

# FINANCIAL SERVICES BOARD

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## INFORMATION CIRCULAR PF NO. 3 OF 2010

### CLARIFICATION IN RESPECT OF THE APPROVAL OF ENTITIES PROVIDING ADMINISTRATION SERVICES AND/OR GIVING ADVICE TO SOUTH AFRICAN PENSION FUNDS

Further to Circular PF No. 87 and Information Circular PF No. 4 of 2009, clarification is hereby provided on when an entity or person will be required to obtain approval in terms of section 13B of the Pension Funds Act, 1956 ("the PFA") and/or in terms of the Financial Advisory and Intermediary Services Act, 2002 (FAIS Act).

Section 13B of the PFA determines that no person shall administer the disposition of benefits or undertake investments on behalf of a pension fund unless the Registrar has granted approval thereto and the person complies with such conditions as the Registrar may from time to time determine.

Benefit administration includes the administration of membership data, contributions, benefits, expenses and financial reporting. Investment administration on the other hand refers to entities or persons who have been approved as a category I (non discretionary) or category II (discretionary) financial services providers in terms of the FAIS Act to perform the investment management or other intermediary functions of investments on behalf of pension funds.

An administrator may apply for approval to conduct both benefit and investment administration.

The following persons or entities are regarded as administrators and are therefore required to obtain the relevant approval, either in terms of section 13B of the PFA and/or the FAIS Act:

	Description	Section 13B of PFA as a Benefit Administrator	Section 13B of PFA as an Investment Administrator	FAIS Category I	FAIS Category II
1.1	A retirement fund administrator	X	X if applicable	X Investment Administrator	X Investment Administrator Discretionary mandate
1.2	A Union, Bargaining Council or Industrial Council performing the administration functions of a retirement fund	X	X if applicable	X Investment Administrator	X Investment admin Discretionary mandate
1.3	A person who receives any form of payment from an employer to pass on to a fund or to an administrator on behalf of a fund, excluding a bank where such bank acts as a conduit between the employer and the fund	X	X If applicable	X Investment Administrator	X Investment Administrator
1.4	Any other person or entity based in South Africa that acts as an investment manager who receives money, executes mandates (either discretionary or otherwise) or manages investments on behalf of pension funds	X If applicable	X	X	X
1.5	Any other foreign based person or entity that acts as an investment manager who receives money, executes mandates (either discretionary or otherwise) or manages investments on behalf of pension funds	Not allowed	X	X	Not allowed as no discretionary services takes place in SA
1.6	An authorised user (stock broker) approved by the JSE Limited that performs investment administration, investment management or executes a discretionary mandate on behalf of a pension fund	X If applicable	X	X Not Applicable	X Unlisted securities
1.7	A member of any foreign exchange that performs investment administration, investment management or executes a discretionary mandate on behalf of a pension fund	Not allowed	X	X if no discretion is included in the mandate	X if no discretion is included in the mandate
1.8	Any Long-term Insurer registered under the Long-term Insurance Act, 1998 ("the LTIA") performing benefit administration	X	Exempted (see item 2 below)	Exempted (see item 2 below)	Exempted (see item 2 below)
1.9	Any foreign long-term insurer registered under the LTIA performing benefit administration	Not allowed	Exempted (see item 2 below)	Exempted (see item 2 below)	Exempted (see item 2 below)
1.10	Any foreign long-term insurer or foreign branch office of such insurer that has not been registered under the LTIA and issues policies of insurance or investment policies to a pension fund	Not allowed	Not allowed	Not allowed to render financial services in SA	Not allowed to render to financial services in SA
1.11	A foreign Collective Investment Scheme (FCIS) who issues participatory interests in a CIS, any security listed on an exchange or any other investment product to a pension fund and which FCIS has not been approved in terms of the Collective Investment Schemes Control Act, 2002 ("CISCA")	Not allowed	X	Applicable if solicit for clients in SA	Not allowed as no discretionary services take place in SA
1.12	An employer which employs staff to administer its pension fund or establishes a subsidiary company to do so	X	X If applicable	X If advice is given	X If investment manager

The following persons/entities **will not be** required to obtain approval in terms of section 13B to conduct investment administration:

1. a collective investment scheme, either local or foreign, approved in terms of CISCA;
2. long-term insurers, either local or foreign branch offices, registered under the LTIA performing investment administration;
3. authorised users approved by the JSE Limited or a member of any foreign exchange that is a member of the World Federation of Exchanges and whose mandate is restricted to executing instructions received from a pension fund or any person duly acting on behalf of a pension fund; and
4. any person only giving advice and who does not in any way administer or invest assets on behalf of a fund or executes mandates on behalf of a pension fund only.

As part of their fiduciary responsibility a board of a fund should, where it intends to utilise the services of an administrator, perform a due diligence to ensure that the relevant administrator is able to perform the required administration services and has obtained the relevant approvals in terms of the relevant legislation.

Due to the practical difficulties experienced by foreign investment managers in meeting the previous deadlines for obtaining the necessary approvals, extension is hereby granted until 31 December 2010 for such approvals to be obtained from the relevant Registrars.

Yours sincerely,



**JA BOYD**  
**For: Registrar of Pension Funds**



**G ANDERSON**  
**For: Registrar of Financial Services Providers**

