

Section 14s

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Introduction

The Operations & Administration division (O&A) issue practice notes to:

- Increase awareness and provide insight into the best practices and procedures adopted by AlexForbes for the effective administration of your fund
- Clarify our administration role
- Align expectation between AlexForbes, trustees, employers and members of the retirement funds.

Please note that in an event of a conflict, the fund's rules, applicable legislation or the signed service level agreement will take precedence over the processes set out in this practice note.

In this issue, we highlight best practices for investment and disinvestment of funds when a Section 14 approval is sought from the Financial Sector Conduct Authority (FSCA). It must be noted that the purpose of this Practice Note is not to discuss all elements of the Section 14 process.

What is a Section 14 application?

In terms of Section 14 of the Pension Funds Act (Act 24 of 1956), where funds intend to amalgamate or a scheme or an arrangement exists for the transfer of membership from one fund to another, a Section 14 application must be prepared and submitted to the FSCA for approval. All applications must be submitted to the FSCA within 180 days of the effective date of transfer. Apart from various actuarial and consulting tasks that must be performed to complete the transfer, day to day administration of the fund must continue in the transferor fund (the fund from which assets are transferred) until the Section 14 transfer is

approved and assets are finally transferred to the transferee fund (the fund to which assets are transferred).

For all Section 14 transfers, a fully signed and authorised S14 investment instruction form must be provided to the administration and accounts teams regarding the S14 transfer out amount.

The fund's bank account will not be the automatic default investment portfolio and if the investment instruction form is not provided, the transfer benefit will remain in the current investment portfolios.



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Depending on the size and nature of assets being transferred and the future investment strategy, the trustees would generally implement either one of the following two transfer options:

1. Disinvest all the assets and hold such monies in the fund's bank account until Section 14 approval has been received. Monies will receive bank interest to the date of transfer; or
2. Retain the fund's current investment structure and transfer shares/scrip from the transferor fund once Section 14 approval is received. Please note, since the transfer of shares or script does not involve the disinvestment and investment of funds, this process falls outside the ambit of this Practice Note and will not be discussed in detail.

If funds are transferred - when will the fund's assets be disinvested and the money deposited in the bank account of the transferor fund?

On receipt of the S14 investment instruction form for the transferor fund, duly signed by the principal officer (or authorized trustee of the fund) and the fund's consultant, AlexForbes will act in accordance with the instruction provided and within the agreed turnaround times. On receipt of the Section 14 approval from the FSCA, a reconciliation of transfer membership and assets is done. On receipt of the tax directive, monies are transferred to the transferee fund within the agreed turnaround time. Following the amendments to the Income Tax Act, with effect from 1 March 2017, all retirement funds are required to apply for tax directives on all transfers, including transfers effected in terms of section 14(8) of the Act. Funds and administrators must ensure that members are not prejudiced where a fund or administrator fails to comply with the applicable provisions of the Income Tax Act. In terms of Section 14 of the Pension Funds Act, the transferor fund must transfer the assets within 60 days after approval of the transfer by the FSCA.

If funds are transferred- when will the fund's assets be invested in the underlying portfolios of the transferee fund?

Before any investments occur, the fund's administrators must be in receipt of a completed and signed investment instruction form for the transferee fund duly signed by the principal officer (or authorised trustee of the fund) and the fund's consultant. The monies will be invested within the agreed turnaround times provided that the schedule of individual transfer values is received and the amount deposited matches with the schedule. Should there be any unresolved items, this would be brought to the attention of the principal officer of the transferee fund.

What will happen to claims that are effective after the Section 14 transfer date but prior to the FSCA's approval of the Section 14?

Where a member exits a fund prior to a Section 14 approval being received, the member must be separately exited from both the transferor and transferee funds. The date of exit will be the actual date of termination of service / membership. Any benefits due will be calculated in terms of the rules of each separate fund. No advances may be made from the transferor fund to the transferee fund, as the member is entitled only to benefits from the fund of which he/she was a member at the date of exit.

If different benefit structures become applicable during the period before the date of transfer, any such additional benefits will be transferred to the transferee fund and become payable from that fund as a secondary benefit.

If you need more information or further clarity regarding Section 14 transfers, please contact your fund consultant.