



DIRECTIVE PF NO. 8

FINANCIAL SERVICES BOARD

PENSION FUNDS ACT, NO. 24 OF 1956

PROHIBITION ON THE ACCEPTANCE OF GRATIFICATION

I, Dube Phineas Tshidi, Registrar of Pension Funds, hereby, under section 33A of the Pension Funds Act, No. 24 of 1956, prescribe the following conditions to combat and prevent corruption and corrupt activities by and of principal officers, deputy principal officers, board members, employees of retirement funds, valuers, auditors, administrators, employees of administrators or other officers or other service providers to retirement funds including investment managers and investment advisors.

1. DEFINITIONS

For the purposes of this Directive the following definitions shall apply:

- 1.1 **the Act** means the Pension Funds Act, 1956 (Act No. 24 of 1956) and any word or expression to which a meaning has been assigned in the Act, bears that meaning, unless the context indicates otherwise.
- 1.2 **corruption** shall be ascribed the meaning as described in section 3 of the Prevention and Combating of Corrupt Activities Act, 2004, as amended from time to time.
- 1.3 **corrupt activities** means the activities listed in Part 2 of Chapter 2 of the Prevention and Combating of Corrupt Activities Act, 2004, as amended from time to time.

1.4 **gratification** means:

- (a) money, whether in cash or otherwise;
- (b) any donation, gift, loan, fee, reward, valuable security, property or interest in property of any description, whether movable or immovable, or any other similar advantage;
- (c) the avoidance of a loss, liability, penalty, forfeiture, punishment or other disadvantage;
- (d) any office, status, honour, employment, contract of employment or services, any agreement to give employment or render services in any capacity and residential or holiday accommodation;
- (e) any payment, release, discharge or liquidation of any loan, obligation or other liability, whether in whole or in part;
- (f) any forbearance to demand any money or money's worth or valuable thing;
- (g) any other service or favour or advantage of any description, including protection from any penalty or disability incurred or apprehended or from any action or proceedings of a disciplinary, civil or criminal nature, whether or not already instituted, and includes the exercise or the forbearance from the exercise of any right or any official power or duty;
- (h) any right or privilege;
- (i) any real or pretended aid, vote, consent, influence or abstention from voting; or
- (j) any valuable consideration or benefit of any kind, including any discount, commission, rebate, bonus, deduction or percentage,

but excludes remuneration paid by a sponsor of a retirement fund to a board member appointed by the sponsor of a retirement fund.

1.5 **retirement fund** shall mean a *pension fund organisation* as defined in section 1 of the Pension Funds Act, 1956.

2. GENERAL PRINCIPLE

A board member, principal officer, deputy principal officer, employee of a retirement fund, auditor, valuator, administrator, employee of an administrator, or service provider to a retirement fund should not be involved in any conduct constituting corruption or corrupt activities. Any such involvement will have a bearing on such persons' fitness and propriety to hold office and/or to provide a service.

3. THE DUTY TO REPORT

- 3.1 In terms of section 7A(4)(b) of the Act, a board member must on becoming aware of any material matter relating to the affairs of the retirement fund which, in the opinion of the board member, may seriously prejudice the financial viability of the retirement fund or its members, inform the Registrar thereof in writing.
- 3.2 A principal officer, deputy principal officer, auditor, valuator or administrator of a retirement fund has a duty, in terms of sections 7A(4)(b), 8(6)(b), 9(4)(c), 9A(2), and 13B(10), respectively, of the Act, on becoming aware of any matter relating to the affairs of the retirement fund, which in their opinion, may prejudice the fund or its members, to inform the Registrar thereof in writing.
- 3.3 A board member, principal officer, deputy principal officer, valuator or other officer or employee of a retirement fund or an administrator may also submit a Protected Disclosure to the Registrar in terms of section 9B of the Act.
- 3.4 Section 34 of the Prevention and Combating of Corrupt Activities Act, 2004, which applies to a board member, principal officer and deputy principal officer, of a retirement fund, provides:

Duty to report corrupt transactions.—(1) *Any person who holds a position of authority and who knows or ought reasonably to have known or suspected that any other person has committed—*

(a) an offence under Part 1, 2, 3 or 4, or section 20 or 21 (in so far as it relates to the aforementioned offences) of Chapter 2; or

(b) the offence of theft, fraud, extortion, forgery or uttering a forged document,

involving an amount of R100 000 or more, must report such knowledge or suspicion or cause such knowledge or suspicion to be reported to the police official in the Directorate for Priority Crime Investigation referred to in section 17C of the South African Police Service Act, 1995, (Act No. 68 of 1995).

(2) Subject to the provisions of section 37(2), any person who fails to comply with subsection (1), is guilty of an offence.

- 3.5 Board members, principal officers, deputy principal officers, employees of retirement funds, auditors, valuers, administrators, employees of administrators and service providers to retirement funds are directed to report or disclose to the Registrar any

breach or attempted breach of this directive immediately upon becoming aware of same and are referred to Information Circular 1 of 2018 for guidance on how to report or to make a disclosure to the Registrar.

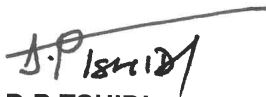
4. SPECIFIC TYPES OF GRATIFICATION NOT PERMITTED

4.1 It is hereby directed that the following types of gratification are automatically not permitted to be accepted, agreed or offered to be accepted by a board member, principal officer, deputy principal officer, employee of a retirement fund, valuator, auditor, administrator, employee of an administrator or other officer or service provider to a retirement fund, from any other person connected in whatsoever manner to a service provider of a fund, or from any potential future service providers, in which such principal officer, deputy principal officer, employee of a retirement fund, valuator, auditor, administrator, employee of an administrator, or other officer or service provider to a retirement fund or other officer serves:

- (a) any gratification which objectively viewed, creates a conflict of interest with their fiduciary duty towards the fund;
- (b) token gift/s that exceed/s the annual limit set by the board in terms of the fund's gift policy, which annual limit shall not be more than R500.00 per annum in aggregate from any one service provider;
- (c) any gratification relating to local or international due diligences including, but not limited to, subsistence, travel or accommodation;
- (d) any gratification relating to local or international entertainment or sporting events including, but not limited to, subsistence, travel or accommodation; or
- (e) conferencing costs or board of fund expenses.

This Directive takes effect on the publication hereof.

Yours faithfully



D P TSHIDI

REGISTRAR OF PENSION FUNDS

Date: 8 March 2018