

Information circular PF no. 1 of 2018

Reports in terms of sections 7a(4), 8(6), 9(4), 9a(2), and 13b(10) and submission of disclosures to the registrar in terms of section 9b of the pension funds act (“the act”)

The circular seeks to clarify how to report or disclose information that a board member, principal officer and deputy principal officer, auditor, valuator and administrator of a retirement fund consider necessary to bring to the attention of the Registrar during their term of appointment or following termination of their appointments, namely:

- (i) the above mentioned parties have two options when making such reports or disclosures; (i) either anonymously or (ii) disclosing their identity;
- (ii) in order to constitute a protected disclosure, the report or disclosure must clearly indicate that it is made as a disclosure in terms of the Act; and
- (iii) the information provided as a protected disclosure is subject to the provisions of section 22 of the Financial Services Board Act.

A statutory duty to report to the registrar

1. In terms of the Act, a board member, principal officer and deputy principal officer, auditor, and valuator of a retirement fund must:
 - 1.1. within 21 days of removal as a board member, or termination of appointment as principal officer, deputy principal officer, auditor or valuator (as the case may be), submit a written report to the Registrar detailing their perceived reasons for the removal or termination; or
 - 1.2. on becoming aware of any matter relating to the affairs of the fund, which in their opinion, may prejudice the fund or its members, to inform the Registrar thereof in writing.
2. The Act stipulates that when an administrator becomes aware of any material matter relating to the affairs of a fund, which in the opinion of the administrator may prejudice the fund or its members, the administrator must inform the Registrar of that matter in writing without undue delay.
3. A report in terms of the provisions of the Act will be treated in a manner that ensures appropriate confidentiality if the person submitting such report expressly indicates that the person requires:
 - 3.1. the report be treated confidentially or wishes to remain anonymous; or
 - 3.2. that protection be afforded in terms of the Act.

Disclosures to the registrar in terms of section 9b of the act

4. All disclosures submitted to the Registrar in terms of the provisions of the Act will be treated in a manner that ensures appropriate confidentiality and such disclosures are protected as provided for in the section.
5. In so far as the Registrar is required to provide a process for the submission of protected disclosures, the Registrar will accept a disclosure in any written form as follows:
 - 5.1. **by way of electronic mail**, which may be addressed to: FSB.PDisclosure@fsb.co.za
 - 5.2. **by post to:**
The Registrar of Pension Funds
Protected Disclosures | P.O. Box 35655
Menlo Park | Pretoria | 0081
 - by hand delivery to:**
The Registrar of Pension Funds
Protected Disclosures | Riverwalk Office Park, Block B | 41 Matroosberg Road
Ashley Gardens | Pretoria

Anonymous tip-offs

6. A board member, principal officer and deputy principal officer, auditor, valuator and administrator of a retirement fund may also submit anonymous tip-offs via the FSB website: www.fsb.co.za
 - Click on the Anonymous Tip-Offs tab at the bottom of the webpage. By clicking on the tab, the whistle-blower will be directed to the following website: <http://www.whistleblowing.co.za/blow-the-whistle> where a whistle-blowing report can be submitted anonymously.

General confidentiality provision

7. In addition to what has been stated above, section 22(2) of the Financial Services Board Act, 1990, which remains applicable to all information obtained in the performance of any power or function of the Registrar, also provides for the confidentiality of information in the Registrar's possession and for its disclosure in the particular circumstances provided in that section.

The Registrar shall act diligently in exercising the discretion to disclose confidential information or the identity of the person who made the disclosure particularly when performing his regulatory or supervisory functions.

This publication does not provide advice. If you have any questions/comments on the above, please contact your consultant.