

23 NOVEMBER 2012

CIRCULAR NO: PI/PF/03/2012

CIRCULAR FROM THE REGISTRAR OF PENSION FUNDS

TO : THE PRINCIPAL OFFICERS AND TRUSTEES OF PENSION FUNDS

**SUBJECT : SECTION 14 OF THE PENSION FUNDS ACT 24 OF 1956 (THE ACT) -
PROVIDING PROOF OF CONSENT FROM THE MEMBERS AND
PARTICIPATING EMPLOYER**

Background

1. Pension funds are allowed by law to amalgamate any business carried on by a registered fund with any business carried on by any other person, or the transfer of any business from a registered fund to any other person, or the transfer of any business from any other person to a registered fund.
2. The Namibia Financial Institutions Supervisory Authority (hereinafter referred to as "the Authority") has been inundated with complaints from participating employers and or sponsors as well as members of the funds claiming that they were not informed about some of the transfers/amalgamation of businesses between pension fund organizations.

Purpose of Circular

3. The purpose of this circular is to inform the industry about the Authority's decision taken with regards to the submission of proof of members' consent and the participating employers' consent to the Section 14 transfers.

The Law and interpretation thereof

4. In terms of Section 24 of the Act, the Registrar may address enquiries to any registered fund in relation to any matter connected with its business or transactions, and it shall be the duty of the fund to reply in writing thereto within a period of thirty days as from the date upon which the Registrar addressed the enquiry to it or within such further period as the Registrar may allow.



Furthermore, section 14(1)(b) states that the transfer of any business from any other person to a registered fund shall be of any force or effect unless the Registrar has been furnished with such additional particulars as he may deem necessary for the purposes of the transfer.

5. In the premise the Registrar is empowered to request the funds of any information that he deems necessary in consideration of any transfers effected in terms of section 14 of the Act.

The Authority's position

6. Principal Officers of pension funds are therefore informed that all pension funds applying for transferring from a defined benefit fund to a defined contribution fund are required to submit, together with the Section 14 transfer application, signed consent forms from members affected.
7. All pension funds submitting Section 14 transfer applications envisaging to transfer from one defined contribution fund to another defined contribution fund, are required to submit, together with the Section 14 transfer application, the participating employer's consent form.
8. The Registrar will no longer accept any other forms of documents, i.e, presentations, newsletters, letters to individual members etc. as proof that affected members were informed.
9. Any Section 14 transfer application without members' and participating employers' consent forms will be regarded as incomplete and will not be considered for approval. These requirements are taking effect immediately from the date of issue of this circular.
10. This circular shall serve as a standing request by the Registrar as contemplated in Sections 24 and 14 of the Act.

PHILIP N. SHIMI
REGISTRAR
NAMIBIA FINANCIAL INSTITUTIONS SUPERVISORY AUTHORITY

