL SERVICES BOARD

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## INFORMATION CIRCULAR PF NO. 4 OF 2017

### PENSION FUNDS ACT, 1956

#### CONDITIONS FOR TEMPORARY EXEMPTION FROM TRANSFER PERIODS IN RELATION TO THE TRANSFER OF BUSINESS IN TERMS OF SECTION 14 OF THE PENSION FUNDS ACT, 1956

#### 1. Background

Section 14(2)(b) of the Pension Funds Act, 1956 ('the Act') requires a transfer to be effected within 60 days of the date of the certificate issued by the Registrar.

Similarly, a transfer in terms of Section 14(8) must be implemented within 180 days of the effective date of the transfer, in terms of section 14(8)(iii).

The changes to the Schedules to the Income Tax Act, 1962 from 1 March 2017 have resulted in a fund being required to apply for a tax directive for all transferring members. This appears to have caused practical problems for some funds in complying with the statutory payment periods in respect of transfers that were already in progress as at 1 March 2017 or those transfers that were already approved but not yet paid to the transferee fund by this date.

#### 2. New transfer applications

For all transfer applications submitted after the date of publication hereof, funds must ensure that they have sufficient particulars of a member to allow them to apply for a tax directive (should the transfer be approved) prior to including that member in the scheme of transfer. This must be certified by the fund in the transfer application.

### **3. Transfers after 1 January 2017**

In terms of section 2(5) of the Act, the Registrar may, where practicalities impede the strict application of a specific provision of the Act, exempt any fund from such provision on conditions determined by the Registrar. The Registrar, after considering the practical difficulties experienced by funds in obtaining their members' particulars as required by SARS and as noted above, therefore grants the following exemptions:

#### **3.1 Approved Section 14(1) transfers that were unpaid as at 1 March 2017**

The Registrar hereby exempts transfers that were approved on or after 1 January 2017 from the provision of section 14(2)(b), on condition that the transfer be effected no later than **31 August 2017** and fund return is added to the final transfer amounts.

#### **3.2 Section 14(8) transfers that were unpaid as at 1 March 2017**

The Registrar hereby exempts transfers done in terms of section 14(8) with effective dates from 1 September 2016 from the requirement in section 14(8)(iii) on condition that the assets and liabilities be transferred no later than **31 August 2017** and fund return is added to the final transfer amounts.

### **4. Pending or unapproved transfers at the Registrar's office**

Where the Registrar has not yet approved a transfer that had been submitted to him for approval before or on the date of publication hereof, funds should assess whether they have the details required to apply for a tax directive for the members involved. The fund should submit revised or amended applications in those cases where they would not be able to transfer the members.

A revised application should be uploaded as soon as possible under the previous case number on the FSB website or a copy can be emailed to [section14@fsb.co.za](mailto:section14@fsb.co.za).

Should the application be approved before the revised application is received or considered, the amendment process outlined below would instead need to be followed.

### **5. Corrections to approved transfers**

Section 14(6)(c) provides that the Registrar may withdraw or amend a certificate in circumstances where the Registrar is satisfied that, as a result of amendments to legislation, the implementation of the scheme will prejudice members.

The Registrar will consider applications for the withdrawal or amendment of an approved scheme of transfer if they are submitted by 31 August 2017, where such applications are made in terms of section 14(6)(c) by the principal officer of the fund or a member of the board.

Yours sincerely

A handwritten signature in black ink, appearing to read 'DP Tshidi', with a long horizontal stroke extending to the right.

**DP Tshidi**

**REGISTRAR OF PENSION FUNDS**