

25 April 2019

**TO:** THE PRINCIPAL OFFICERS OF ALL REGISTERED  
PENSION FUND ORGANIZATIONS

**CIRCULAR:** PF/01/2019

**EFFECTIVE DATE:** 25 APRIL 2019

**SUBJECT:** THE INCLUSION OF SEPARATELY INSURED BENEFITS  
IN PENSION FUND RULES AND THE TRANSMISSION OF  
INSURANCE PREMIUMS THROUGH PENSION FUNDS

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## **1. INTRODUCTION**

- 1.1. This Circular is issued by virtue of the Namibia Financial Institutions Supervisory Authority's ("the Authority") functions and powers and those of its Chief Executive Officer in his capacity as the Registrar of Pension Funds, in terms of the Pension Funds Act, 1956 (Act No. 24 of 1956) ("the Act"), read with the Namibia Financial Institutions Supervisory Authority Act, 2001 (Act No. 3 of 2001) and is applicable to all registered pension fund organizations ("Fund/s") under the Act.

- 1.2. The purpose of this Circular is to clarify the Authority's position with regard to the inclusion of benefits that are referred to as "separately insured benefits" in the Fund rules and the transmission of insurance premiums through the Fund from the contributions paid to the Fund in order to fund separately insured benefits that are not provided by the Fund in terms of its rules.

## **2. THE CURRENT PRACTICE**

The Authority has observed the practice where Fund contributions are transmitted to an insurer as a premium for an insurance policy taken out by the employer in respect of benefits that are not provided by the Fund in its rules. Further, where the Fund rules specify the benefits of such an insurance policy such benefits are stated as separately insured benefits.

## **3. THE LAW**

- 3.1. In terms of section 1 of the Act "*pension fund organization*" is defined as follows:

- "(a) any association of persons established with the object of providing annuities or lump sum payments for members or former members of such association upon their reaching retirement dates, or for the dependants of such members or former members upon the death of such members or former members; or*
- (b) any business carried on under a scheme or arrangement established with the object of providing annuities or lump sum payments for persons who belong or belonged to the class of persons for whose benefit that scheme or arrangement been established, when they reach their retirement dates or for dependants of such persons upon the death of those persons"*

- 3.2. Further, a pension fund organization includes any association or business which in addition to carrying on business in connection with any of the objects specified in paragraph (a) or (b) of the definition of "*pension fund organization*", also carries on business in connection with any of the objects for which a friendly society may be established as specified in section 2 of the Friendly Societies Act, 1956 (Act No. 25 of 1956) or which is or may become liable for the payment of any benefits provided for in its rules, whether or not it continues to admit, or to collect contributions from or on behalf of members.
- 3.3. Section 10 of the Act prohibits Funds from carrying on any business other than the business of a pension fund without the approval of the Registrar.
- 3.4. Section 11(d) of the Act stipulates that the rules of a fund shall contain provision in regard to the conditions under which any member or other person may become entitled to any benefit and the nature and extent of any such benefit.
- 3.5. In terms of paragraph (c) of the definition of "*rules*" in section 1 of the Act, "*rules*" includes the provisions relating to the benefits which may be granted by and the contributions which may become payable to the fund.

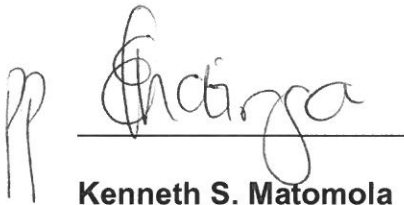
#### **4. THE AUTHORITY'S POSITION**

- 4.1. In light of the above, Fund contributions must be utilised, in full, for the business of the Fund and thus for the benefit of its members.
- 4.2. The Authority's position is thus that separately insured benefits, which are provided by an insurer in terms of an insurance policy entered into with an employer or another third party and which are not included in the benefits that are provided by the Fund in terms of its rules, may not be paid for with Fund contributions.

Therefore, the transmission of Fund contributions to insurers to fund such separately insured benefits is inconsistent with the Act.

The Registrar therefore requires full cooperation and support in this process by all Funds and stakeholders at large.

Should you require more clarity on this Circular, kindly contact the Manager of the Pension Funds and Friendly Societies Department at telephone number 061-290 5000.

A handwritten signature in black ink, appearing to read 'Kenneth S. Matomola', is written over a horizontal line. To the left of the signature, there are two vertical lines, possibly representing initials or a stamp.

**Kenneth S. Matomola**  
**Registrar of Pension Funds**