

**CONSOLIDATED RULES INCORPORATING AMENDMENTS NO. 1 to 22  
OF THE  
ALEXANDER FORBES RETIREMENT FUND  
(PENSION SECTION)**

The Trustees of the Alexander Forbes Retirement Fund (Pension Section) resolved on .....<sup>30 March 2022 by virtual meeting</sup>..... that with effect from 1 March 2022 the Rules of the Alexander Forbes Retirement Fund (Pension Section) be consolidated to incorporate the provisions of the registered Amendments No. 1 to 22.

In the event of conflict between the text contained in this set of consolidated rules and the text of the registered Rules, and the amendments thereto, the text of the registered Rules, and the amendments thereto, shall prevail.


Certified that:

(a) no amendments have been made in these consolidated rules, other than the index and the page numbering in the index have been updated to reflect the approved rule amendments and the correction of grammatical errors which do not affect the interpretation of the Rules;

and

(b) the Resolution in terms of which these Rules have been accepted has been adopted in accordance with the Rules of the Fund.


Signed by:John Leon Liackman  
Signed at:2022-04-22 11:18:05 +02:00  
Reason:I approve this document



.....

**Chairman of Trustees**

Signed by:KEVIN BRIAN PRINSLOO  
Signed at:2022-04-21 23:36:29 +02:00  
Reason:I approve this document



.....

**Trustee**

Signed by:Nomonde Zwane  
Signed at:2022-04-21 23:13:41 +02:00  
Reason:I approve this document



.....

**Principal Officer**

**Certified that these Rules of the Fund are financially sound in terms of the Act.**

Gerda Globler

.....

**Actuary to the Fund**



.....

**Signature**

.....

**Qualifications**

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## 1. GENERAL

- 1.1 The fund known as the Multirand Umbrella Pension Fund was established with effect from 1 August 1997.

With effect from 1 May 2000 the Fund became known as the Alexander Forbes Retirement Fund (Pension Section).

- 1.2 The registered office of the Fund is at Alexander Forbes, 115 West Street, Sandown.

- 1.3 The object of the Fund is, in terms of these Rules, to provide retirement and other benefits for employees of participating Employers, and benefits in the event of their death as set out in these Rules.

- 1.4 The Fund, in its own name, shall be capable in law of suing and of being sued and of acquiring, holding and alienating property, movable and immovable.

- 1.5 The Rules of the Fund comprise these General Rules, which are applicable to all Employers and their employees and such Special Rules as may apply to individual Employers and their employees. Unless specifically provided to the contrary elsewhere in these Rules, in the event of conflict between the General Rules and the Special Rules, the provisions of the Special Rules shall prevail; provided that:

- (a) Fund Credit shall henceforth be understood to include both the Employer's Portion and the Member's Portion in the Special Rules and any reference to Employer's Portion or Member's Portion in the Special Rules shall be understood accordingly;

- (b) with effect from 1 August 2008, each reference to:
  - (i) General Rule 6.1 in the Special Rules shall be read as a reference to General Rule 6.1.1.1;
  - (ii) General Rule 6.2 in the Special Rules shall be read as a reference to General Rule 6.1.1.2.

1.6 These Rules include all amendments up to and including 1 March 2022. If the registration of these Rules in terms of the Act is effected later than 1 March 2022, the Rules shall nevertheless take effect from 1 March 2022.



## 2. DEFINITIONS

In these Rules words defined in the Act and not in the Rules shall have the meanings assigned to them in the Act and, unless inconsistent with the context, all words and expressions signifying the singular shall include the plural and vice versa, words and expressions implying the masculine gender shall include the feminine, and the following words and expressions shall have the following meanings:

"Act" shall mean the Pension Funds Act, 1956, as amended, and the regulations made in terms of that Act.

"Actuary" shall mean the Actuary appointed in terms of these Rules.

"Additional Cover" shall mean such additional cover as may be elected by the Member and accepted by the Insurer, subject to such limitations as the Trustees may impose from time to time. Such additional cover shall be paid for from the contribution made by the Member in terms of Rule 4.1.1(b)(ii) and/or from the Employer's contribution made in terms of Rule 4.2.2(a)(ii). The cost of the additional cover shall be determined annually by the Insurer and notified to the Member each year.

"Administrators" shall mean the administrators appointed in terms of these Rules.

"Annuitant" shall mean a person in receipt of a Living Annuity paid from the Fund; provided that this may be either a retired Member, a Deferred Retiree, a beneficiary or a Nominated Beneficiary who elects in terms of Rule 19.8 that all or part of the balance of the Individual Living Annuity Sub-Account shall be paid to such person as a Living Annuity from the Fund.

"Auditor" shall mean the Auditor appointed in terms of these Rules.

"Authority" shall mean the Financial Sector Conduct Authority established in terms of Section 56 of the Financial Sector Regulation Act, 2017.

"Approved Pension Fund" shall mean a pension fund approved as such by the Revenue Authorities for the purposes of these Rules.

"Approved Preservation Fund" shall mean a pension preservation fund or provident preservation fund approved as such by the Revenue Authorities for the purposes of these Rules.

"Approved Provident Fund" shall mean a provident fund approved as such by the Revenue Authorities for the purposes of these Rules.

"Approved Retirement Annuity Fund" shall mean a retirement annuity fund approved as such by the Revenue Authorities for the purposes of these Rules.

"Calculation Date" shall mean the date on which the Administrators, acting in terms of the agreed practice of the Fund, calculate the Member's benefit due as a result of the Member's retirement, death or his leaving Service in terms of Rule 7 or in order to transfer the Member's benefit from the Fund in any of the circumstances contemplated in these Rules.

"Commencement Date" shall mean 1 August 1997.

"Deferred Retiree" shall mean a Member who has retired from Service in terms of Rule 5.2 and elected that his retirement benefit be retained in the Fund until the Election Date, subject to the provisions of Rule 5.1.4. The provisions of Rule 5.4 shall apply to a Deferred Retiree.

“Deputy Principal Officer” shall mean the Deputy Principal Officer or Deputy Principal Officers, as applicable, who may be appointed in accordance with these General Rules.

"Disability Arrangement" shall mean a separate unapproved arrangement which provides an income benefit for employees who are Members in the event of their disablement including such services as may be necessary to facilitate the provision of such benefits, in terms of a policy issued by an Insurer to the Employer.

“Disablement” shall mean the condition of a Member whose condition is such as to satisfy the provisions governing disablement which are set out in the policy issued by the Insurer governing the Insured Disability Portion.

“Election Date” shall mean the date on which a Member retiring in terms of Rule 5 or a Transferred Deferred Retiree elects to receive payment of his benefit in terms of paragraph 4 of the Second Schedule to the Income Tax Act, 1962 or, if later, the date on which the Fund receives notification of such election.

"Eligible Employee" shall mean an employee as specified in the Special Rules, in the Service of a participating Employer specified in the Special Rules; provided that:

- (a) a member of a fund providing retirement benefits which was set up in terms of an agreement under the Labour Relations Act, 1956 or in terms of a collective agreement concluded in council in terms of the Labour Relations Act (Act No. 66 of 1995); or
- (b) a member of an Approved Pension Fund or Approved Provident Fund which is operated by a recognised trade union,

shall not be eligible for membership unless such employee's participation in the Fund is specifically agreed to with the Employer;

provided further that with effect from 1 January 2012 employees who are registered for tax in Swaziland shall not be eligible to join the Fund.

"Employer" shall mean an Employer (and such of its Subsidiaries as may be determined by the Employer from time to time) who has been admitted to the Fund as a participating Employer and who is specified in the Special Rules; provided that where applicable in the Rules, the definition "Employer" shall include a division of that Employer.

If the business of an Employer is wound up for the purpose of reconstruction in a similar or amended form, the reconstructed organisation may take the place of that Employer and the term "Employer" in such case shall then mean the Employer as reconstructed.

In relation to any particular employee or Member "Employer" shall mean the participating Employer by whom that person is, or was last, employed.

"Employer Cluster" as specified in the Special Rules, shall mean an Employer or Employers, determined on such basis as may be decided by the Trustees for the purposes of Rule 12.4 and such other purposes as may be decided by the Trustees from time to time, with the object of simplifying administrative processes and to facilitate the efficient management of the Fund. Where no Employer Cluster is defined in the Special Rules, the Employer shall be the Employer Cluster.

"Financial Year" shall mean each 12 month period ending on 31 March.

"Fund" shall mean the Alexander Forbes Retirement Fund (Pension Section).

"Fund Credit" shall mean for each Member at any particular date an amount determined as follows:

- (a) the accumulated value of:
  - (i) that part of the Member's contributions, if any, received by the Fund in terms of Rule 4.1.1 which is applied in terms of Rule 4.1.1(b)(iv) towards retirement funding;
  - (ii) that part of the Employer's contributions in respect of the Member received by the Fund in terms of Rule 4.2.1 which is applied towards the Member's retirement benefit in terms of Rule 4.2.2(b) (if any),
  - (iii) if applicable, additional contributions made by the Employer and/or the Member and received by the Fund in terms of Rule 4.3;
  - (iv) any amount transferred to the Fund in terms of Rule 9.1;
  - (v) if applicable, any amount allocated in terms of Rule 4.5.3; and
  - (vi) if applicable, any amount allocated in terms of Rule 4.6.3;
  - (vii) any surplus assets allocated for the benefit of the Member in terms of Rule 13.11;
- (b) less
  - (i) such reasonable expenses as may be determined by the Trustees;

- (ii) any amount deducted in terms of Rule 11.5, including any costs incurred by the Fund in giving effect to the provisions of that Rule;

increased or decreased by the Investment Return until the Calculation Date.

"Fund Salary" shall mean for any Member:

- (i) his basic annual salary or wages, and, if applicable, an amount determined by the Employer from time to time in lieu of all other remuneration of any nature whatsoever; or
- (ii) a percentage, as determined by the Employer, of the Member's Total Cost of Employment;

provided that:

- (a) for the purposes of the Fund, Fund Salary shall be determined on the first day of each month of membership of the Fund;
- (b) if the remuneration which constitutes the Member's Fund Salary is reduced at any time then, subject to the agreement of the Member, the Employer may direct that, for the purposes of the Fund, the reduction shall either not be applied in the calculation of the Member's Fund Salary or shall be applied only partially;
- (c) while a Member is disabled in terms of the provisions of the Disability Arrangement his Fund Salary shall be his Fund Salary at the date on which his disablement commenced. Subject to the provisions of Rule 6.1.2.4, if the benefit payable to the Member under the Disability Arrangement is increased, his Fund Salary shall be increased in the same proportion;

- (d) in the case of a commission earner the Employer shall have the right to determine any period over which commission may be averaged for the purposes of determining Fund Salary in relation to the Insured Death Portion, the Insured Disability Portion, the Additional Cover and the Terminal Illness benefits, as applicable;
- (e) unless otherwise specified in the Special Rules applicable to the Employer, for the purposes of the contributions by the Member in terms of Rule 4.1 and by the Employer in terms of Rule 4.2, Fund Salary shall be calculated on a monthly basis.
- (f) if a Member is temporarily absent from Service in any of the circumstances contemplated in Rule 8, Fund Salary for the purposes of contributions in terms of Rule 8.1.1, Rule 8.1.3 (if any) and Rule 8.1.4 and for the determination of risk benefits provided under the Fund during the period of absence shall be based on the Member's Fund Salary immediately prior to the commencement of the period of leave, irrespective of whether the Member is on leave with full pay, with less than full pay or with no pay, provided that:
  - (i) if the Member is on leave with less than full pay, the Member and the Employer may agree to adjust accordingly his Fund Salary during the period of absence; and
  - (ii) the Employer may agree by written notification to the Trustees that Fund Salary shall be adjusted by any annual increases granted by the Employer during the period of leave.

“Individual Living Annuity Sub-Account” shall mean the Rand amount available at any time to provide a Living Annuity for a particular Annuitant. The Individual Living Annuity Sub-Account shall be determined as set out in Rule 19.3.

“Insured Death Portion” shall mean the amount of death cover as specified in the Special Rules and payable in terms of Rule 6.1.1.1(a).

“Insured Disability Portion” shall mean the amount of lump sum disability cover as specified in the Special Rules and payable in terms of Rule 6.2.2.

“Insurer” shall mean a registered and/or licensed insurer in terms of the applicable legislation.

“Investment Return” shall mean any income (received or accrued) and capital gains and losses (realised and unrealised) of the Fund, less an allowance for any tax and such expenses (paid or incurred) associated with the acquisition, holding or disposal of the assets of the Fund as may be determined by the Trustees, provided that

- (a) such Investment Return may be positive or negative; and
- (b) the Investment Return shall be allocated where applicable in these Rules in accordance with Rule 13.6; further provided that in allocating the Investment Return, the Trustees may use a reasonable approximation, made in such manner as may be prescribed by the Authority, if there are sound administrative reasons why an exact allocation cannot be effected.

“Living Annuity” shall mean a monthly annuity that is paid from the Individual Living Annuity Sub-Account.



“Living Annuity Conditions” shall mean the requirements adopted by the Trustees from time to time which sets out the terms and conditions applicable to the provision of Living Annuities by the Fund.

“Management Committee” shall mean the committee members or their alternates, if applicable, appointed or elected in respect of each Employer Cluster in terms of these Rules.

"Member" shall mean a person who, having been admitted to membership of the Fund in accordance with the Rules, has not ceased to be a Member in terms of the Rules.

“Nominated Beneficiary” shall mean a beneficiary nominated by a retired Member or a Deferred Retiree to receive all or part of the balance of such Member’s Individual Living Annuity Sub-Account on such Member’s death. It is specifically provided that more than one person may be nominated as the Nominated Beneficiary of the retired Member or the Deferred Retiree and that such Member may agree that the balance of his Individual Living Annuity Sub-Account shall on his death be allocated to the Nominated Beneficiary or Nominated Beneficiaries in such proportions as the retired Member or the Deferred Retiree may decide.

“Non-Vested Portion” shall mean the amount, if any, by which:

(a) the Member’s Fund Credit;

plus

(b) if applicable, the benefit referred to in Rule 6.2.1 or Rule 6.3.1;

exceeds the Vested Portion.

"Normal Retirement Date" shall mean the date specified in the Special Rules.

"Partial Termination Date" shall mean the date the Trustees accept as the effective date of the Employer's termination of participation in the Fund.

"Participation Date" shall mean the date on which an Employer commences participation in the Fund as specified in the Special Rules.

"Preserved Member" shall mean a Member:

- (a) who on leaving Service prior to 1 January 2019 elected in terms of the Rules as they applied prior to that date, that his benefit be retained in the Fund until it becomes payable in accordance with the provisions of Rule 21; or
- (b) whose benefit has been preserved in the Fund on leaving Service in terms of Rule 7 and whose benefit has not yet become payable in terms of Rule 21.

"Previous Fund" shall mean an Approved Pension Fund or an Approved Provident Fund in which the Employer participates or participated, or in which a previous employer participated, and from which a Member or a group of Members transferred to the Fund in accordance with the provisions of Section 14 of the Act, if applicable.

"Principal Officer" shall mean the Principal Officer of the Fund appointed in accordance with these Rules.

"Qualifying Criteria" means the criteria specified in the Living Annuity Conditions to qualify for a Living Annuity paid from the Fund.

"Revenue Authorities" shall mean the South African Revenue Service and the Income Tax Act, 1962, as amended from time to time.

"Rules" shall mean the General Rules and the Special Rules as altered from time to time.

"Seconded Member" shall mean a Member who is seconded to the service of an organisation linked to his Employer.

"Service" shall mean employment with the participating Employer specified in the Special Rules and shall include any period during which the Member is deemed to remain in Service in terms of Rule 8.1.2.

"Special Rules" shall mean the rules which are applicable to each individual participating Employer and its Eligible Employees.

"Sponsor" shall mean Alexander Forbes Financial Services (Pty) Ltd, or such other entity as agreed to from time to time by the Trustees.

"Subsidiary" shall mean a company in which the participating Employer has a controlling shareholding.

"Terminal Illness" shall mean a condition which satisfies the provisions governing terminal illness which are set out in the policy issued by the Insurer. "Terminally Ill" has a corresponding meaning.

"Total Cost of Employment" shall mean the total annual cost of employing the Member as determined by the Employer from time to time.

“Transferred Deferred Member” shall mean a Member who transfers to the Fund from a Previous Fund, who in terms of the rules of the Previous Fund elected to retain the withdrawal benefit to which he became entitled in the Previous Fund and whose only benefit in the Fund is the Transfer Value.

“Transferred Deferred Retiree” shall mean a Member who transfers to the Fund from a Previous Fund, who in terms of the rules of the Previous Fund elected to retain the retirement benefit to which he became entitled in the Previous Fund and whose only benefit in the Fund is the Transfer Value.

“Transfer Value” shall mean for each Transferred Deferred Member and a Transferred Deferred Retiree the amount transferred in respect of such Member from a Previous Fund in terms of Rule 9.1.5, which amount shall be debited with:

- (a) such reasonable expenses as the Trustees may determine;
- (b) any amount deducted in terms of Rule 11.5, where applicable; and
- (c) any amount deducted in terms of Rule 17.8;

and increased or decreased by the Investment Return until the Calculation Date.

"Trustees" shall mean the trustees or their alternates, if applicable, appointed in accordance with these Rules.

“Unapproved Risk Benefits” shall mean risk benefits, including but not limited to the Disability Arrangement, if applicable, provided under separate unapproved arrangements in terms of policies issued by an Insurer or Insurers to the Employer.

“Unclaimed Benefit” shall mean an unclaimed benefit as defined in the Act.

“Vested Portion” shall mean that part of any amount transferred to the Fund after 1 March 2021 from another Approved Pension Fund, an Approved Provident Fund or an Approved Preservation Fund of which a Member was a member that is not subject to annuitisation, increased or decreased by the Investment Return earned on such amount until the Calculation Date, and less any amounts permitted in terms of any law to be deducted from such amount.

### **3. MEMBERSHIP**

- 3.1 Each Eligible Employee in Service prior to the Participation Date, may, in terms of his employment contract, choose to become a Member of the Fund. Such choice must be exercised within twelve months after the Participation Date.
- 3.2 Notwithstanding the provisions of Rule 3.1 any employee who was a member of a Previous Fund shall join the Fund on becoming an Eligible Employee.
- 3.3 Eligible Employees who enter Service on or after the Participation Date shall join the Fund as a condition of employment. Subject to any variation in terms of the Special Rules, Eligible Employees shall join the Fund immediately on joining Service.
- 3.4 Each Member must produce evidence of age acceptable to the Trustees and must also give such other information as the Trustees may reasonably require for the purposes of the Fund. In the case of a Member who was a member of a Previous Fund, the Trustees may accept the information provided in the records of that fund.
- 3.5 Unless otherwise provided for in the Rules, a Member shall not be permitted to withdraw from membership while he remains in Service.
- 3.6 A Member who has left Service for any reason and has received all the benefits which may be due to him in terms of these Rules shall immediately cease to be a Member.

- 3.7 Notwithstanding any provisions of the Special Rules, if a Member begins to contribute and/or the Employer begins to contribute in respect of him to another Approved Pension Fund or Approved Provident Fund in which the Employer participates or on transfer to an Approved Retirement Annuity Fund or an Approved Preservation Fund in circumstances where the transfer of the Employer's business, as contemplated in Section 197 of the Labour Relations Act, does not permit continued membership of the Fund under the terms and conditions applicable to such transfer, and in consequence his contributions to the Fund and/or the Employer's contributions in respect of him cease, the following shall apply:
- (a) the Member's Fund Credit as at the date on which he ceases to contribute to the Fund and/or the Employer ceases to contribute in respect of him shall become paid-up;
  - (b) subject to the provisions of (f) below, the amount referred to in (a), less any reasonable expenses incurred in the administration of such amount, shall be increased or decreased by the Investment Return until the Calculation Date and shall be referred to as the "Paid-up Benefit" for the purposes of this Rule;
  - (c) in the event of such Member's death or disability, prior to transfer of his benefit in terms of (d) below to another Approved Pension Fund or Approved Provident Fund in which the Employer participates or to an Approved Retirement Annuity Fund or an Approved Preservation Fund in circumstances where the transfer of the Employer's business,

as contemplated in Section 197 of the Labour Relations Act, does not permit continued membership of the Fund under the terms and conditions applicable to such transfer, that part of the death or disability benefit in Rule 6 which is insured with an Insurer shall not be payable;

- (d) the Paid-up Benefit may be transferred in terms of Rule 9.2, to another Approved Pension Fund or an Approved Provident Fund in which the Employer participates, or an Approved Retirement Annuity Fund or an Approved Preservation Fund in circumstances where the transfer of the Employer's business, as contemplated in Section 197 of the Labour Relations Act, does not permit continued membership of the Fund under the terms and conditions applicable to such transfer;
- (e) the Paid-up Benefit shall become payable in the following circumstances:
  - (i) to the Member, if he retires or leaves Service in terms of the provisions of these Rules prior to transfer of his benefit to a fund referred to in (d) above; or
  - (ii) to his beneficiaries, in terms of Section 37C of the Act, if the Member dies prior to transfer of his benefit to such fund;

and



- (f) in the case of a Member, who elected to invest his benefit in terms of the provisions of Rule 13.5.1, the Investment Return referred to in (b) above shall be the Investment Return on the portfolio in which all or part of his Paid-up Benefit is invested.

3.8 If a Member transfers to another retirement fund as envisaged in Rule 9.2.7 it is specifically provided that with effect from the date on which he becomes a member of such fund, contributions in terms of Rule 4 shall cease and in the event of his death, disability or Terminal Illness, prior to transfer of his benefit in terms of these Rules from the Fund to such other fund, that part of the death, disability or Terminal Illness benefits in Rule 6 which is insured with an Insurer shall not be payable.

#### **4. CONTRIBUTIONS**

##### **4.1 Contributions by the Member**

- 4.1.1 (a) Each Member shall contribute to the Fund throughout his Service at the rate set out in the Special Rules.
- (b) Out of the amount paid in terms of (a) above
- (i) that part of the premiums, if applicable, due to the Insurer with whom the Unapproved Risk Benefits are insured which is not met by the Employer contributions made in terms of Rule 4.2.2(a)(i), shall be paid to the Insurer;
  - (ii) such amounts as are required to meet that part of the cost for the month concerned, if applicable, of any Insured Death Portion, any Insured Disability Portion, any Terminal Illness benefit referred to in Rule 6.3.1 and any Additional Cover which is not met by the Employer contributions made in terms of Rule 4.2.2(a)(ii), shall be applied for this purpose; and

(iii) that part of the cost of the administration and such other reasonable expenses of the Fund for the month concerned not met by the Employer contribution in terms of Rule 4.2.2(b) shall be applied for this purpose;

and

(iv) the balance shall be applied towards the Member's retirement benefit under the Member's Fund Credit.

4.1.2 Each Member's contributions shall be deducted by his Employer from his salary or wages and paid to the Fund; provided that while a Member is in receipt of benefits from the Disability Arrangement his contributions to the Fund shall be paid from the benefit from the Disability Arrangement.

4.1.3 If Members are not required to contribute to the Fund, this shall be specified in the Special Rules.

4.1.4 Contributions shall be paid to the Fund within seven days after the end of the month in respect of which the contributions were made. If contributions are not paid to the Fund as required in terms of the Act, the Employer shall be required to pay late payment interest at the rate prescribed by legislation. Any such interest shall constitute investment income for the Fund.

## **4.2 Contributions by the Employer**

4.2.1 Each Employer shall make a monthly contribution in respect of each Member in his employment, as set out in the Special Rules, less, if applicable, the cost of the expenses incurred in respect of contractual arrangements entered into by the Employer with a third party service provider for the provision of services in respect of the Employer's employee benefit arrangement, as advised by the Employer to the Administrators.

4.2.2 Out of the amount paid in terms of Rule 4.2.1

- (a) (i) the premiums, if applicable, for the month concerned in respect of the Unapproved Risk Benefits due by the Employer to the Insurer or Insurers with whom the Unapproved Risk Benefits are insured, shall be paid to the Insurer or Insurers;
- (ii) such amounts as are required to meet, if applicable, the cost for the month concerned of any Insured Death Portion, any Insured Disability Portion, any Terminal Illness benefit referred to in Rule 6.3.1 and any Additional Cover, in respect of each Member of an Employer, shall be applied for this purpose; and

- (b) the balance, less the administration and such other reasonable expenses of the Fund for the month concerned, shall be applied towards the Member's retirement benefit under the Member's Fund Credit. It is specifically provided that an alternative arrangement may be agreed between the Fund and the Employer from time to time for the payment of the administration and such other reasonable expenses of the Fund.
- 4.2.3 Any variations in the application of the Employer's contribution towards retirement funding, the cost of any other benefits provided by the Fund, the cost of the Unapproved Risk Benefits and the costs contemplated in Rule 4.2.2(b), shall be set out in the Special Rules.
- 4.2.4 Contributions by the Employer shall be paid within seven days after the end of the month in respect of which the contributions were made, in accordance with the provisions of Section 13A of the Act. If contributions are not paid to the Fund as required in terms of the Act, the Employer shall be required to pay late payment interest at the rate prescribed in the Act. Any such interest shall constitute investment income for the Fund.
- 4.2.5 It is specifically provided that the terms and conditions applicable to the premiums referred to in Rule 4.1.1(b)(i) and Rule 4.2.2(a)(i) and the payment of the Unapproved Risk Benefits are set out in the policy or policies issued by the Insurer or Insurers with whom such benefits have been insured. Accordingly,

- (a) the Employer remains liable for the payment of the premiums in respect of the Unapproved Risk Benefits to an Insurer or Insurers, even though the Fund acts as a conduit for the payment of such premiums;
- (b) there shall be no right of recourse against the Fund due to any loss howsoever caused as a result of the late or non-payment of the premiums in respect of the Unapproved Risk Benefits; and
- (c) the Fund is not liable for the payment of any Unapproved Risk Benefits.

4.2.6 Where the contribution payable by the Employer in the case of a Member who is in receipt of an income disability benefit is paid by the Insurer with whom the income disability benefit is insured, such contribution shall be subject to a maximum of such amount as may be specified from time to time by the Insurer.

### **4.3 Additional Voluntary Contributions by Members and Employers**

4.3.1 A Member may make additional contributions to the Fund to secure greater benefits in accordance with such conditions and procedures as the Employer, with the agreement of the Trustees, may prescribe from time to time.

The payment of additional contributions to the Fund shall be subject to the limitations and requirements of the Income Tax Act, 1962. Such additional contributions shall be allocated to the Member's Fund Credit.

- 4.3.2 An Employer may make additional contributions to the Fund in order to secure greater benefits for the Member in accordance with such conditions and procedures as the Trustees may require from time to time. The payment of additional contributions to the Fund shall be subject to the limitations and requirements of the Income Tax Act, 1962. Such additional contributions shall be allocated to the Member's Fund Credit.

#### **4.4 Data Reserve Account**

- 4.4.1 A Data Reserve Account shall be maintained under the Fund, to which shall be:

- (a) credited or debited any amounts which may arise as a result of data or administrative errors;
- (b) credited any unidentified deposits received by the Fund that the Administrators advise it is unable to refund to the depositor; provided that if the depositor is unidentified or approaches the Fund and the deposit was made in error, the amount deposited, increased or decreased by the Investment Return as determined and allocated in terms of Rule 13.6(a) to the portfolio in which the assets in this account are invested, shall be refunded to the depositor.

Subject to the approval of the Trustees, any general legal expenses of the Fund may be debited from this account.

4.4.2 The amount standing to the credit of the Data Reserve Account shall be increased or decreased by the Investment Return as determined and allocated in terms of Rule 13.6(a) to the portfolio in which the assets in this account are invested.

4.4.3 It is specifically provided that the Trustees shall ensure that the Data Reserve Account shall never have a negative balance.

#### **4.5 Employer Surplus Account**

4.5.1 An Employer Surplus Account shall be maintained under the Fund, for each Employer in respect of whom an amount referred to in any of (a), (b), (c) or (d) below has been allocated;

(a) the amount, if any, apportioned in terms of a surplus apportionment scheme approved by the Authority in terms of Section 15B of the Act; and

(b) any amount allocated to the Employer Surplus Account in terms of Section 15C(1) of the Act; and

(c) any amount which is required to be transferred to such an account in terms of an application made in accordance with Section 15F of the Act and approved by the Authority; and



- (d) any amount transferred into the Fund from another fund in terms of Section 15E(e) of the Act.

Any amount referred to in any of (a), (b), (c) or (d) above shall be allocated to the Employer Surplus Account maintained for an Employer contemplated in the first paragraph of this Rule.

- 4.5.2 The amount standing to the credit of the Employer Surplus Account shall be increased or decreased by the Investment Return as determined and allocated in terms of Rule 13.6(a) to the portfolio in which the assets in this account are invested.
- 4.5.3 The amount standing to the credit of the Employer Surplus Account may be used in the manner and for any of the purposes set out in the Act.
- 4.5.4 Notwithstanding the provisions of Rule 1.5, if the Trustees agree to a request by a participating Employer that any amount standing to the credit of the Employer Surplus Account maintained for that Employer be utilised for the benefit of such Employer for the purpose contemplated in Section 15E(1)(a) of the Act, the provisions of the Special Rules applicable to such Employer which require contributions by the Employer shall apply only to the extent that all or part of such contributions are not met from the Employer Surplus Account.

#### **4.6 Member Surplus Account**

4.6.1 The Member Surplus Account shall be credited with:

- (a) any amount allocated in terms of Section 15B of the Act in terms of a surplus apportionment scheme approved by the Authority; and
- (b) any amounts in terms of Section 15C(1) of the Act, including, if applicable, any amounts arising from settlements made to the Fund in terms of Rule 18.

4.6.2 The amount standing to the credit of the Member Surplus Account shall be increased or decreased by the Investment Return as determined and allocated in terms of Rule 13.6(a) to the portfolio in which the assets in this account are invested.

4.6.3 The amount standing to the credit of the Member Surplus Account may be used in the manner and for any of the purposes set out in the Act.

#### **4.7 Unclaimed Benefits Account**

4.7.1 An Unclaimed Benefits Account shall be maintained under the Fund. This account may be credited with amounts held by the Fund which are classified by the Administrators as unclaimed or unpaid benefits by the Fund.

4.7.2 The assets in the Unclaimed Benefits Account shall be increased or decreased by the Investment Return as allocated in terms of Rule 13.6(a) to the portfolio in which the assets in this account are invested.

4.7.3 The Unclaimed Benefits Account shall be debited with:

(a) payments to member or other beneficiaries in terms of Rule 17.4;

(b) transfers to a national fund established by legislation for the purpose of housing unclaimed benefits or to a fund established by an administrator for the same purpose.

#### **4.8 Processing Error Reserve Account**

4.8.1 The Fund may maintain a Processing Error Reserve Account to introduce a measure of protection of the Fund's financial position against mismatches that occur between the actual investment or disinvestment of moneys and when they are deemed to have occurred in the calculation of benefits, as well as any other miscellaneous mismatches that may occur.

4.8.2 The level of the Processing Error Reserve Account shall be determined by the Trustees on the advice of the Actuary from time to time and shall not exceed the level of available assets after taking into account the liabilities of the Fund in terms of these Rules.

4.8.3 Assets in the Processing Error Reserve Account may, after consulting the Actuary, be:

- (a) paid to Members leaving the Fund in any of the circumstances contemplated in these Rules;
- (b) transferred to the Cost Contingency Reserve Account held for an Employer in terms of Rule 4.12.2(b).

#### **4.9 Deferred Retiree Account**

4.9.1 A Deferred Retiree Account shall be maintained under the Fund. This account shall be credited with:

- (a) the retirement benefits of Deferred Retirees once their election to defer their retirement has been processed; and
- (b) the Transfer Values of Transferred Deferred Retirees on transfer to the Fund.

4.9.2 The assets in the Deferred Retiree Account shall be increased or decreased by the Investment Return as allocated in terms of Rule 13.6(a) to the portfolio in which the assets in this account are invested.

4.9.3 The Deferred Retiree Account shall be debited with:

- (a) payments to Deferred Retirees or other beneficiaries in terms of Rule 5.4(c)(i) and (ii);

- (b) payments to Transferred Deferred Retirees or other beneficiaries in terms of Rule 20.3(b)(i) and (ii);
- (c) transfers, at the election of the Deferred Retiree in terms of Rule 5.4(c)(iii) or the Transferred Deferred Retiree in terms of Rule 20.3(b)(iii) to an Approved Retirement Annuity Fund or an Approved Preservation Fund.

#### **4.10 Preserved Member Account**

4.10.1 A Preserved Member Account shall be maintained under the Fund. This account shall be credited with:

- (a) the Fund Credits of Preserved Members whose benefits on leaving Service have been retained in the Fund; and
- (b) the Transfer Values of Transferred Deferred Members on transfer to the Fund.

4.10.2 The assets in the Preserved Member Account shall be increased or decreased by the Investment Return as allocated in terms of Rule 13.6(a) to the portfolio in which the assets in this account are invested.

4.10.3 The Preserved Member Account shall be debited with:

- (a) payments to Members or other beneficiaries in terms of Rule 20 and Rule 21;
- (b) transfers, at the election of the Preserved Member or a Transferred Deferred Member to another fund in accordance with Rule 21(d)(iii) and Rule 20.3(a)(iii) respectively;
- (c) as applicable, transfers, as determined by the Trustees to an Approved Preservation Fund established for the purpose of housing unclaimed benefits;
- (d) transfers, at the election of the Preserved Member or a Transferred Deferred Member in terms of Rule 5.4, to the Deferred Retiree Account;
- (e) if applicable, any deductions in terms of Rule 11; and
- (f) transfers, at the election of the Preserved Member or a Transferred Deferred Member in terms of Rule 5.1.3, to the Individual Living Annuity Sub-Account.

#### **4.11 General contribution category**

4.11.1 Notwithstanding the provisions of the Special Rules and any other provisions in these Rules, it is specifically provided that where a Member and an Employer are unable to pay contributions as required in terms of the Special Rules applicable to such Employer, and to prevent financial hardship and the loss of jobs, the Employer may request in writing that the Trustees authorise the participation of their Members in this general contribution category in terms of which:

- (a) a Member shall not be required to contribute to the Fund; and
- (b) an Employer shall be required to only pay the contributions for risk benefits ordinarily paid by or routed through the Fund and the Fund's expenses as set out in General Rule 4;

for a period up to six months.

4.11.2 An Employer shall be required to make the request in writing to the Trustees for the general contribution category to apply to its Members and shall also be required to provide copies of the communication sent to the Members in this regard.

4.11.3 A Member and an Employer may resume the payment of contributions in terms of the Special Rules applicable to such Employer at any time before the end of the six month period.

#### **4.12 Cost Contingency Reserve Account**

- 4.12.1 A Cost Contingency Reserve Account may be established for each Employer, in order to assist with meeting such additional costs and expenses incurred by the Fund, as determined and approved by the Trustees with the agreement of the Management Committee of the Employer Cluster concerned, thereby enabling the Trustees to prudently manage the expenses of the Fund.
- 4.12.2 A Cost Contingency Reserve Account maintained under the Fund shall be credited with:
- (a) any amounts transferred from a Previous Fund which are earmarked for allocation to this account;
  - (b) any amounts transferred from the Processing Error Reserve Account in terms Rule 4.8.3(b);
  - (c) that portion of the Employer's contribution to the Fund in terms of Rule 4, that is allocated to this account in terms of the Special Rules.
- 4.12.3 The assets in the Cost Contingency Reserve Account shall be increased or decreased by the Investment Return as allocated in terms of Rule 13.6(a) to the portfolio in which the assets in this account are invested.



4.12.4 The amount standing to the credit of the Cost Contingency Reserve Account shall, as determined by Trustees with the agreement of the Management Committee of the Employer Cluster concerned, be debited with such reasonable costs and expenses which shall include but not be limited to:

- (a) the costs of any additional training for the Management Committee of the Employer Cluster concerned;
- (b) any expenses incurred by the Management Committee of the Employer Cluster concerned when conducting meetings on behalf of the Fund;
- (c) the cost of roadshows for Members;
- (d) the cost of enhanced retirement benefits counselling for Members;
- (e) the cost of Member education; and
- (f) any other reasonable costs and expenses as determined and approved by the Trustees with the agreement of the Management Committee of the Employer Cluster concerned.

4.12.5 It is specifically provided that the Trustees shall ensure that the Cost Contingency Reserve Account shall never have a negative balance.

**4.13 Fund Expense Reserve Account**

- 4.13.1 The Fund shall maintain a Fund Expense Reserve Account, to which shall be credited such portion of the administration fee deducted for Fund expenses as the Trustees may decide from time to time.
- 4.13.2 The amount standing to the credit of the Fund Expense Reserve Account shall be increased or decreased by the Investment Return as allocated in terms of Rule 13.6(a) to the portfolio in which the assets in this account are invested.
- 4.13.3 The Fund Expense Reserve Account shall be debited with such expenses incurred by the Fund as may be agreed by the Trustees from time to time.
- 4.13.4 It is specifically provided that the Trustess shall ensure that the Fund Expense Reserve Account shall never have a negative balance.

## 5. RETIREMENT BENEFITS

### 5.1 Benefit

5.1.1 On the Election Date, a Member who has retired from Service in terms of Rule 5.2, shall, as elected by the Member, become entitled to:

- (a) a pension of such amount as can be purchased in terms of Rule 5.1.2 by his Fund Credit and, if applicable, the benefit referred to in Rule 6.2.1 or Rule 6.3.1, at the Election Date, after the exercise of any option in terms of Rule 5.3, from an Insurer or such other authorised party which provides annuities; or
- (b) if the Member meets the Qualifying Criteria, a Living Annuity of such amount as can be provided in terms of Rule 5.1.3 by his Fund Credit and, if applicable, the benefit referred to in Rule 6.2.1 or Rule 6.3.1, at the Election Date, after the exercise of any option in terms of Rule 5.3; or
- (c) a combination of both (a) and (b) above, subject to the applicable legislative requirements and the Living Annuity Conditions.

5.1.2 If a retiring Member elects the option provided for in Rule 5.1.1(a) or Rule 5.1.1(c), the pension or such portion of the pension as elected by the Member in terms of Rule 5.1.1(c) which becomes payable shall be purchased as an annuity or annuities in the Member's name from an Insurer, or such other authorised party which provides annuities.

The terms and conditions applicable to such annuity or annuities, including options elected by the Member and the determination of any benefits arising on his death, shall be agreed between the Member and the Insurer, or such other authorised party which provides annuities, and shall be set out in writing by such insurer or authorised party, as the case may be; provided that:

- (a) the annuity or annuities so purchased shall be subject to the provisions of the Income Tax Act, 1962, and any other applicable legislation from time to time; and
- (b) on purchase of the annuity or annuities in terms of this Rule, the Fund shall have no further liability in respect of the Member, such liability resting with the Insurer, or such other authorised party which provides annuities, from whom such annuity or annuities are purchased; further provided that in the case of a Member who elects the option provided for in Rule 5.1.1(c) the Fund shall have no further liability in respect of that part of the pension purchased in terms of this Rule 5.1.2.

- 5.1.3 If a retiring Member elects in terms of Rule 5.1.1 that his pension or a portion of his pension be paid from the Fund and he meets the Qualifying Criteria, the Member's Fund Credit and, if applicable, the benefit referred to in Rule 6.1.2 or Rule 6.3.1, at the Election Date, or such portion thereof as elected by the Member in terms of Rule 5.1.1(c), less any amount commuted for a lump sum in terms of Rule 5.3, shall be allocated to his Individual Living Annuity Sub-Account and, subject to the provisions of Rule 19, be applied to provide a Living Annuity.
- 5.1.4 Notwithstanding the provisions of Rule 5.1.1, a Member who has retired from Service in terms of Rule 5.2 may at any time prior to the Election Date, elect to transfer his Fund Credit and, if applicable, the benefit referred to in Rule 6.2.1 or Rule 6.3.1 to an Approved Retirement Annuity or an Approved Preservation Fund.

## **5.2 Retirement from Service**

- 5.2.1 A Member who has reached age 55 years may retire from Service on the last day of any month occurring before he reaches his Normal Retirement Date; provided that a Member who is not a member of the Alexander Forbes Retirement Fund (Provident Section), who is at least 50 years of age and is within 10 years of his Normal Retirement Date may retire on the last day of any month occurring before he reaches his Normal Retirement Date.

5.2.2 A Member who has not retired in terms of Rule 5.2.1 must retire from Service on reaching his Normal Retirement Date unless his Employer agrees in writing to his remaining in Service after that date.

5.2.3 The Trustees shall upon receipt of notification from the Employer that a Member, who does not qualify for a benefit in terms of the provisions of the Disability Arrangement, if applicable, has become totally and permanently incapable of efficiently carrying out his duties, or a Member has become Terminally Ill, agree to such Member's retirement from Service at any time before he reaches Normal Retirement Date.

5.2.4 A Member who is allowed to remain in Service after his Normal Retirement Date shall retire from Service on such later date as he agrees with his Employer.

### **5.3 Commutation of Pension**

On the Election Date, prior to the purchase of his pension in terms of Rule 5.1.2 or the commencement of payment of a Living Annuity from the Fund, a Member may elect to commute for a lump sum:

(a) all or part of his Vested Portion, if applicable;

plus

- (b) (i) if the Non-Vested Portion does not exceed the limit set by the relevant legislation from time to time, all or part of the Non-Vested Portion; or
- (ii) if the Non-Vested Portion exceeds the limit referred to in (i) above, not more than one-third of the Non-Vested Portion.

#### **5.4 Provisions applicable to a Deferred Retiree**

The following special provisions shall apply to a Member who has retired from Service in terms of Rule 5.2 and has elected to become a Deferred Retiree:

- (a) after the date on which the Deferred Retiree retires from Service in terms of Rule 5.2:
  - (i) contributions by and in respect of the Deferred Retiree in terms of Rule 4, as applicable, shall cease;
  - (ii) the Insured Death Portion and the Additional Cover, if applicable, shall not become payable if the Deferred Retiree dies before the Election Date;
  - (iii) except in the case of a Member who retires from Service in terms of Rule 5.2.3, as a result of Disablement or on becoming Terminally Ill, the Insured Disability Portion or the Terminal Illness benefit, as applicable, shall not become payable if the Deferred Retiree becomes disabled or if he becomes Terminally Ill, before the Election Date;

(b) the Deferred Retiree's

- (i) Fund Credit plus the Insured Disability Portion, in the case of a Member who has retired from Service in terms of Rule 5.2.3 as a result of Disablement; or
- (ii) Fund Credit plus the Terminal Illness benefit, in the case of a Member who has retired from Service in terms of Rule 5.2.3 on becoming Terminally Ill; or
- (iii) Fund Credit in the case of any other Member;

shall be retained in the Fund and shall be debited with:

- (aa) such reasonable expenses as the Trustees may determine; and
- (bb) any amount deducted in terms of Rule 17.8;

and increased or decreased by the Investment Return until the Calculation Date;

(c) the benefit referred to in (b) above shall become payable in the following circumstances:

- (i) in terms of Rule 5.1 and Rule 6.2, if applicable, or Rule 6.3, if applicable, to the Deferred Retiree on the Election Date; or



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- (ii) in terms of Section 37C of the Act if the Deferred Retiree dies before the Election Date;  
or
  
- (iii) earlier, if the Deferred Retiree elects that the benefit be transferred to an Approved Retirement Annuity Fund or an Approved Preservation Fund in terms of Rule 5.1.4.

## **6. DEATH, DISABILITY AND TERMINAL ILLNESS BENEFITS**

### **6.1 Death Benefit**

#### **6.1.1 Benefit Payable on Death in Service**

6.1.1.1 If a Member dies while in Service, on or before reaching the age specified in the policy issued by the Insurer with whom the Insured Death Portion is reinsured, there shall be payable as a lump sum benefit that part of the amount in (a) and (b) which is in excess of any amount referred to in Rule 17.8:

(a) subject to the provisions of Rule 6.1.2, his Insured Death Portion and, if applicable, his Additional Cover; plus

(b) his Fund Credit.

6.1.1.2 If the Member dies in Service after reaching the age specified in the policy issued by the Insurer with whom the Insured Death Portion is reinsured, the benefit payable shall be his Fund Credit.

6.1.1.3 Notwithstanding the provisions above, a person entitled to a benefit in terms of Rule 6.1.1.1 and Rule 6.1.1.2 above, may, provided he meets the Qualifying Criteria, elect that instead of receiving such benefit as a lump sum, that the benefit be allocated to his Individual Living Annuity Sub-Account and, subject to the provisions of Rule 19, be applied to provide a Living Annuity paid from the Fund.

## **6.1.2 Restrictions**

6.1.2.1 The Insured Death Portion payable in terms of Rule 6.1.1.1(a) shall be insured with an Insurer and shall not become due and payable unless the claim for the benefit has been admitted by the Insurer. If the claim is admitted by the Insurer the Insured Death Portion shall be limited to the amount paid by the Insurer in consequence of such claim.

6.1.2.2 Where so required by the Insurer who is underwriting the benefit, a Member may need to be examined at the Insurer's expense by a medical practitioner in terms of the Insurer's underwriting requirements.

6.1.2.3 Depending on the results of this examination, the benefit, or part of the benefit payable in terms of Rule 6.1.1.1(a) may be restricted in such manner as determined by the Insurer.

6.1.2.4 If any part of a death benefit payable in terms of Rule 6.1.1.1(a) has been insured with an Insurer, then no increase in Fund Salary during a period in which the Member is disabled in terms of the rules of the Disability Arrangement shall apply for the purposes of that part of the death benefit which is so insured without the prior agreement of the Insurer.

### **6.1.3 Payment of Benefit**

Payment of the death benefit shall be made in terms of Section 37C of the Act. Any decision in terms of Section 37C shall be made by the Trustees, taking into account representations by the Management Committee.

## **6.2 Disability Benefit**

### **6.2.1 Definition**

If so specified in the Special Rules, on the Election Date a Member who has retired from Service in terms of Rule 5.2.3 as a result of Disablement shall, in addition to his Fund Credit referred to in Rule 5.1.1, be entitled to the Insured Disability Portion as set out in the Special Rules;

provided that:

- (a) such benefit shall be subject to a maximum of such amount as may be specified from time to time by the Insurer;

- (b) if the Member's Disablement occurs after he has reached such age as may be set out in the policy issued by the Insurer the benefit shall be reduced in accordance with the provisions of that policy;
- (c) the benefit shall be payable after a waiting period specified in the policy issued by the Insurer;
- (d) a benefit payable in terms of this Rule shall be subject to any restrictions which may have been imposed in terms of Rule 6.1.2 on the benefit applicable in terms of General Rule 6.1.1.1(a) and to such exclusions and further restrictions (if any) as may apply in terms of the policy issued by the Insurer;
- (e) the benefit payable in terms of this Rule shall be insured with an Insurer and no such benefit shall be paid unless the claim for the benefit has been admitted by the Insurer. If the claim is admitted by the Insurer the Insured Disability Portion shall be limited to the amount paid by the Insurer in consequence of such claim.

## **6.2.2 Payment of Benefit**

Payment of the benefit referred to in Rule 6.2.1 shall be made in terms of Rule 5.1.

### **6.3 Terminal Illness Benefit**

#### **6.3.1 Benefit**

On the Election Date, a Member who has retired from Service in terms of Rule 5.2.3 due to becoming Terminally Ill shall, subject to the provisions of Rule 6.3.2, in addition to his Fund Credit referred to in Rule 5.1.1, be entitled to a benefit equal in amount to the benefit that would have been payable in terms of Rule 6.1.1.1(a) if he had died on the day the Insurer was notified of his claim for a Terminal Illness benefit.

#### **6.3.2 Restrictions and Exclusions**

6.3.2.1 A benefit payable in terms of Rule 6.3.1 shall be subject to any restrictions which may have been imposed in terms of Rule 6.1.2 on the benefit applicable in terms of Rule 6.1.1.1(a) and to such exclusions and further restrictions (if any) as may apply in terms of the policy issued by the Insurer.

6.3.2.2 The benefit payable in terms of Rule 6.3.1 shall be insured with an Insurer and no such benefit shall be paid unless the claim for the benefit has been admitted by the Insurer.

#### **6.3.3 Payment of Benefit**

Payment of the benefit referred to in Rule 6.3.1 shall be made in terms of Rule 5.1.

**6.4 Suspension or Cancellation of death, disability, or Terminal Illness cover**

Notwithstanding any other provision in this Rule 6, if any part of the death, disability, or Terminal Illness benefit in Rule 6 is insured with an Insurer and the cover provided in terms of the policy issued by the Insurer is suspended or cancelled for reasons beyond the control of the Trustees then that part of the death benefit, disability benefit, or Terminal Illness benefit in Rule 6 which was so insured shall not be payable by the Fund.

## **7. TERMINATION OF SERVICE**

### **7.1 Benefit**

If a Member who has not reached Normal Retirement Date leaves Service for any reason not specifically provided for in these Rules, he shall become entitled to a benefit equal to his Fund Credit.

### **7.2 Preservation and Payment of Benefit**

7.2.1 The benefit in terms of this Rule shall be preserved in the Fund in accordance with the provisions of Rule 21, unless upon leaving Service the Member elects that:

- (a) the benefit be paid to him as a lump sum; or
- (b) the benefit be transferred to another Approved Pension Fund, an Approved Provident Fund, an Approved Retirement Annuity Fund, or an Approved Preservation Fund; or
- (c) part of the benefit be paid to him as a lump sum and the balance be transferred to another Approved Pension Fund, an Approved Provident Fund, an Approved Retirement Annuity or an Approved Preservation Fund;

provided that if a Member elects option (a), (b) or (c) above, then subject to Rule 11.3, the benefit shall be paid to him or transferred to another fund as soon as is reasonably possible after the Administrators receive the relevant documentation advising them that the Member has left Service and setting out the option elected by the Member.



7.2.2 A Member who leaves Service in terms of this Rule and who does not elect option (a), (b) or (c) in Rule 7.2.1, shall become a Preserved Member and the provisions of Rule 21 shall apply to such Member.

7.2.3 If a Member who leaves Service in terms of this Rule dies after electing to receive payment of his benefit but before payment of his benefit has been made, the benefit shall be paid to his estate as a lump sum.

## **8. TEMPORARY ABSENCE AND SECONDMENT**

### **8.1 Temporary Absence**

8.1.1 When a Member who is not referred to in Rule 8.1.4, is on leave with full pay or with pay less than full pay and he is required to contribute to the Fund in terms of the Special Rules, he shall contribute in accordance with Rule 4.1.1 and the Employer shall continue to contribute in respect of him in accordance with Rule 4.2.1 and all benefits under the Fund in respect of him shall be maintained.

8.1.2 A Member qualifying for a disablement benefit in terms of the provisions of the Disability Arrangement shall, for the purposes of the Fund, be deemed to remain in Service, unless otherwise specified in the Special Rules.

8.1.3 If a Member who is not referred to in Rule 8.1.4, is on leave without pay, no contributions, if required in terms of Rule 4.1.1 and the Special Rules, shall, subject to the provisions of Rule 8.1.5, be made by him and the contributions made by the Employer in respect of him shall be at least those required to:

- (a) meet any premiums due by the Employer in terms of Rule 4.2.2(a)(i); and

- (b) maintain the Insured Death Portion, the Insured Disability Portion, the Terminal Illness benefit, if applicable, and any Additional Cover which cover shall continue to apply for such period as is set out by the Insurer in the policy in terms of which such benefits are insured; and
- (c) meet the expenses referred to in Rule 4.2.2(b).

8.1.4 If a Member is on maternity or paternity leave irrespective of whether the maternity or paternity leave is paid or unpaid, the following shall apply:

- (a) if the Member is required to contribute in terms of the Special Rules applicable to his Employer, he may elect either:
  - (i) to continue to contribute in accordance with Rule 4.1.1 during the period of the maternity or paternity leave, and accordingly the Employer may decide either:
    - (aa) to continue to make full contributions in respect of the Member in terms of Rule 4.2.1 as envisaged in Rule 8.1.1; or

(bb) to limit his contributions as envisaged in Rule 8.1.3, in order to maintain the risk benefits referred to in that Rule;

or

(ii) not to continue to contribute in terms of Rule 4.1.1, and accordingly the Employer's contributions in respect of such Member shall be limited as envisaged in Rule 8.1.3 to the contributions required to maintain the risk benefits referred to in that Rule;

(b) if the Member is not required to contribute in terms of the Special Rules applicable to his Employer, the Employer may agree to either:

(i) continue to make full contributions in respect of the Member in terms of Rule 4.2.1 during the period of the maternity or paternity leave, as envisaged in Rule 8.1.1; or

(ii) limit the Employer's contributions in respect of the Member during the period of maternity or paternity leave as envisaged in Rule 8.1.3 to the contributions required to maintain the risk benefits referred to in that Rule.

8.1.5 It is specifically provided that where a Member is required in terms of the Rules to contribute all or part of the cost of the risk benefits and/or the expenses referred to in Rule 4.2.2(b), the Employer shall ensure the continuance of such contributions during the temporary absence of a Member without pay, as negotiated between the Employer and the Member.

## **8.2 Secondment**

The following provisions shall apply in the case of a Seconded Member, depending on the Employer's policy regarding secondment. The Seconded Member shall either

(a) be required to leave the Service of the Employer and become entitled to payment of a withdrawal benefit in terms of Rule 7. On payment of such benefit, his membership of the Fund shall cease;

or

(b) remain in the Service of the Employer and remain a Member of the Fund. In such case, the provisions of either (i), (ii) or (iii) below, as agreed between the Seconded Member and the Employer in accordance with the Employer's employment practice, shall apply to the continuation of contributions by and in respect of such Seconded Member during the period of secondment:

- (i) any contributions required by such Seconded Member and by the Employer in terms of the Special Rules shall be limited to such reasonable expenses of the Fund payable by the Employer in respect of the Seconded Member during the period of secondment and in the event of the Seconded Member's death, disablement or Terminal Illness during the period of secondment, the only benefit payable from the Fund shall be his Fund Credit; or
- (ii) the contributions made by the Employer during the period of secondment shall be limited to:
  - (aa) any premiums due by the Employer in terms of Rule 4.2.2(a)(i); and
  - (bb) the amount required to maintain the Insured Death Portion, the Insured Disability Portion, the Terminal Illness benefit, if applicable, and any Additional Cover, which cover shall continue to apply for such period as is set out by the Insurer in the policy in terms of which such benefits are insured, and subject to such terms and conditions as may be specified by the Insurer; and
  - (cc) the expenses referred to in Rule 4.2.2(b).

- (iii) during the period of secondment, the Seconded Member shall continue to contribute in accordance with Rule 4.1.1, if he is required to contribute in terms of the Special Rules and the Employer shall continue to contribute in respect of the Seconded Member in terms of Rule 4.2.1 and all benefits in respect of the Seconded Member shall be maintained.

It is specifically provided that the Seconded Member's Fund Salary may be adjusted during the period of secondment for the purposes of any contributions made by the Seconded Member and the Employer on such basis as may be agreed to by the Employer and the Seconded Member.

## **9. TRANSFERS**

### **9.1 Transfers into the Fund**

- 9.1.1 If a Member or a group of Members transfers to the Fund from a Previous Fund, the Fund shall receive from the Previous Fund the amount payable to the Fund in respect of each such Member. Such amount shall be applied under the Member's Fund Credit.
- 9.1.2 If a Member who is a member of any other Approved Pension Fund, an Approved Provident Fund or an Approved Preservation Fund chooses to transfer the benefit to which he is entitled on leaving that fund into the Fund, the amount so transferred shall be applied under the Member's Fund Credit.
- 9.1.3 The Fund may accept transfer from any other Approved Pension Fund, an Approved Provident Fund or an Approved Preservation Fund of an amount in respect of a Member who has elected to transfer to the Fund an amount awarded to such person in terms of a court order contemplated in Section 7(8) of the Divorce Act 1979.



9.1.4 Subject to such conditions as may be decided by the Trustees from time to time, the Fund may accept transfer from a Previous Fund of any amounts classified as unclaimed benefits by the trustees of such Previous Fund and which remain in that Previous Fund; provided that such amounts have been transferred to the Fund in terms of a scheme for transfer in accordance with Section 14 of the Act and are not benefits payable to the beneficiary of a member of a Previous Fund due to the death of such person while a member of such fund.

9.1.5 The Fund shall also accept transfer from a Previous Fund of any amounts retained in the Previous Fund in the case of a Transferred Deferred Member and a Transferred Deferred Retiree.

## **9.2 Transfers out of or within the Fund**

9.2.1 If Members become members of another Approved Pension Fund or an Approved Provident Fund in which his Employer participates due to the restructuring of the Employer's arrangements for retirement funding or by way of an election by a Member to transfer his benefit in the Fund to such arrangement, then the Fund Credit, less such costs incurred by the Administrators in arranging such transfer as may be determined by the Trustees, of each Member who is eligible for membership of such fund on a date determined by the Trustees shall be transferred to such Approved Pension Fund or Approved Provident Fund.

On finalisation of the transfer of his benefit in terms of the above, the Member shall cease to be a Member of the Fund.

9.2.2 If a Member is compulsorily transferred to the service of a company or other organisation which is an Employer that participates in the Fund, then the Member's Fund Credit shall be transferred to the records of the new Employer under the Fund, unless the Fund is instructed otherwise by the Employer.

9.2.3 Notwithstanding any other provisions of these Rules, in the event of a transfer of his Employer's business contemplated in Section 197 of the Labour Relations Act, no Member affected by such transfer shall become entitled to a benefit in terms of Rule 7.1. The Trustees shall arrange for the Fund Credit of such Member, less such costs incurred by the Administrator in arranging such transfer as may be determined by the Trustees, to be dealt with in terms of either (a) or (b) below:

(a) to be transferred to an Approved Pension Fund or an Approved Provident Fund in which his new employer participates;

or

- (b) if the Member so elects, subject to the provisions of the agreement governing the transfer of business contemplated in Section 197 of the Labour Relations Act and, if applicable, the terms and conditions of the Member's contract of employment with his new employer, to be transferred to
  - (i) an Approved Retirement Annuity Fund; or
  - (ii) an Approved Preservation Fund.

On finalisation of the transfer of his benefit in terms of the above, the Member shall cease to be a Member of the Fund.

#### **9.2.4 Transfer to Retirement Arrangements outside the Republic of South Africa**

Subject to any requirements of the applicable authorities in South Africa, the Trustees may arrange to transfer the Fund Credit of a Member who is resident in a country where the Fund is not registered as a foreign fund to an arrangement for retirement funding recognised as such by the relevant authorities in the country in which he resides.

**9.2.5 Transfer of Benefit if a Member Ceases to Qualify as an Eligible Employee**

Notwithstanding any other provisions of these Rules, if a Member, while remaining in Service, either:

- (a) due to a change in his conditions of employment ceases to qualify as an Eligible Employee in terms of the Special Rules applicable to his Employer; or
- (b) becomes eligible for membership of an Approved Provident Fund or Approved Pension Fund operated by a recognised trade union;

the following shall apply:

- (i) if such Member is required to become a member of another Approved Pension Fund or Approved Provident Fund in which his Employer participates (including an Approved Pension Fund or Approved Provident Fund operated by a recognised trade union), then subject to the provisions of Rule 3.7, either:
  - (aa) the Member's Fund Credit, less such costs incurred by the Administrator in arranging such transfer as may be determined by the Trustees, shall be transferred to that fund; or

- (bb) such Member may elect to transfer his Fund Credit, less any costs incurred by the Administrator in arranging such transfer as may be determined by the Trustees, to an Approved Retirement Annuity Fund;

and on finalization of the transfer in terms of (aa) or (bb), the Member shall have no further claim on the Fund;

or

- (ii) if the Member is not required to become a member of a fund contemplated in (i) above, then such Member may either:

- (aa) remain a Member of the Fund and the provisions of the Special Rules applicable to his Employer shall continue to apply to his conditions of membership; or

- (bb) elect to transfer his Fund Credit, less any costs incurred by the Administrator in arranging such transfer as may be determined by the Trustees, to an Approved Retirement Annuity Fund in accordance with the provisions of (i).

9.2.6 Notwithstanding any other provisions of this Rule, in particular circumstances, the Trustees may, in their discretion, decide on the manner of dealing with the Member's benefit entitlement, subject to any requirements of the Act and the Revenue Authorities.

**9.2.7 Transfer in respect of Members registered for tax in Swaziland**

With effect from 31 December 2011 Members of the Fund who are registered for tax in Swaziland shall be required to transfer their Fund Credits to another arrangement for retirement funding provided by their Employer. In the event that the Employer does not operate such arrangement, the Member may transfer his Fund Credit to a retirement fund of his choice. If the Member does not make such election, the Trustees shall then have the discretion to transfer his Fund Credit to a retirement arrangement of their choice. On finalisation of the transfer the Member shall cease to be a Member of the Fund.

**9.2.8 Transfer to an Associated or Subsidiary Employer**

If a Member is transferred to the service of a company or other organisation associated or subsidiary of his Employer that participates in another Approved Pension Fund or an Approved Provident Fund but not the Fund, the Trustees shall arrange for the Member's Fund Credit, less such costs incurred by the Administrators in arranging such transfer as may be determined by the Trustees, to be transferred to that fund and on finalization of the transfer the Member shall have no further claim on the Fund.

**9.2.9 Option on transfer out of the Fund**

Notwithstanding the applicable transfer out provisions in these Rules, a Member who is required to transfer to another retirement funding arrangement may elect instead, by notice in writing and provided he provides the minimum information required by the Fund, to retain his benefit in the Fund as a Paid-up Benefit, in which case the provisions of Rule 3.7 shall apply *mutatis mutandis*.

## 10. TERMINATION

### 10.1 Termination of the Fund

10.1.1 The Trustees, in consultation with the Administrators, may terminate the Fund at any time by giving six months' written notice to all the Employers.

10.1.2 If the Fund is to be terminated, then the following conditions shall apply:

(a) the Trustees shall, subject to the approval of the Authority, appoint a liquidator who must liquidate the Fund with effect from the date of the Authority's approval of his appointment;

(b) the total moneys available under the Fund in respect of each of the Employers, after payment of all expenses incurred in the liquidation in relation to each Employer, shall be applied to provide benefits for all Members and other beneficiaries of each Employer on an equitable basis recommended by the Actuary and approved by the liquidator.

(c) the amount available for:

(i) a Member under (b) above who is not an Annuitant shall, as directed by the liquidator, either:



- (aa) be transferred for his benefit to another Approved Pension Fund, an Approved Provident Fund, an Approved Retirement Annuity or an Approved Preservation Fund; or
    - (bb) if the Member so requests, be paid to the Member as a lump sum benefit;
  - (ii) an Annuitant under (b) above shall be applied to purchase an annuity or annuities for him in his own name from an Insurer, or such other authorised party which provides annuities, and the provisions of Rule 19.10 shall apply *mutatis mutandis* to the purchase of such annuity or annuities;
- and
- (d) if a person to whom an amount is payable cannot be traced, the amount referred to in (b) shall be transferred to a national fund established by legislation for the purpose of housing Unclaimed Benefits, or to a fund established by an administrator for the same purpose.

- 10.1.3 In making an apportionment in terms of Rule 10.1.2(b) the liquidator shall take into consideration every former Member who left the Fund during the period of at least twelve months ending on the date of commencement of liquidation or such other period as may be determined by the liquidator, subject to the approval of the Authority. The former Member's apportionment shall be reduced by the amount of the benefit which he received on leaving the Fund.
- 10.1.4 When all payments have been made by the Fund in terms of Rule 10.1.2, the Fund shall have no further liability to any person or Employer and its registration in terms of the Act shall be cancelled.
- 10.1.5 It is specifically provided that the provisions of the Pension Funds Second Amendment Act, Act No. 39 of 2001, shall over-ride any conflicting provisions in this Rule 10.1, in particular with regard to payment of minimum benefits and the rights of the stakeholders.

## **10.2 Partial Termination**

### 10.2.1 At any time

- (a) any Employer participating in the Fund may, in consultation with the Management Committee, terminate its participation in the Fund, for any reason whatsoever, by giving three months' (or such other period as may be agreed between the Employer, the Management Committee and the Trustees) written notice to the Trustees; and
- (b) the Trustees may, for any reason whatsoever, by giving three months' written notice to an Employer, terminate the Employer's participation in the Fund; provided that, at the Trustees discretion, such notice period may be increased or decreased based on the circumstances in each case.

### 10.2.2 With effect from the Partial Termination Date, the following shall apply:

- (a) contributions in terms of Rule 4 and, if the termination is in terms of (c)(iii) below, payment of benefits shall cease;

- (b) in the event of the death, disability or Terminal Illness of a Member in the Service of the withdrawing Employer after the Partial Termination Date, that part of the death, disability and Terminal Illness benefits in Rule 6 which is insured with an Insurer shall not be payable;

and

- (c) the Employer's participation in the Fund shall be terminated in terms of either (i), (ii) or (iii) below:
  - (i) if the provisions of Rule 9.2.1, Rule 9.2.3 or Rule 9.2.6 are applicable, the Trustees shall arrange for the total assets and liabilities attributable to the Members related to the withdrawing Employer, as determined by the Trustees in consultation with the Actuary, to be transferred, in accordance with the provisions of Section 14 of the Act, to a fund contemplated in Rule 9.2.1 or Rule 9.2.3 and on finalisation of the transfer, shall apply to the Authority for the registration of that part of the Fund in which this Employer participates to be cancelled in terms of Section 27(1)(a) of the Act;

or

- (ii) if the circumstances envisaged in (i) above are not applicable and if all benefits in the part of the Fund in which the withdrawing Employer participates have accrued prior to the Partial Termination Date, the Trustees shall arrange for all such benefits to be paid in terms of the Rules and on finalisation of such payments, shall apply to the Authority for the registration of that part of the Fund in which this Employer participates to be cancelled in terms of Section 27(1) (a) of the Act;

or

- (iii) if the circumstances envisaged in (i) above are not applicable and if all benefits have not accrued prior to the Partial Termination Date and therefore the provisions of (ii) do not apply; subject to (aa) below, the termination of the Employer's participation in the Fund in terms of Rule 10.2.1(a) and (b) above shall be regarded as a partial liquidation in which case the provisions of Rule 10.1.2, Rule 10.2.3 and Rule 10.2.4 shall apply; provided that:

- (aa) if the Fund has applied to the Authority for exemption from the liquidation process and the Authority has granted such exemption, the termination of the Employer's participation in the Fund shall not be regarded as a partial termination and the Trustees shall apply to the Authority for the registration of that part of the Fund in which this Employer participates to be cancelled in terms of Section 27(1)(a) of the Act;
  
- (bb) that part of the Fund which is to be liquidated in terms of the Act shall be limited to the total assets and liabilities attributable to the Members related to the withdrawing Employer, as determined by the liquidator.

- 10.2.3 In making an apportionment in terms of Rule 10.1.2(b) the liquidator shall take into consideration every former Member of the withdrawing Employer who left the Fund during the period of at least twelve months ending on the date of commencement of partial liquidation. The former Member's apportionment shall be reduced by the amount of the benefit which he received on leaving the Fund.
- 10.2.4 When all payments have been made by the Fund in terms of Rule 10.1.2 in respect of the withdrawing Employer, the Fund shall have no further liability to any person related to that Employer in respect of whom the Fund held assets and liabilities at the date of partial liquidation.

### **10.3 Withdrawal of an Employer**

- 10.3.1 If an Employer ceases to exist or ceases to operate without giving notice to the Fund as envisaged in Rule 10.2, the Trustees shall determine the Partial Termination Date of that Employer. In such circumstances the payment of Members benefits shall be dealt with in terms of Rule 7; provided that should the benefits of the Members not be paid or transferred within 6 months of the Employer's Partial Termination Date, the benefits remaining in the Fund may be classified as unclaimed and may be transferred to the Unclaimed Benefits Account in terms of Rule 4.7.1.

10.3.2 With effect from the Partial Termination Date, the following shall apply:

- (a) contributions in terms of Rule 4 shall cease;
- (b) in the event that a Member in the Service of the Employer immediately prior to the Partial Termination Date dies, becomes disabled or Terminally Ill after the Partial Termination Date of the Employer, that part of the death, disability and Terminal Illness benefit, as applicable, in Rule 6 which is insured with an Insurer shall not be payable; and
- (c) once the Trustees have finalised the payment or transfer of benefits in terms of Rule 7 and the transfer of any benefits remaining in the Fund to the Unclaimed Benefits Account, as envisaged in Rule 10.3.1, they shall apply to the Authority for the registration of that part of the Fund in which the Employer participates to be cancelled.



## **11. DEDUCTIONS FROM BENEFITS**

- 11.1 The Trustees shall have the right to make such deductions from the benefit to which a Member or other beneficiary is entitled in terms of the Rules as are permitted in terms of Section 37D(1)(a), (b) and (c) of the Act and in respect of which a claim has been lodged in writing within such reasonable time of the event giving rise to the benefit as the Trustees may from time to time fix for making such claims; provided that where an Employer has instituted criminal proceedings against the Member concerned in respect of damage caused to the Employer as contemplated in Section 37D(1)(b) of the Act and following prosecution in a criminal court, the Member has been convicted, the Trustees shall only effect a deduction from the Member's benefit if the Employer has obtained a compensation order from such court in terms of Section 300 of the Criminal Procedure Act, 1977.
- 11.2 It is specifically provided that if the Trustees have reinsured a guarantee for a housing loan in terms of Rule 13.3 with an Insurer through a separate policy of insurance and if on the death, disability or occurrence of some other health event specified in the policy of insurance of the Member whose housing loan was guaranteed by the Trustees, the outstanding amount, or part thereof, has been paid to the Fund or to such person as the Fund may direct, by the Insurer, any such deduction shall be reduced by the amount paid to the Fund by the Insurer. Each Member whose guarantee of a housing loan has been so reinsured shall be required to pay a premium of such amount as may be determined by the Trustees, to the Fund or to such person as the Fund may direct, in return for the waiver of the right of the Trustees to reduce the Member's benefit by the outstanding housing loan in the circumstances contemplated in this Rule.

- 11.3 Notwithstanding any other provisions of these Rules, the Trustees may, where an Employer has instituted legal proceedings in a court of law against the Member concerned in respect of damage caused to the Employer as contemplated in Section 37D(1)(b) of the Act, withhold payment of the benefit until such time as the matter has been finally determined by a competent court of law or has been settled or formally withdrawn; provided that:
- (a) the amount withheld shall not exceed the amount that may be deducted in terms of Section 37D (1)(b)(ii) of the Act;
  - (b) the Trustees in their reasonable discretion are satisfied that the Employer has made out a *prima facie* case against the Member concerned and there is reason to believe that the Employer has a reasonable chance of success in the proceedings that have been instituted;
  - (c) the Trustees are satisfied that the Employer is not at any stage of the proceedings responsible for any undue delay in the prosecution of the proceedings;
  - (d) once the proceedings have been determined, settled or withdrawn, any benefit to which the Member is entitled is paid forthwith; and
  - (e) the Trustees, at the express written request of a Member whose benefit is withheld, may, if applicable and practical, permit the value of the Member's benefit as at the time of such request to be isolated, in whatever manner the Trustees believe appropriate, from the possibility of a decrease therein as a result of poor investment performance.

- 11.4 If a Member is retiring in terms of Rule 5 or dies, the Trustees shall have the right, prior to the purchase of an annuity or annuities in terms of Rule 5.1.2 or the commencement of payment of a Living Annuity from the Fund, as the case may be, to commute for a lump sum the amount required to enable the Trustees to deduct from the Member's benefit any amount permissible in terms of this Rule.
  
- 11.5 Subject to the provisions of the Act, the Trustees shall have the right to make such deductions from the Fund Credit of a Member as are permitted in terms of Section 37D(1)(d) of the Act.
  
- 11.6 All benefit payments are subject to the provisions of the Income Tax Act 1962, as amended from time to time, and subject to any other applicable legislation prevailing from time to time. It is specifically provided that the Fund's liability with regard to payment of any amount to any person is limited to the total value of the amounts payable in respect of the Member in terms of these Rules.

## **12. MANAGEMENT OF THE FUND**

### **12.1 Management Structure**

- 12.1.1 The Fund shall be managed by the board of Trustees, comprising Internal and External Trustees, who are responsible for performing the obligations and duties as set out in the Act and in these Rules.
- 12.1.2 The Trustees shall have the power to delegate all or part of their specific functions referred to in these Rules to the Management Committees.
- 12.1.3 The Trustees shall have the power in the name of the Fund to enter into and sign any contracts or documents and to institute, conduct, defend, compound or abandon any legal proceedings by or against the Fund and to make reasonable bye-laws prescribing the form and the manner in which claims are to be lodged and dealt with by the Fund.

### **12.2 Internal Trustees**

- 12.2.1 The Sponsor shall in accordance with the appointment process set out in a separate document by them, as amended from time to time, appoint three Trustees (hereinafter referred to as "Internal Trustees"). The Sponsor may also appoint one or more alternate Internal Trustee to act during the temporary absence of any Internal Trustee. The provisions of Rule 12.2.2 shall apply *mutatis mutandis* to an alternate Internal Trustee. Should any permanent vacancy arise from time to time among the Internal Trustees, the Sponser will, within such period as the Authority may from time to time prescribe, appoint an Internal Trustee in accordance with the appointment process documented by them.

12.2.2 An Internal Trustee shall cease to hold office:

- (a) if he gives one months' written notice of his resignation as a Trustee to the Fund; provided that at the discretion of the Trustees this notice period may be waived or reduced; or
- (b) if he has failed to attend more than one of the Trustees' meetings scheduled for the year; provided that in certain circumstances the Trustees at their discretion may waive this requirement;
- (c) if the other Trustees resolve that he be removed from office; or
- (d) if the Administrator resolves that he be removed from office; or
- (e) if the majority of the Management Committees resolve that he be removed from office.
- (f) if the Authority determines that he ceases to be fit and proper to hold office;

## **12.3 External Trustees**

12.3.1 The Trustees shall in accordance with the appointment process agreed to by them and set out in a separate document, as amended from time to time, appoint three Trustees (hereinafter referred to as "External Trustees") from a list of applicants who are not in the employment of the Sponsor or the Administrators or of any one of their subsidiary or associated companies. The Trustees may also appoint one or more alternate External Trustees to act during the temporary absence of any External Trustee. The provisions of Rule 12.3.2 shall apply *mutatis mutandis* to an alternate External Trustee. Should any permanent vacancy arise from time to time among the External Trustees, the Trustees will, within such period as the Authority may from time to time prescribe, appoint an External Trustee in accordance with their agreed appointment process.

12.3.2 An External Trustee shall cease to hold office

- (a) if he gives one months' written notice of his resignation as a Trustee to the Fund; provided that at the discretion of the Trustees this notice period may be waived or reduced; or
- (b) if he has failed to attend more than one of the Trustees' meetings scheduled for the year; provided that in certain circumstances the Trustees at their discretion may waive this requirement;

- (c) if the other Trustees resolve that he is to be removed from office; or
- (d) if the majority of the Management Committees resolve that he be removed from office.
- (e) if the Authority determines that he ceases to be fit and proper to hold office.

## **12.4 Management Committees**

12.4.1 Until such time as the Management Committee is established, an interim Management Committee shall be established by each Employer Cluster; provided that:

- (a) a Management Committee in terms of Rule 12.4.2 shall be established within such reasonable period after the Participation Date of the Employers within the Employer Cluster, if applicable, as may be decided on by the Trustees; and
- (b) the interim Management Committee shall comprise at least one person who shall be appointed by the Employers in the Employer Cluster and such person or persons shall have the power to sign the application form regulating the Employers' participation in the Fund, as required by the Administrators and to make such other decisions as may be required to facilitate the Employers' participation in the Fund.

- 12.4.2 A Management Committee shall comprise one or more persons (hereinafter referred to as "Management Committee Members"). The Members, other than Deferred Retirees, Annuitants, Transferred Deferred Members, Transferred Deferred Retirees and Preserved Members, shall have the right to elect at least 50% of the Management Committee Members.
- 12.4.3 Elections for Member Elected Management Committee Members shall be held by ballot and shall be held at least every five years, unless otherwise specified in the Special Rules.
- 12.4.4 A Management Committee Member shall cease to hold office:
- (a) if he gives notice of resignation as a Management Committee Member; or
  - (b) if the Employer that appointed him, in the case of an Employer Appointed Management Committee Member, resolves that he is to be removed from office; or
  - (c) if the other Management Committee Members resolve that he is to be removed from office; or



- (d) if he has failed either
  - (i) to attend in person; or
  - (ii) to participate in by means of electronic media such as video or telephone conferencing;

three consecutive Management Committee meetings without leave from the other Management Committee Members;

or

- (e) if elected as a Member Elected Management Committee Member due to his being a Member of the Fund, the majority of Members in the Service of the Employers in the Employer Cluster concerned resolve that he is to be removed from office, or he ceases to be in the Service of the Employer in the Employer Cluster or a Member of the Fund.

12.4.5 The Management Committee shall hold office until the close of the Management Committee meeting which concludes the ordinary business of the Fund in relation to the applicable Employer Cluster for the terms of office in terms of Rule 12.4.3. The Management Committee Members so retiring shall be eligible for re-appointment or re-election, as the case may be.

- 12.4.6 At all meetings of the Management Committee the Management Committee shall elect one of their number to act as chairman. The Management Committee may elect a new chairman from time to time and the existing chairman shall be available for re-election. If the chairman is absent from any meeting the Management Committee shall elect a chairman for that meeting from their number.
- 12.4.7 The Management Committee shall meet from time to time but at least once in every twelve months to conduct the business of the Fund in relation to the applicable Employer Cluster. Notice of at least fifteen days for ordinary meetings shall be given to Management Committee Members unless they agree to waive such notice period. Minutes of the meeting shall be kept.
- 12.4.8 If the Management Committee consists of more than one member, a minimum of half plus one of the total number of Management Committee Members shall form a quorum; unless otherwise specified in the Special Rules.
- 12.4.9 At all meetings of the Management Committee the decision of the majority shall be binding unless the Special Rules otherwise specify. In the event of an equal number of votes the matter under dispute shall be referred to the next meeting of the Management Committee and if the votes remain equal, the matter shall be referred to the Trustees who may make a decision which shall be final and binding or may decide to refer the matter to such other person or body qualified in the matter under dispute for a recommendation.

- 12.4.10 If, at any meeting of the Management Committee, either the Employer Appointed Management Committee Members or the Member Elected Management Committee Members are not equally represented, one or more of the Employer Appointed Management Committee Members or Member Elected Management Committee Members, depending on which party outnumbers the other, shall abstain from voting.
- 12.4.11 The Management Committee Members and any alternates appointed or elected in terms of this Rule 12.4 shall not be entitled to any remuneration from the Fund for their services as such.
- 12.4.12 In the event that a Management Committee fails to perform its obligations and duties in terms of these Rules the Trustees shall, notwithstanding any provision to the contrary in these Rules, have the power to conduct the business of the Fund in relation to the applicable Employer Cluster.
- 12.4.13 Whilst the Trustees shall take all reasonable steps to ensure that the interests of Members are protected, the Trustees are not able to influence the constitution of the Management Committees and accordingly shall not be liable for the negligence, incompetence, dishonesty or fraud of the Management Committees.
- 12.4.14 In the event of a dispute between the Trustees and the Management Committee, the decision of the Trustees shall prevail and be binding on the Management Committee.

12.4.15 It is specifically provided that no person may hold office as a Management Committee Member unless he has signed a declaration confirming that the grounds for disqualification for holding office set out in Rule 12.5 do not apply to him.

12.4.16 A resolution in writing signed by all members of the Management Committee shall be of the same force and effect as a resolution passed at a meeting of the Management Committee; provided that the decision is recorded in the minute book maintained by the Management Committee.

**12.5 Disqualification from holding office as Trustee or Management Committee Member**

No person in any of the following categories shall be eligible for appointment as a Trustee or Management Committee Member and if a Trustee or a Management Committee Member who has signed the declaration referred to in Rule 12.4.14 at any time falls in any such category he shall cease to hold office:

- (a) a minor or any person who is insane or otherwise incapable of acting;
- (b) any person who is disqualified from being a director in terms of an order under the Companies Act, Act No 71 of 2008; as amended from time to time;
- (c) an unrehabilitated insolvent;

- (d) any person removed from an office of trust on account of misconduct;
- (e) any person who has been convicted of any offence and sentenced to imprisonment without the option of a fine;
- (f) any person who has been convicted of theft, fraud, forgery or uttering a forged document or perjury.

## **12.6 Term of Office and Remuneration**

- 12.6.1 Unless any Trustee ceases to hold office or is disqualified from holding office in terms of Rule 12.2.2, Rule 12.3.2 or Rule 12.5, as applicable, the Trustees appointed in terms of Rules 12.2 and 12.3 shall hold office for a period of either three or five years as determined by the Trustees on appointment or re-appointment, as applicable, whereupon they shall retire. The Trustees so retiring shall be eligible for re-appointment.
- 12.6.2 Notwithstanding the provisions of Rule 12.6.1 the Trustees shall cease to hold office at the end of the period of notice given in terms of Rule 10.1.
- 12.6.3 The Trustees and any alternate appointed in terms of Rule 12.2.1 or Rule 12.3.1 may be entitled to such remuneration for their services as may be determined from time to time by the Trustees, in respect of the External Trustees or any alternate External Trustee, and by the Sponsor in respect of the Internal Trustees or any alternate Internal Trustee. Such remuneration shall be paid by the Fund in respect of the External Trustees or any alternate External Trustee, and by the Sponsor in respect of the Internal Trustees or any alternate Internal Trustee.

## **12.7 Meetings of Trustees**

- 12.7.1 The chairman shall be elected annually by all the Trustees from among their number. The Trustees shall also elect annually a vice-chairman from among their number. If the chairman of the Trustees is absent from any meeting, the vice-chairman shall preside, and if the vice-chairman is also absent the Trustees shall elect an acting chairman for that meeting from their number. It is specifically provided that if the chairman is absent from the Republic of South Africa or otherwise unable to perform his duties, the vice-chairman shall sign any documents requiring signature during the period when the chairman is absent or unable to act.
- 12.7.2 The Trustees shall meet from time to time to conduct the business of the Fund, but not less than twice in any Financial Year. Four Trustees shall form a quorum; provided that at least two External Trustees are present.
- 12.7.3 Notice of at least fifteen days for ordinary meetings shall be given to the Trustees unless the Trustees agree to waive such notice period. Minutes of all meetings must be kept.
- 12.7.4 At all meetings of the Trustees the decision of the majority shall be binding. If no majority decision can be reached on any matter, the matter shall be referred to the next meeting of the Trustees. If no majority decision can be reached at that meeting, the matter shall be referred, for a recommendation, to a person agreed to by the Trustees and suitably qualified in the matter in dispute.

If no majority decision can be reached on such person's recommendation, the matter shall be referred to an independent mediator agreed to by the Trustees.

If still no majority decision can be reached, the matter in dispute shall be referred to an arbitrator agreed to by the Trustees and the arbitrator's decision on the matter shall be final and binding on all the Trustees.

In the event that the Trustees are unable to agree to which person, mediator or arbitrator the matter should be referred, as the case may be, then the matter shall be referred by the Principal Officer to the President of the Law Society in order for the latter to determine such appointment. Any costs incurred in resolving disputes shall be met by the Fund.

12.7.5 A resolution in writing signed in accordance with the Act shall be of the same force and effect as a resolution passed at a meeting of the Trustees; provided that

- (i) all the Trustees are informed of the decision to be made; and
- (ii) the decision is recorded in the minute book of the Fund;

provided further that Trustee resolutions adopting Special Rules, amendments to the General Rules and the Special Rules, or in respect of Section 37C death benefit distributions, or in respect of the liquidation of an

Employer's participation in the Fund and Section 14 transfers need not be recorded in the minute book of the Fund, but shall be maintained in the records of the Fund.

- 12.7.6 An annual general meeting of Members shall be held. The Trustees shall advise the Management Committees to notify all Members of the date and venue of such meeting.

## **12.8 Other Appointments**

- 12.8.1 The Trustees may appoint an Auditor and an Actuary to the Fund and may withdraw any such appointment and make another appointment in its place at any time.

- 12.8.2 The Fund shall appoint the Administrators and, subject to giving 90 days' notice to the Administrators, may terminate such appointment and make another appointment in its place at any time. It is specifically provided that, as set out in the agreement, in the event of any breach by the Administrators of the agreement between the Fund and the Administrators such notice is not required.

- 12.8.3 The Trustees shall appoint a Principal Officer in terms of the Act and may also appoint one or more Deputy Principal Officers as they deem appropriate; provided that the person or persons appointed as a Deputy Principal Officer shall be approved by the Principal Officer. The following shall apply to the delegation of the Principal Officer's duties to the Deputy Principal Officer/s:



- (a) the Principal Officer shall in writing, on such terms and conditions as he may specify, instruct the Deputy Principal Officer/s to perform all or any of his functions and duties in terms of the Act;
- (b) acting in terms of the instruction from the Principal Officer, the Deputy Principal Officer/s must perform such duties and functions in accordance with the provisions of these General Rules, the Act and other applicable legislation;
- (c) any decision of the Deputy Principal Officer/s shall be regarded as a decision of the Principal Officer unless the Principal Officer has stipulated that such decision must be referred to him for ratification;
- (d) it is specifically provided that the Principal Officer shall retain full responsibility for any action by the Deputy Principal Officer/s;
- (e) if at any time the Deputy Principal Officer/s fail to perform their duties to the satisfaction of the Trustees or the Principal Officer, the appointment of the Deputy Principal Officer/s may be withdrawn.

It is specifically provided that the Trustees may at any time withdraw any such appointment and make another appointment in the place of a person so appointed.

12.8.4 If the Principal Officer is absent from the Republic of South Africa or is otherwise unable to perform his duties, the Trustees shall within thirty days or such period as the Authority may from time to time prescribe, appoint another person to be its Principal Officer; provided that the Deputy Principal Officer/s, if appointed, shall act as Principal Officer for the period of absence or inability of the Principal Officer.

12.8.5 The Principal Officer (and the Deputy Principal Officer/s if applicable) shall be entitled to such remuneration for their services as determined by the Administrators from time to time. Such remuneration shall be paid to the Principal Officer (and the Deputy Principal Officer/s if applicable) by the Administrators.

12.8.6 The Trustees may appoint consultants on such terms as they may determine and may withdraw any such appointment at any time.

## **12.9 Indemnification of Officers of the Fund**

12.9.1 The Trustees and the Principal Officer of the Fund shall be indemnified by the Fund against all proceedings, costs and expenses incurred by reason of any claim in connection with the Fund not arising from their negligence, dishonesty or fraud.

12.9.2 The Trustees shall ensure that the Fund is insured, as a minimum, against any loss resulting from the dishonesty or fraud of any of the Trustees or Management Committee or of the Principal Officer.

## **12.10 Delegation of Trustee Functions**

In accordance with the provisions of the Act, the Trustees may in writing, subject to the provisions of (a) to (e) below, delegate any function to a person or to a group of persons or a sub-committee of the Trustees nominated by them. In such case, the following shall apply:

- (a) any terms and conditions applicable to the performance of the function that has been delegated shall be specified in writing by the Trustees;
- (b) acting in terms of their instruction from the Trustees, the person or group of persons or sub-committee to whom such function has been delegated must perform such function in accordance with the provisions of the Rules, the Act and other applicable legislation;
- (c) the person or group of persons or sub-committee to whom such function has been delegated shall have the power to take decisions in connection with the performance of such function and in such case, any such decision shall be regarded as a decision of the Fund, unless the Trustees stipulate that it must be referred to them for ratification;

- (d) the full board of Trustees shall retain full responsibility for the delegation of any function performed by any person, group of persons or sub-committee;
- (e) the Trustees may revoke the delegation at any time.

## **13. FINANCIAL PROVISIONS**

### **13.1 Bank Account**

All monies received on account of the Fund must be paid into the banking account opened in the name of the Fund.

### **13.2 Investment Powers**

13.2.1 The Trustees, at the instance of the Management Committees, shall have full power, subject to the provisions of the Act and the requirements of the Authority, to receive, administer and apply the monies of the Fund and in their absolute discretion to invest, put out at interest, place on deposit, make advances, or otherwise deal with the monies of the Fund upon such security and in such manner as they may from time to time determine and to realise, vary, reinvest or otherwise deal with such securities and other investments as they from time to time determine.

13.2.2 The Trustees, at the instance of the Management Committees, shall have the power to effect policies of insurance with one or more Insurers for the purpose of to insuring the Insured Death Portion, the Insured Disability Portion, the Terminal Illness benefit and the Additional Cover payable in terms of these Rules.

- 13.2.3 The Trustees may, subject to the requirements of the Authority, obtain an overdraft from a bank or borrow from any other party, on such terms as they think fit, such sums as they approve for the purpose of completing any investment or meeting any temporary cash shortage and for this purpose may give such security as they decide.
- 13.2.4 All title deeds and securities must be registered in the name of the Fund or in the name of such nominee company acceptable to the Authority as the Trustees may appoint. The documents of title registered in the name of the Fund in connection with any investment or asset of the Fund must be kept in safe custody at the registered office of the Fund or in a banking institution, as decided by the Trustees. Any documents of title registered in the name of a nominee company in connection with any investment or asset of the Fund must be kept in safe custody at the registered office of that company or in a banking institution, as decided by that company.
- 13.2.5 The power of the Trustees to make investments and to realise, vary, reinvest or otherwise deal with the securities concerned, may be delegated by the Trustees, on such terms and conditions as they may specify, to
- (a) a sub-committee of such of their number as they nominate; or
  - (b) an institution or a person referred to in Section 5(2) of the Act.

The Trustees shall not be liable for the negligence, dishonesty or fraud of an institution or a person referred to in (b) above; provided that the Trustees have received written confirmation that the institution or the person referred to in (b) above has arranged insurance cover of an amount satisfactory to the Trustees in respect of any liability which may be incurred by such institution or person in respect of the Fund's investments.

### **13.3 Housing Loan Guarantees**

The Trustees shall have the power to furnish a guarantee in respect of a loan by some other person to a Member, other than a Deferred Retiree, an Annuitant, a Transferred Deferred Member, a Transferred Deferred Retiree and a Preserved Member, for a purpose referred to in Section 19(5)(a) of the Act. Such guarantee shall be subject to the provisions of the Act, the requirements of the Authority and such conditions as the Trustees may prescribe from time to time.

### **13.4 Power to Transfer and to take Transfer**

The Trustees, after consultation with the participating Employer and the Management Committee, shall have the power to:

- (a) transfer the assets and liabilities of the Fund, or a portion thereof, in respect of a participating Employer or participating Employers, to another Approved Provident Fund or to an Approved Pension Fund or to take transfer of the assets and liabilities, or a portion thereof, in respect of a participating Employer or participating Employers, of another Approved Provident Fund or Approved Pension Fund; and

- (b) receive the amount payable to the Fund by reason of the transfer from the Previous Fund to the Fund of those Members who became Members in terms of Rule 3.2.

### **13.5 Member Investment Choice**

13.5.1 The investment powers of the Trustees may be delegated to individual Members of the Fund on such terms and conditions and in accordance with such procedures as the Trustees may prescribe from time to time.

These terms, conditions and procedures include but are not limited to:

- (a) the right of the Trustees to determine, and change from time to time, the number, range and composition of any investment portfolios in which a Member may elect to invest all or part of his Fund Credit and/or contributions paid by and in respect of him;
- (b) the right of the Trustees, in their sole discretion, to take into account any charges incurred in connection with any investment choice made by a Member when determining the Investment Return in respect of that Member;



- (c) in the case of a Member who does not elect an investment portfolio in respect of all or part of his Fund Credit and/or contributions paid by and in respect of him, the right of the Employer to select and change the investment portfolio to one best suited for its membership profile.

13.5.2 The Trustees and Management Committee shall ensure that adequate and appropriate information is provided for the Members. The Management Committee shall take reasonable steps to ensure that Members are provided with the Fund information and shall ensure that the Members are adequately informed of the investment choices available to them and the consequences of their decisions. The Management Committee shall in no way influence Members in making their choices and any advice should be obtained by Members from a financial planner.

13.5.3 Whilst the Trustees and the Management Committees shall take reasonable steps to ensure that the interests of all Members are protected, the Trustees, the Management Committees and the Fund shall not be liable for any loss, damage or prejudice suffered, or alleged to be suffered, by any Member or other person claiming to be entitled to a benefit or any other amount under the Fund, as a result of or in connection with any investment choice made by a Member.

### **13.6 Allocation of the Investment Return**

- (a) The Investment Return shall be allocated to all Members' Fund Credits, the Data Reserve Account, the Employer Surplus Account, the Member Surplus Account, the Unclaimed Benefits Account, the Deferred Retiree Account, the Preserved Member Account, the Individual Living Annuity Sub-Accounts, the Cost Contingency Reserve Account and the Fund Expense Reserve Account on such equitable basis as the Trustees, in consultation with the Actuary, may determine from time to time.
- (b) Any variation in the basis of allocation of the Investment Return may be with or without retrospective effect.
- (c) Where contributions paid by or in respect of Members of different participating Employers are invested according to the investment strategy of the Management Committees of the participating Employers in different types of investments, the Investment Return relating to each type of investment will be allocated on such equitable basis as the Trustees, in consultation with the Actuary, may determine from time to time, to the Members whose contributions are invested in that type of investment.
- (d) Where a Member's Fund Credit is, and/or contributions paid by or in respect of a Member are, invested in a selected investment portfolio or portfolios as envisaged in Rule 13.5, the Investment Return relating to such Member's investment within each portfolio shall be allocated by the Trustees on such equitable basis as the Trustees may determine from time to time, to such Member's benefit within the portfolio.

- (e) The Investment Return shall be allocated in terms of (a), (c) and (d) by the Trustees, in consultation with the Actuary, if applicable, having regard to the objective of maintaining administrative simplicity as far as possible.

### **13.7 Accounts**

The Trustees shall cause full and true accounts of the Fund to be kept, such accounts to be made up as at the end of each Financial Year, to be audited by the Auditor and then to be submitted to the Authority.

### **13.8 Actuarial Valuation**

If the Fund is not exempted from valuations in terms of the Act, the financial condition of the Fund shall be investigated and reported on by the Actuary at intervals not exceeding three years. A copy of the actuarial valuation report shall be sent to the Authority and a copy or a summary thereof sent to each Employer who participates in the Fund.

### **13.9 Late Payment Interest**

Late payment interest may be payable on any benefit due to a Member or beneficiary on

- (a) such Member's retirement, leaving Service in terms of Rule 7 or death; or,
- (b) subject to the provisions of the Act, any amount transferred for his benefit to another Approved Pension Fund, an Approved Provident Fund, an Approved Retirement Annuity Fund or an Approved Preservation Fund.

**13.10 Expenses**

Unless specifically provided elsewhere in these Rules, the whole of the expenses in connection with or incidental to the management or administration of the Fund shall be paid by the Fund.

**13.11 Allocation of surplus**

If any actuarial surplus arises in the Fund as contemplated in Section 15C of the Act, any such amount shall be allocated to the Employer Surplus Account and/or the Member Surplus Account or directly to the Member's Fund Credit in terms of Section 15C(1) of the Act.

**14. ADMINISTRATION OF THE FUND**

- 14.1 The Administrators shall be responsible for the administration of the Fund. Subject to the approval of the Trustees, the Administrators may contract such other administrators registered in terms of the Act, including any subsidiary company of the Administrators to perform such of the administrative functions of the Fund as deemed appropriate.
- 14.2 The Fund must provide the Administrator with all the necessary information, instructions, records and returns, including such information as may reasonably be required to enable the Administrator to fulfil its obligations in terms of applicable legislation and the agreement concluded between the Fund and the Administrator.
- 14.3 The Employers shall from time to time furnish to the Fund in respect of those employees who are Members all necessary particulars affecting their benefits or their entitlement to benefits. The Fund shall be entitled to act upon such particulars without further enquiry and shall not be responsible to any Member or to the Employer or Management Committee or to any other person or body whatsoever for any mis-statements or errors or omissions which may be contained in such particulars.
- 14.4 The Administrators shall keep a complete record of all necessary particulars of the Members of the Fund and of all persons entitled to benefits and of all other matters essential to the operation of the Fund.

- 14.5 All cheques of the Fund shall be issued by the Administrators and all contracts and other documents pertaining to the Fund shall be signed by such persons as the Trustees may appoint; provided that documents to be deposited with the Authority must be signed in the manner set out in the Act.
- 14.6 The Administrators shall ensure the maintenance of fidelity cover to insure the Fund against any loss resulting from the dishonesty or fraud of any person dealing with the administration of the Fund.
- 14.7 The Administrators shall keep full and true accounts of the Fund as required in terms of Rule 13.7.

## **15. ALTERATIONS**

- 15.1 The Trustees may alter these General Rules at any time; provided that any change which has an impact on the operation of the Fund shall be subject to the consent of the Administrators.
- 15.2 No alteration to the Rules which affects the financial condition of the Fund may be made until it has been referred by the Trustees to the Actuary.
- 15.3 No alteration to the Special Rules shall be made without the consent of the Management Committee and no alteration which affects the Employer's financial contribution to the Fund may be made until it has been approved by the Employer.
- 15.4 All alterations to the Rules shall be submitted to the Authority, the Revenue Authorities and any other statutory authority who so requires.
- 15.5 If the registration of any alteration to these Rules in terms of the Act is effected on a date after the effective date of the alteration, the alteration shall nevertheless take effect from the effective date as stated in the alteration.
- 15.6 In accordance with the Act, Members of the Fund shall be informed of all registered alterations to the General Rules and to the Special Rules relating to them.

## **16. INTERPRETATION OF RULES**

- 16.1 The decision of the Trustees as to the meaning of or interpretation of the General Rules or part of a General Rule and the decision of the Trustees, in consultation with the Management Committee, as to the meaning of or interpretation of the applicable Special Rules or part of a Special Rule shall be final and binding on the Employers, Management Committees, Members and every person claiming to be entitled to a benefit under these Rules, subject to the provisions of Section 30A of the Act.
- 16.2 Any question which may arise with regard to a claim by any person under these Rules shall be decided by the Trustees in consultation with the Management Committee of the applicable Employer Cluster, subject to the provisions of Section 30A of the Act.
- 16.3 If any person affected by a decision of the Fund in terms of Rules 16.1 or 16.2 is dissatisfied with the decision, he shall have the right to lodge a written complaint as envisaged in Section 30A of the Act. If such person remains dissatisfied he may lodge his complaint with the Pension Funds Adjudicator appointed in terms of the Act which shall be dealt with in accordance with Sections 30D to 30P of the Act.
- 16.4 The Employer, the Trustees (or one or more of their number), the Management Committee (or one or more of their number), or any other person having a complaint or dispute of fact or law shall, notwithstanding anything to the contrary in these Rules, have the right to invoke the complaint procedures in accordance with the Act.



## 17. MISCELLANEOUS PROVISIONS

17.1 Subject to payment of such fee as the Trustees may require, a Member shall be entitled on application to a copy of:

- (a) these Rules, or if the Member so requests, a summary of these Rules, if available;
- (b) any latest revenue account and statement of investments of the particular participating Employer under the Fund;

provided that, at the discretion of the Trustees, such fee may be charged in accordance with Schedule L of the Act.

- (c) A Member shall be entitled on application to inspect without charge a copy of any of the documents referred to in Section 35(2) of the Act and to make extracts therefrom.

17.2 (a) Payment of each benefit in terms of these Rules shall be made to the person entitled thereto by means of electronic transfer into the bank account of such person to a bank registered in terms of the Banks Act, 1990, as amended; provided that at the request of such person, payment may be made into the bank account of another person if the person entitled to the benefit provides sufficient proof to the Trustees that he is unable to open a bank account.

(b) Payment in terms of (a) shall constitute full and final settlement of all claims to the benefit against the Fund and neither the Fund, the Trustees nor the Administrators shall have any further liability for the benefit to any person.

17.3 All benefits and rights to benefits in terms of these Rules shall be subject to the prohibitions as to reduction, cession, etc. contained in Sections 37A and 37B of the Act.

17.4 The Administrators shall maintain a separate record in respect of benefits due under the Fund which have not been claimed or paid, except in the case of a Deferred Retiree. Subject to the provisions of the Act any such benefits may either:

(a) be allocated to the Unclaimed Benefits Account and if a beneficiary with a potentially valid claim approaches the Fund at any stage the Trustees shall consider his claim and if the circumstances so warrant, shall pay, to the beneficiary that part of the benefit with Investment Return, as contemplated in Rule 4.7.2, that as at the date of payment to the beneficiary is in excess of any costs incurred by the Fund in the administration of such benefit and any amount referred to in Rule 17.8;

or

- (b) if so decided by the Trustees, that part of the benefit, increased or decreased by Investment Return, as contemplated in Rule 4.7.2, that as at the date of transfer in terms of this Rule is in excess of any costs incurred by the Fund in the administration of such benefit and any amount referred to in Rule 17.8 may be transferred to an Approved Preservation Fund established for the purpose of housing unclaimed benefits.
- 17.5 Nothing in these Rules shall in any way restrict the right of the Employer to terminate the employment of any Member or affect any agreement between the Employer and an employee in regard to conditions of Service.
- 17.6 No person shall have any claim concerning the Fund either upon the Fund, the Trustees, the Management Committees, the Administrators or its agent, or against the Employers, except in accordance with these Rules.
- 17.7 Admission to membership of the Fund shall be regarded as an acknowledgement by the Member that he agrees that these Rules, including any alteration to these Rules, shall be binding upon him and upon any person claiming to derive a benefit under the Fund by virtue of his membership.
- 17.8 If any costs are incurred as a consequence of the Trustees tracing any Member or other beneficiary in respect of whom the Fund holds amounts classified by the Administrators as unclaimed or unpaid, such reasonable costs may be taken into account in the calculation of the benefit payable to such person. The costs associated with such reasonable steps taken by the Trustees in order to give effect to the provisions of Section 37C of the Act may, having regard to the quantum of the benefit, also be taken into account in the calculation of the benefit payable to any beneficiary.

- 17.9 The Fund shall, at its own discretion, be entitled to act without further enquiry on the particulars given to it by the Employer of the event giving rise to the payment of a benefit in terms of the Rules of the Fund.

**18. SPECIAL PROVISIONS APPLICABLE TO PAYMENT OF SETTLEMENT AMOUNTS**

Any amounts received by the Fund arising from settlement payments made to the Fund which are not retained for any other purpose shall be allocated to the Member Surplus Account and distributed, in such proportions as the Trustees may decide, in order to increase the benefits payable to such Members and/or paid to such former members as the Trustees may determine. The following shall apply:

- (a) in the case of a Member, any such amount shall be credited to his Fund Credit;

and

- (b) in the case of a former member (if applicable), any such amount shall be paid to such former member's last known verifiable bank account as a lump sum; provided that if the bank account cannot be verified or is unknown and the Trustees are not notified of payment details in respect of a former member, any such amount may be transferred to a national fund established by legislation for the purpose of housing unclaimed benefits, or to a fund established by an administrator for the same purpose, as soon as such fund has been established.

## 19. LIVING ANNUITIES

- 19.1 The provision of Living Annuities by the Fund is at all times subject to such terms and conditions as the Trustees may prescribe from time to time, having regard to the Living Annuity Conditions.
- 19.2 The Fund shall maintain a living annuity capital account in respect of all Living Annuities payable in terms of the Rules. Each Living Annuity payable in terms of the Rules shall be maintained in an Individual Living Annuity Sub-Account within the living annuity capital account.
- 19.3 The Individual Living Annuity Sub-Account within the living annuity capital account in relation to a particular Annuitant shall be
- (a) credited with:
    - (i) the amount required to be credited in terms of Rule 5.1.3 or Rule 6.1.1.3; or
    - (ii) the opening balance referred to in Rule 19.8;
  - (b) debited with:
    - (i) Living Annuity payments to the Annuitant in terms of the Rules;
    - (ii) any lump sum payments in terms of Rule 19.8(b) or Rule 19.9;
    - (iii) any amounts paid in terms of Rule 19.8 on the death of an Annuitant or a Nominated Beneficiary to his estate;

- (iv) any amounts transferred to an Insurer, or such other authorised party which provides annuities, as the case maybe, in terms of Rule 19.10;
- (v) such expenses, including but not limited to the cost of administration and any advice provided in terms of Rule 19.5, insurance premiums, taxes or other charges, as determined by the Trustees from time to time and charged by the Fund in respect of the Living Annuity provided from this account;

and

- (c) increased or decreased by the Investment Return earned on the portfolio or portfolios in which the assets in this account are invested.

19.4 The amount of the Living Annuity shall, subject to such terms and conditions as the Trustees may prescribe and any requirements and restrictions imposed by the Revenue Authorities from time to time, be determined by the Annuitant at the commencement date of the payment thereof and thereafter annually as at the anniversary of the commencement date, subject to the provisions of Rule 19.12 and shall be payable exclusively out of the Individual Living Annuity Sub-Account.

19.5 The Annuitant may elect or shall be required to get advice, in circumstances determined by the Trustees and set out in the Living Annuity Conditions or as prescribed by legislation, in making a decision for the purposes of Rule 5.1.1, Rule 19.4 and Rule 19.11; provided that if the Trustees so determine, the cost of such advice shall be met in terms of Rule 19.3(b)(v).

- 19.6 The first Living Annuity payment shall be due at the end of the month following the Election Date.
- 19.7 The Fund's liability in respect of a Living Annuity payable in terms of the Rules is limited at any time to the balance in the Individual Living Annuity Sub-Account.
- 19.8 On the death of an Annuitant, the Nominated Beneficiary may elect either:
- (a) that the balance of the deceased Annuitant's Individual Living Annuity Sub-Account or, if more than one Nominated Beneficiary, the Nominated Beneficiary's proportionate share of the balance of the deceased Annuitant's Individual Living Annuity Sub-Account, shall become the opening balance of the Individual Living Annuity Sub-Account of such Nominated Beneficiary and continue to be paid to the Nominated Beneficiary as a Living Annuity in accordance with the terms and conditions set out in this Rule 19; or
  - (b) that the balance of the deceased Annuitant's Individual Living Annuity Sub-Account or, if more than one Nominated Beneficiary, the Nominated Beneficiary's proportionate share of the balance of the deceased Annuitant's Individual Living Annuity Sub-Account, either:
    - (i) be paid in full to such Nominated Beneficiary as a lump sum; or



- (ii) be paid in part to such Nominated Beneficiary as a lump sum and that the balance shall become the opening balance of the Individual Living Annuity Sub-Account of such Nominated Beneficiary and be paid to the Nominated Beneficiary as a Living Annuity in accordance with the terms and conditions set out in this Rule 19;

provided that:

- (aa) if the Annuitant leaves no Nominated Beneficiary, any balance of the deceased Annuitant's Individual Living Annuity Sub-Account shall be paid to his estate;
- (bb) on the death of a Nominated Beneficiary who elects in terms of this Rule 19.8 that all or part of the balance of the deceased Annuitant's Individual Living Annuity Sub-Account or his proportionate share of the balance in that account, as the case may be, be paid to him as a Living Annuity from the Fund, any balance of his Individual Living Annuity Sub-Account shall be paid to his estate.

19.9 If the value of the assets in the Individual Living Annuity Sub-Account at any time becomes less than an amount prescribed by legislation, the full remaining value of the assets in the Individual Living Annuity Sub-Account may be paid to the Annuitant as a lump sum benefit.

19.10 An Annuitant may at any time elect to transfer part or all of the balance of the Individual Living Annuity Sub-Account to an Insurer or such other authorised party which provides annuities, of his choice, in order to purchase an annuity in his own name; provided that:

(a) the annuity so purchased shall be subject to the provisions of the Income Tax Act, 1962, and any other applicable legislation from time to time;

(b) on the purchase of an annuity in terms of this Rule, the Fund shall have no further liability in respect of the Annuitant, such liability resting with the Insurer, or such other authorised party which provides annuities, as the case maybe, from which the annuity is purchased; further provided that in the case of an Annuitant who elects that part of the balance of the Individual Living Annuity Sub-Account be transferred to an Insurer or such other authorised party which provides annuities to purchase an annuity in his own name, the Fund shall have no further liability in respect of that part of the Individual Living Annuity Sub-Account used to purchase an annuity in the Annuitant's name.

- 19.11 (a) Notwithstanding the provisions of Rule 13.5, the investment powers of the Trustees may be delegated to each Annuitant on such terms and conditions and in accordance with such procedures as the Trustees may prescribe from time to time. These terms, conditions and procedures include but are not limited to:
- (i) the right of the Trustees to determine, and change from time to time, the number, range and composition of any investment portfolios in which an Annuitant may elect to invest all or part of his Individual Living Annuity Sub-Account;
  - (ii) the right of the Trustees to accept any costs associated with the investment portfolios referred to in (i) above and any costs associated with any change of investment portfolio;
  - (iii) the right of the Trustees, in their sole discretion, to take into account any charges incurred in connection with any investment choice made by an Annuitant when determining the Investment Return in respect of that Annuitant;

- (iv) in the case of an Annuitant who does not elect an investment portfolio in respect of all or part of his Individual Living Annuity Sub-Account, the right of the Trustees to select and change the investment portfolio.
  
- (b) The Trustees shall ensure that adequate and appropriate information is provided for the Annuitants. The Trustees shall take reasonable steps to ensure that Annuitants are provided with the Fund information and shall ensure that Annuitants are adequately informed of the investment choices available to them and the consequences of their decisions. The Trustees shall in no way influence Annuitants in making their choices; provided that the Trustees may impose requirements relating to the provision of financial advice in the Living Annuity Conditions.
  
- (c) Whilst the Trustees shall take reasonable steps to ensure that the interests of all Annuitants are protected, the Trustees and the Fund shall not be liable for any loss, damage or prejudice suffered, or alleged to be suffered, by any Annuitant or other person claiming to be entitled to a benefit or any other amount under the Fund, as a result of or in connection with any investment choice made by an Annuitant.

19.12 Notwithstanding the provisions of Rule 19.4, the following special provisions shall apply for the period from 1 June 2020 to 30 September 2020, or such other period as may be prescribed by legislation:

- (a) during the period referred to above an Annuitant in receipt of a Living Annuity may at any time elect to increase or decrease the amount of the Living Annuity, subject to the maximum and minimum drawdown rates prescribed by legislation and such terms and conditions as the Trustees may specify;
- (b) any election made during the period referred to above shall only apply until the end of such period;
- (c) at the end of the period referred to above the amount of the Living Annuity will automatically revert to the amount of the Living Annuity elected at the last anniversary of the commencement date of the payment thereof;
- (d) if the payment of a Living Annuity commences during the period referred to above, or the anniversary of the commencement date of the payment thereof falls within the period referred to above, the Annuitant must elect a Living Annuity which will apply until the end of the period referred to above and a Living Annuity which will apply after that period.

**20. PROVISIONS APPLICABLE TO TRANSFERRED DEFERRED MEMBERS AND TRANSFERRED DEFERRED RETIREES**

1. A Transferred Deferred Member and Transferred Deferred Retiree shall not contribute to the Fund and no contributions shall be made in respect of such Members.
2. A Transferred Deferred Member and Transferred Deferred Retiree shall not be entitled to any benefit payable by the Fund other than the Transfer Value.
3. The Transfer Value shall:
  - (a) in the case of a Transferred Deferred Member become payable:
    - (i) as a retirement benefit in accordance with the provisions of Rule 5.1 on or after the Transferred Deferred Member has attained normal retirement age as defined in Section 1 of the Income Tax Act, 1962; or
    - (ii) on the death of the Transferred Deferred Member to his beneficiaries in terms of Section 37C of the Act; or
    - (iii) on the Transferred Deferred Member electing, prior to attaining the normal retirement date which applied to him terms of the rules of the Previous Fund on the date of leaving service, that:

- (aa) the benefit be paid to him as a lump sum; or
- (bb) the benefit be transferred to another fund in accordance with the provisions of Rule 7.2.1(b); or
- (cc) part of the benefit be paid to him as a lump sum and the balance be transferred to another fund in accordance with the provisions of Rule 7.2.1(c); or
- (iv) on the Transferred Deferred Member electing, on or after attaining the normal retirement date which applied to him in terms of the rules of the Previous Fund on the date of leaving service but before retirement from the Fund, that the benefit be transferred to an Approved Retirement Annuity Fund or Approved Preservation Fund;

whichever event in (i), (ii), (iii) or (iv) above occurs first and provided that each Transferred Deferred Member shall have access to retirement benefits counselling before the benefit is paid to such Member in terms of (i) above, or paid and/or transferred in terms of (iii) or (iv) above;

or

- (b) in the case of a Transferred Deferred Retiree become payable:
  - (i) as a retirement benefit in accordance with the provisions of Rule 5.1 on the Election Date; or
  - (ii) in terms of Section 37C of the Act if the Transferred Deferred Retiree dies before the Election Date; or
  - (iii) at any time prior to the Election Date, of the Transferred Deferred Retiree elects that the benefit be transferred to an Approved Retirement Annuity Fund or Approved Preservation Fund.



**21. PROVISIONS APPLICABLE TO A PRESERVED MEMBER**

The following provisions shall apply to a Preserved Member:

- (a) after the date of leaving Service no further contributions in terms of Rule 4 shall be made by or in respect of the Preserved Member and no deductions shall be made from the Fund Credit of the Preserved Member in respect of any risk benefits;
- (b) the Fund Credit of the Preserved Member, including any amount transferred to the Fund in respect of him in terms of these Rules after becoming a Preserved Member, shall be retained in the Fund and shall be debited with:
  - (i) such reasonable expenses as the Trustees may determine; and
  - (ii) any amount deducted in terms of Rule 17.8;and increased or decreased by the Investment Return until the Calculation Date;
- (c) the Preserved Member shall not be entitled to any benefits from the Fund other than the benefit referred to in (b) above;
- (d) the benefit referred to in (b) above shall become payable as contemplated in paragraph 4 of the Second Schedule to the Income Tax Act, 1962:

- (i) as a retirement benefit in accordance with the provisions of Rule 5.1 on or after the Preserved Member has attained normal retirement age as defined in Section 1 of the Income Tax Act, 1962; or
- (ii) on the death of the Preserved Member to his beneficiaries in terms of Section 37C of the Act; or
- (iii) on the Preserved Member electing prior to attaining Normal Retirement Date that:
  - (aa) the benefit be paid to him as a lump sum; or
  - (bb) the benefit be transferred to another fund in accordance with Rule 7.2.1(b); or
  - (cc) part of the benefit be paid to him as a lump sum and the balance be transferred to another fund in accordance with the provisions of Rule 7.2.1(c); or
- (iv) on the Preserved Member electing on or after attaining Normal Retirement Date but before retirement from the Fund that the benefit be transferred to an Approved Retirement Annuity Fund or an Approved Preservation Fund;

whichever event in (i), (ii), (iii) or (iv) above occurs first;

- (e) each Preserved Member shall have access to retirement benefits counselling before the benefit referred to in (b) above is paid to such Member in terms of (d)(i) above or paid and/or transferred in terms of (d)(iii) or d(iv) above.

**22. SPECIAL PROVISIONS APPLICABLE TO THE FUND'S SPONSOR**

- 22.1 The Fund is an A-type commercial umbrella fund established and maintained by the Sponsor.
  
- 22.2 The Trustees recognize that the Fund's name reflects the Sponsor's brand and that many Employers and Members participate in the Fund because they relate to the Sponsor's brand and take comfort in the integrity, good name and financial strength of the Sponsor, especially in times of market turbulence and disruption. The Trustees also recognize the financial investment made by the Sponsor in the Fund and associated commercial risks carried by the Sponsor.
  
- 22.3 The Trustees requirements and process to be followed in order to consider new offerings, products and services, shall be set out in a separate document.