



Legal Update

Healthcare Actuarial Retirement Investment Personal Wealth

22 February 2016
Edition 3 of 2016

FINANCIAL SERVICES BOARD - ANNUAL REPORT 2015

The Financial Services Board has issued its annual report for the year ended 31 March 2015. The report covers a wide range of industry related issues. The full report (100 pages) may be downloaded from the FSB website: <https://www.fsb.co.za/NewsLibrary/FSB%20Annual%20Report%202015.pdf>

Some of the main points relating to retirement funds have been summarised below:

Licensing and Supervision

LICENSING AND SUPERVISION

Activity

Activity	Number
Registrations of new funds	13
Umbrella schemes:	
Recording new participating employers and registering rule amendments	3 884
Recording terminated employer participation and registering rule amendments	170
On-site visits	216
Approving rule amendments, revised or consolidated rules	946
Approving schemes to transfer assets and/or liabilities between funds and other entities	2 960
Supervising fund liquidation and cancellation of registration	11
Approvals granted under 13B to administrators to conduct retirement fund administration business	4
Withdrawals of such approvals	8

Note: The table does not include applications received but not yet decided

Regulatory Matters

Inspections

Six inspections were requested during the review period. The most significant findings were:

- Two employers deducted contributions from employee remuneration, but did not pay these to a registered pension fund, instead purporting to conduct the business of an unregistered pension fund.
- The board of a fund entered into an agreement to purchase the majority shareholding of its benefit administrator and paid the full price before all conditions had been fulfilled, including the Registrar's approval of the transaction. This approval was denied and the fund was not able to immediately recover the full purchase price. The fitness and propriety of the fund's principal officer and members of its board, as well as key individuals representing the seller, are under consideration.
- Inspections were also conducted into certain funds to confirm that benefits had been paid to members and beneficiaries, as no evidence of these payments could be verified by the new administrator of the funds.

On-site visits

In the review period, 216 on-site visits to funds and administrators identified several significant supervisory issues:

- Boards improperly constituted under the Pension Funds Act and the fund's rules. The Registrar directed that these funds reconstitute proper boards within 90 days in line with their rules.
- Backdating of administration agreements.
- Administration agreements not stipulating the basis on which fees payable by the funds were to be determined and/or fees charged on bases other than provided for in the agreements.
- Those responsible for monitoring compliance by participating employers with their obligations under the Pension Funds Act failed to do so properly, or at all.
- Funds failed to timeously renew their fidelity guarantee and professional indemnity policy.
- Delayed payment of benefits after terminating an administration agreement.
- 'Rebuilding' member data due to maladministration by the previous administrator of the fund.
- Remunerating the principal officer and members of the boards of funds for services despite fund rules not providing for this.
- Section 7B exemption (exemption from electing member trustees) expired without a request for extension submitted.
- Administration system of an administrator could not calculate late payment interest.
- Abuse by trustees of remuneration per meeting attended.
- Failure to timeously submit annual financial statements and valuation reports.
- Term of office of the employer appointed board members not defined in the rules.
- Delegation documents to committees of the board not signed.
- Delays in issuing benefit statements.

Investigation into the cancellation of dormant funds

The report confirms that the FSB has commissioned an investigation to establish whether any pension fund or its members had suffered financial prejudice as a result of action taken by the Registrar to cancel the registration of dormant and other inactive pension funds during the period between 1 January 2007 to 31 December 2013 in terms of section 27 of the Pension Funds Act. The outcome of this investigation is expected in the 2015/16 financial year.

Actuarial

The actuarial department mainly provides supporting service to the insurance and retirement funds divisions. Specific regulatory functions have been delegated to its pensions section, including:

- Analysing actuarial valuation reports – during the period, the Registrar accepted 1 047 actuarial valuation reports with 599 pending at the end of the period because of unresolved queries.
- Considering and approving surplus apportionment schemes – to date, the apportionment of actuarial surplus of R48.14 billion has been approved.
- Considering and approving transfer applications in terms of section 14 of the Pension Funds Act – during the period, 3 829 applications were considered. The FSB remains concerned regarding the large number of cases that they pend for reasons ranging from incorrectly completed applications, outstanding valuations and/or transfer information and boards of funds not being properly constituted – 770 cases were pending at 31 March 2015 compared to 556 in 2014.

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