

**REVISED RULES**

**OF THE**

**PERSONAL PORTFOLIOS**

**PRESERVATION PENSION FUND**

**Reference numbers:**

Financial Services Board

12/8/35100

South African Revenue Service

18/20/4/39519

**Personal Portfolios Preservation Pension Fund**

**(Ref no 12/8/35100)**

**Amendment 2**

The following resolution was sent by electronic mail to all the trustees and ratified by them between the dates 29 August 2018 and 04 September 2018 both dates included.

**Resolved:**

1. That Part 8, Rule 1 be amended to provide as follows:
2. The replacement of the heading "*Automatic transfer to money market fund*" with the words "*Investment exposure at death*".

Rule 1 be replaced with the following:

1. If a MEMBER dies before becoming entitled to a retirement benefit in terms of Part 6, the INVESTMENTS held by the BOARD in respect of the MEMBER will remain invested as per the MEMBER's instructions prior to his death and in line with the ADMINISTRATOR's usual business process. However, if a MEMBER had instructed the FUND before his death in writing to transfer the units held on his behalf to a money market fund, the FUND shall honor the instructions of the MEMBER.

**Reason for the amendment**

The seamless transfer of the investment when benefit accrues to member or dependants is advocated as a feature of the product offering. Current rule does not support this feature. Amendment to rule as proposed is in the best interest of the member (TCF outcome 1).

2. That a new Rule 11, Rule 12 and Rule 13 be inserted in Part 5:

**Determining value of lump sum benefits**

**Rule 11**

Where a MEMBER elected to commute an annuity or part thereof into a lump sum, as contemplated in Part 6 RULE 1 and RULE 2 or to withdraw from the FUND as contemplated in Part 9 RULE 1, the underlying INVESTMENTS or an appropriate portion of the INVESTMENTS, whichever is applicable, will be switched to a Money Market Fund.

**Rule 12**

Where a DEPENDANT or NOMINEE elected to commute an annuity or part thereof into a lump sum, as contemplated in Part 8 RULE 7, the underlying INVESTMENTS or an appropriate portion of the INVESTMENTS, whichever is applicable, will be switched to a Money Market Fund.

**Rule 13**

The value of the lump sum will be ascertained at the date the INVESTMENT or appropriate portion of the units underlying the INVESTMENT are switched to a Money Market Fund. Any investment returns earned on the amount will form part of the INVESTMENTS.


**Reason for the amendment**

To determine a value in order to streamline the process of obtaining tax directives.

The effective date of the amendment is 17 September 2018.

**Certification**


Certified that the above resolution has been adopted in accordance with the provisions of the Rules of the Fund.

  
\_\_\_\_\_  
Chairman, Board of Trustees

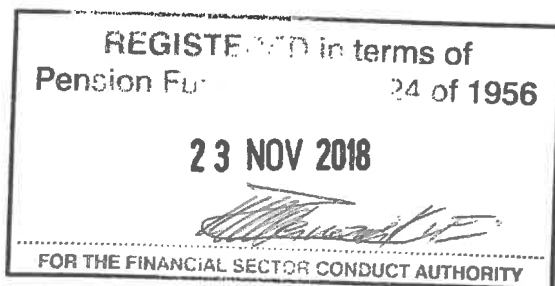
10/09/2018  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Member: Board of Trustees

10/09/2018  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Principal Officer

10/09/2018  
\_\_\_\_\_  
Date



**Personal Portfolios Preservation Pension Fund**

**(Ref no 12/8/35100)**

**Amendment 1**

The following resolution was sent by electronic mail to all the trustees and ratified on 27 July 2016.

**Resolved:**

1. That a new Rule 8A be inserted in Part 2:

8A APPROVED PROVIDENT PRESERVATION FUND means a provident preservation fund registered by the REGISTRAR and approved by the Commissioner for the South African Revenue Services;

**Reason for the amendment**

To make provision for provident preservation funds to be defined.

2. That Part 2, Rule 13 be amended to provide as follows:

13. EXISTING FUND shall mean an APPROVED PENSION FUND, or an APPROVED PENSION PRESERVATION FUND, APPROVED PROVIDENT FUND or APPROVED PROVIDENT PRESERVATION FUND from which a prospective member's or member's interest has to be or has been transferred to the FUND;

**Reason for the amendment**

To allow the Fund to accept transfers from provident funds and provident preservation funds.

3. That Part 3, Rules 1.1, 1.2, and 1.3 be amended to provide as follows:

1.1 Former members of an APPROVED PENSION FUND or APPROVED PROVIDENT FUND whose membership of that fund has terminated due to -

1.1.1 resignation, retrenchment or dismissal from employment and who elected, in terms of the rules of that fund, to have any lump sum benefit that is payable as a result of termination transferred to this FUND; or

1.1.2 the winding up of that fund, if the member elects or is required in terms of the rules to transfer to this FUND; or

1.1.3 a transfer of business from one employer to another in terms of Section 197 of the Labour Relations Act, 1995, and the employment of the employee with the transferor employer is transferred to the transferee employer, if the member elects or is required in terms of the rules to transfer to this FUND.

- 1.2 former members of any other APPROVED PENSION PRESERVATION FUND or APPROVED PROVIDENT PRESERVATION FUND-
  - 1.2.1 if that fund was wound up; or
  - 1.2.2 if the member elected to have any lump sum benefit contemplated in paragraph 2(b) of the Second Schedule to the Income Tax Act, 1982 transferred to this FUND and who made this election while they were members of any other fund.
- 1.3 former members of an APPROVED PENSION FUND or APPROVED PROVIDENT FUND, or nominees or dependents of that former member, in respect of whom a benefit is due by that fund that has not been paid within 24 months of the due date.

**Reason for the amendment**

To allow the Fund to accept transfers from preservation provident funds.

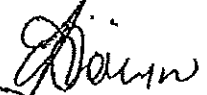
The effective dates of the amendments is 01 March 2015.

**Certification**

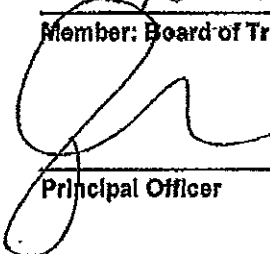
Certified that the above resolution has been adopted in accordance with the provisions of the Rules of the Fund.

  
 N TERBLANCHE  
 Chairman: Board of Trustees

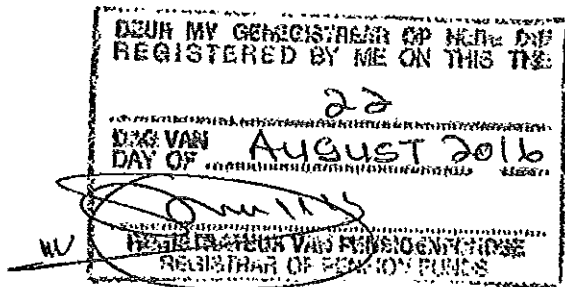
12/8/2016  
 Date

  
 Member: Board of Trustees

12/8/2016  
 Date

  
 Principal Officer

12/8/2016  
 Date



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## **PART 1: ESTABLISHMENT OF FUND**

### **Name**

1. A Pension Preservation fund, as defined in the Income Tax Act 58 of 1962, known as the "Personal Portfolios Preservation Pension Fund" (the FUND) was established with effect from 1 December 1997, by Sanlam Personal Portfolios (now Glacier Financial Solutions (Pty) Ltd), a division of Sanlam Life Insurance Limited.

### **Registered Office**

2. The FUND is administered by Glacier Financial Solutions (Pty) Ltd. The registered office of the Fund is c/o Old Oak Road and Twist Street, Durbanville, 7550, South Africa. The postal address of the FUND is Private Bag X5, Tyger Valley, 7536.

### **Purpose**

3. The sole purpose of the FUND is to provide retirement benefits for the MEMBERS of the FUND and upon death of such MEMBERS, benefits for DEPENDANTS or NOMINEES.

### **The Fund is a legal person**

4. The FUND is a separate entity and legal person, distinct from its MEMBERS, and is the legal owner of its goods and has the capacity to incur any liability in its own name and to proceed as claimant and the defendant in court cases. The BOARD or its assignees carry out all the necessary legal actions for and on behalf of the FUND.

5. PART 2: DEFINITIONS

1. The headings of the RULES are for ease of reference and shall not be taken into account in the interpretation of the RULES;
2. In these RULES, unless the context indicates otherwise:
  - 2.1 words defined in the ACT and not defined below, shall have the meanings assigned to them in the ACT;
  - 2.2 all words and expressions denoting males shall include females;
  - 2.3 the singular shall likewise denote the plural and vice versa;
3. ACT shall mean the Pension Funds Act, 1956, as amended or its replacement and the regulations promulgated there under;
4. ADMINISTRATOR shall mean the ADMINISTRATOR of the FUND duly registered in terms of section 13B of the ACT and appointed by the BOARD initially; until it is legally superseded, it shall be Glacier Financial Solutions (Pty) Ltd;
5. APPROVED NOMINEE shall mean a nominee company approved by the REGISTRAR to hold assets on behalf of the FUND;
6. APPROVED PENSION FUND means a pension fund registered by the REGISTRAR and approved by the Commissioner for the South African Revenue Service;
7. APPROVED PENSION PRESERVATION FUND shall mean a pension preservation fund registered by the REGISTRAR and approved by the Commissioner for the South African Revenue Service;
8. APPROVED PROVIDENT FUND means a provident fund registered by the REGISTRAR; and approved by the Commissioner for the South African Revenue Service;
9. AUDITOR shall mean an AUDITOR registered in terms of the Auditing Profession Act, 2005, and who is not an official of the FUND, whose appointment has been approved by the REGISTRAR;
10. BOARD means the board of TRUSTEES which control and manage the FUND in terms of these RULES;
11. CONTRIBUTION means the amount that is transferred to the FUND from the EXISTING FUND for the benefit of a MEMBER in terms of Part 4 RULE 1;
12. DEPENDANT with regard to a MEMBER shall mean:
  - 12.1 a person in respect of whom the MEMBER is legally liable for maintenance;

- 12.2 a person in respect of whom the MEMBER is not legally liable for maintenance, if such person;
- 12.2.1 was, in the opinion of the BOARD, upon the death of the MEMBER in fact dependent on the MEMBER for maintenance;
- 12.2.2 is the spouse of the MEMBER;
- 12.2.3 is a child of the MEMBER, including a child born after the death of the MEMBER, an adopted child and a child born out of wedlock;
- 12.3 a person in respect of whom the MEMBER would have become legally liable for maintenance, had the MEMBER not died;
13. EXISTING FUND shall mean an APPROVED PENSION FUND, or an APPROVED PENSION PRESERVATION FUND from which a prospective member's or member's interest has to be or has been transferred to the FUND;
14. FUND shall mean the Personal Portfolios Preservation Pension Fund, and any reference to the FUND shall be construed as a reference to the FUND or to the BOARD, as the circumstances may require;
15. FUND VALUE means the value of the INVESTMENTS held by the FUND on behalf of the MEMBERS or an individual MEMBER, as the context may require;
16. INDEPENDENT TRUSTEE means a TRUSTEE who is not:
- 16.1 an employee of the FUND, the ADMINISTRATOR; or anyone who has a financial interest in the ADMINISTRATOR;
- 16.2 controlled by the FUND, or the ADMINISTRATOR; or
- 16.3 in common control with the ADMINISTRATOR of the FUND and does not provide any other services to the FUND, or the ADMINISTRATOR;
17. INSURER means an insurer registered or deemed to be registered under the Long-term Insurance Act of 1998;
18. INVESTMENTS means the underlying investments held by the FUND on behalf of the MEMBERS;
19. MEMBER shall mean any person admitted as MEMBER of the FUND in terms of these RULES and who continues, and has not ceased, to be a MEMBER in terms of these RULES, and membership shall have a corresponding meaning;
20. NOMINEE shall mean any person, whether a DEPENDENT of a MEMBER or not, who has been nominated by the MEMBER in writing and notified to the FUND, to receive

the death benefits payable on the MEMBER's death in terms of the RULES;

21. PRINCIPAL OFFICER shall mean the person appointed in terms of section 8 of the ACT, and any directive issued by the REGISTRAR, for the FUND;
22. REGISTRAR shall mean the Registrar or Deputy Registrar of Pension Funds appointed in terms of the ACT;
23. RETIREMENT DATE with regard to any MEMBER shall mean a date on which the MEMBER shall decide which must be after the MEMBER attains the age of 55 or the date on which the MEMBER becomes permanently incapable of carrying on his occupation due to sickness, accident, injury or incapacity through infirmity of mind or body;
24. RULES shall mean the RULES contained herein, as amended from time to time in terms of their provisions;
25. TRUSTEES shall mean the members of the BOARD, including an alternate, as appointed from time to time in terms of the RULES; and
26. UNCLAIMED BENEFIT shall mean: -
  - 26.1 any benefit, not paid by the FUND to a MEMBER, former MEMBER or beneficiary within 24 months of the date on which it in terms of the RULES became legally due and payable; or
  - 26.2 any benefit that remained unclaimed or unpaid to a MEMBER, former MEMBER or beneficiary when the FUND applies for cancellation of registration in terms of section 27 of the ACT or where the liquidator is satisfied that benefits remain unclaimed or unpaid, excluding-
    - 26.2.1 a benefit due to be transferred as part of a transfer of business in terms of Section 14; or
    - 26.2.2 where an annuity is purchased in respect of a pensioner or otherwise in terms of the ACT; or
    - 26.2.2 a death benefit payable to a beneficiary in terms of section 37C of the ACT not paid within 24 months from the date of the death of the MEMBER or such longer period as reasonably justifiable by the BOARD of the FUND.

### **PART 3: MEMBERSHIP**

#### **Eligibility**

1. The following persons are eligible for membership of the FUND:
  - 1.1 Former members of an APPROVED PENSION FUND whose membership of that fund has terminated due to:
    - 1.1.1 resignation, retrenchment or dismissal from employment and who elected, in terms of the rules of that fund, to have any lump sum benefit that is payable as a result of the termination transferred to this FUND;
    - 1.1.2 the winding up of that fund, if the member elects or is required in terms of the rules to transfer to this FUND; or
    - 1.1.3 a transfer of business from one employer to another in terms of Section 197 of the Labour Relations Act, 1995, and the employment of the employee with the transferor employer is transferred to the transferee employer, if the member elects or is required in terms of the rules to transfer to this FUND.
  - 1.2 former members of any other APPROVED PENSION PRESERVATION FUND-
    - 1.2.1 if that fund was wound up; or
    - 1.2.2 if the member elected to have any lump sum benefit contemplated in paragraph 2(b) of the Second Schedule to the Income Tax Act, 1982 transferred to this FUND and who made this election while they were members of any other fund.
  - 1.3 former members of an APPROVED PENSION FUND or nominees or dependents of that former member in respect of whom a benefit is due by that fund that has not been paid within 24 months of the due date.
  - 1.4 a person who has elected in terms of section 37D(4)(b)(ii) of the ACT to have an amount awarded to that person in terms of a court order contemplated in section 7(8) of the Divorce Act, 1979 transferred from an APPROVED PENSION PRESERVATION FUND or an APPROVED PENSION FUND for the benefit of that person. This paragraph is deemed to have come into operation on 22 July 2008.
2. The BOARD may in its sole discretion approve an application for membership of the FUND.

**Termination of membership**

3. A MEMBER's participation in the FUND shall terminate:
  - 3.1 at the MEMBER's death; or
  - 3.2 at the MEMBER's retirement; or
  - 3.3 at the MEMBER's full withdrawal from the FUND; or
  - 3.4 if the MEMBER's benefit is paid into another retirement fund as contemplated in Part 9, RULE 6; or
  - 3.5 if the MEMBER's benefit is paid into the APPROVED PENSION FUND or APPROVED PROVIDENT FUND of his new employer as contemplated in Part 9, RULE 7; or
  - 3.6 if an annuity as contemplated in Part 6, RULE 1 is purchased and the FUND has transferred the benefits to the INSURER and, if applicable, has paid any balance of the benefits in cash to the MEMBER direct; or
  - 3.7 at the dissolution of the FUND, whichever event occurs first.

#### **PART 4: CONTRIBUTIONS TO THE FUND**

##### **Amount transferred**

1. A MEMBER'S CONTRIBUTION consists of his total interest or a part of his interest transferred to the FUND from the EXISTING FUND, provided that the MEMBER's interest in the EXISTING FUND is not divided between the FUND and another pension preservation fund; and
2. the amount to be transferred equals at least such amount on which the BOARD at their own discretion, after consultation with the ADMINISTRATOR, shall decide, provided that, transfers of less than the minimum amount, as determined by the BOARD, may be authorised by the ADMINISTRATOR in specific circumstances.

## **PART 5: INVESTMENTS**

1. Subject to Part 5 RULE 3, and the investment policy statement of the FUND, the ADMINISTRATOR shall invest the CONTRIBUTIONS received on behalf of the MEMBER in underlying INVESTMENTS, from the range which the FUND makes available, according to the instructions of the MEMBER and the MEMBER accepts the investment risks accompanied by his choice.
2. The ADMINISTRATOR and the FUND reserve the right to direct all investment instructions in respect of investment funds, including investment funds with offshore exposure, that are closed for new business, to a money market fund.
3. Investments must at all times comply with the ACT and regulation 28 promulgated thereunder. The FUND reserves the right to change the asset composition of INVESTMENTS at any time in order to ensure compliance with the prescribed requirements.
4. The CONTRIBUTION of the MEMBER less any charges is invested in the investment portfolios linked to the particular INVESTMENT.
5. The FUND is the owner of the INVESTMENTS it took out in respect of the MEMBER. INVESTMENTS will be registered in the name of the FUND or an APPROVED NOMINEE.
6. The FUND's liability from time to time to the MEMBER in respect of fund benefits is equal to the FUND VALUE of the underlying INVESTMENTS held in respect of the particular MEMBER less any fees, charges, taxes and levies pertaining to the INVESTMENTS.
7. The INVESTMENTS so purchased will be administered by the ADMINISTRATOR.
8. The MEMBER may, after initial procurement of INVESTMENTS, instruct the BOARD in writing, and in such form as the BOARD may require, to deal with such INVESTMENTS and the BOARD shall act strictly in accordance with such instructions, subject to the provisions of the ACT and these RULES.
9. The costs pertaining to a MEMBER's choice of INVESTMENT, administration fees payable to the ADMINISTRATOR and any taxes and levies pertaining to the INVESTMENTS, will be recouped from the MEMBER's individual FUND VALUE. The ADMINISTRATOR may determine an administration fee from time to time.
10. The BOARD will maintain a record in respect of each individual MEMBER which will reflect all items of income and expenditure relative to a MEMBER's INVESTMENTS. A copy of such record will be available to MEMBERS on request.



## **PART 6: RETIREMENT BENEFITS**

### **Benefit at retirement**

1. A MEMBER's retirement benefit when he reaches his RETIREMENT DATE or when the BOARD is satisfied, based on medical evidence, that he has become permanently disabled, through infirmity of body or mind, of carrying on his occupation, is an annuity purchased with the underlying INVESTMENTS held by the FUND in respect of the MEMBER. By applying to the FUND prior to his becoming entitled to the annuity, the MEMBER may convert a part, but not exceeding one-third, of the annuity into a lump sum payment. Such conversion shall be subject to any special limitation imposed by virtue of the rules of the EXISTING FUND on the original transfer of the MEMBER's interest to the FUND.
2. If the value of the benefit that becomes available in respect of the MEMBER is less than or equal to the maximum annuity that may be commuted in full in terms of statutory measures, the full underlying value may be commuted.
3. The value of the INVESTMENT will be ascertained once the MEMBER has confirmed in writing the RETIREMENT DATE. Any risk as a result of movements of the markets between the RETIREMENT DATE indicated on the application form and the date on which the FUND receives the complete written confirmation (with the detail required by the ADMINISTRATOR) of the MEMBER's RETIREMENT DATE, will be carried by the MEMBER.

### **Payment of annuity (including a living annuity as defined in the Income Tax Act, 1962)**

4. The annuity referred to in this Part must be purchased from an INSURER selected by the MEMBER with the MEMBER as owner of the annuity.
5. The FUND's liability towards the MEMBER after retirement is limited to the conclusion of a contract with the INSURER for the payment of the annuity directly to the MEMBER.
6. Once the FUND has made payment to the INSURER and, if applicable, has paid any balance of the benefits directly to the MEMBER in cash, the FUND will have no further obligation towards the MEMBER.
7. More than one annuity may be purchased on behalf of the MEMBER within the limits laid down by the South African Revenue Service.
8. Any annuity contemplated in this part must be non-commutable (except as contemplated in Part 6 RULES 1 and 2) and non-surrenderable. It may not be transferred, assigned, reduced, hypothecated or attached by creditors as contemplated by the provisions of sections 37A and 37B of the ACT.

**PART 7: DISABILITY BENEFITS**

If the BOARD is satisfied, based on medical evidence, that a MEMBER has become permanently disabled, through infirmity of body or mind of carrying on his occupation, prior to attaining the age of 55 or such date as may be specified by legislation, such MEMBER shall be entitled to a retirement benefit.

## **PART 8: DEATH BENEFITS**

### **Automatic transfer to money market fund**

1. If a MEMBER dies before becoming entitled to a retirement benefit in terms of Part 6, the INVESTMENTS held in respect of the MEMBER which are not in a money market fund shall automatically be transferred by the FUND to a money market fund approved by the BOARD on the date that the FUND receives notice of the death of the MEMBER. However, if a MEMBER had instructed the FUND before his death in writing not to transfer the INVESTMENTS held on his behalf to a money market fund, the FUND shall honour the instruction of the MEMBER.
2. The underlying value of the INVESTMENTS, shall thereupon be payable to the MEMBER's DEPENDANTS or NOMINEES in accordance with Part 8, RULES 3 and 4 below.

### **Payment of benefits**

3. Subject to the prescriptions laid down by the FUND, a MEMBER may, in writing designate a person to be considered by the BOARD, (and revoke such a designation in writing), to receive the benefits at his death.
4. The benefits payable to the DEPENDANTS of a deceased MEMBER in terms of provisions contained elsewhere in the RULES, shall, notwithstanding those provisions, be paid by the FUND as follows:
  - 4.1 If within twelve months of the death of the MEMBER the FUND becomes aware of or traces a DEPENDANT or DEPENDANTS of the MEMBER, then subject to RULE 4.3 below, the benefit shall be paid to such DEPENDANT or, in such proportions as may be deemed equitable by the BOARD, to such DEPENDANTS.
  - 4.2 If within twelve months of the death of the MEMBER the FUND does not become aware of or cannot trace any DEPENDANT of the MEMBER and the MEMBER has designated in writing to the FUND a NOMINEE to receive the benefit or such portion of the benefit as is specified by the MEMBER in writing to the FUND, the benefit or such portion of the benefit shall be paid to such NOMINEE, provided that where the aggregate amount of the debts in the estate of the MEMBER exceeds the aggregate amount of the assets in his estate, so much of the benefit as is equal to such excess shall be paid into the estate and the balance of such benefit or the balance of such portion of the benefit shall be paid to the NOMINEE.
  - 4.3 If a MEMBER has a DEPENDANT and the MEMBER has also designated in writing to the FUND a NOMINEE to receive the benefit or such portion of the benefit as is

specified by the MEMBER in writing to the FUND, the FUND shall within twelve months of the death of such MEMBER pay the benefit or such portion thereof to such DEPENDANT or NOMINEE or to both of them in such proportions as the TRUSTEES may deem equitable.

- 4.4 If within twelve months of the death of the MEMBER the FUND does not become aware of or cannot trace any DEPENDANT of the MEMBER and if the MEMBER has not designated a NOMINEE or if the MEMBER has designated a NOMINEE to receive a portion of the benefit specified by the MEMBER in writing to the FUND, the benefit or the remaining portion of the benefit after payment to the designated NOMINEE, shall be paid into the estate of the MEMBER or, if no inventory in respect of the MEMBER has been received by the Master of the Supreme Court in terms of section 9 of the Administration of Estates Act, 1965, into the Guardian's Fund.
- 4.5 Any payment to be made to a person in terms of the RULES, shall be deemed to be a payment to such a person, if payment is made to:
  - 4.5.1 a trustee as contemplated in the Trust Property Control Act 1988, and nominated by:
    - 4.5.1.1 the MEMBER; or
    - 4.5.1.2 a major DEPENDANT or NOMINEE, subject to or 4.5.1.3
    - 4.5.1.3 a person recognised in law or appointed by a court as the person responsible for managing the affairs or meeting the daily care needs of a minor DEPENDANT or NOMINEE, or a major DEPENDANT or NOMINEE not able to manage his or her affairs or meet his or her daily care needs; or
  - 4.5.2 a person recognised in law or appointed by a court as the person responsible for managing the affairs or meeting the daily care needs of a DEPENDANT or NOMINEE; or
  - 4.5.3 a beneficiary fund registered under the ACT.
5. If a benefit becomes payable in terms of the RULES and the RULES do not require elsewhere that the benefit be paid in the form of an annuity or a lump sum the FUND shall, notwithstanding any provision to the contrary, come to an agreement with the MEMBER, DEPENDANT or NOMINEE as to the form, whether by way of an annuity or a lump sum, in which the benefit shall be paid. If no agreement has been reached after three months the BOARD will decide whether the benefit shall be paid by way of an annuity or a lump sum
6. The FUND may at any time alter its decision to make a payment to a particular person and if a person, other than a MEMBER, to whom payment is made in terms of the RULES, dies before payment of the benefit to him has been completed, the FUND, at

Its discretion, may pay the benefit into the estate of such a person or to another DEPENDANT.

7. A DEPENDANT or NOMINEE, as the case may be, may commute the whole or a portion of the value of the annuities to which he becomes entitled for a lump sum payment.

**Information required**

8. No BENEFITS are paid before all information reasonably required by the FUND has been rendered by the MEMBER, DEPENDANT and NOMINEE.

**Payment of annuity(including a living annuity as defined in the Income tax Act,1962)**

9. The annuity referred to above must be purchased with the DEPENDANT and/or NOMINEE, as the case may be, as owner of the annuity.
10. The annuity so purchased must be purchased from a registered INSURER selected by the DEPENDANT or NOMINEE and the FUND's liability is limited to the conclusion of a contract with the relevant registered INSURER in terms of which the registered INSURER on receipt of payment by the FUND for the benefit of the DEPENDANT and/or NOMINEE, will accept an application by the DEPENDANT and/or NOMINEE for an annuity which is payable to him directly.
11. Once the FUND has made payment to the registered INSURER and, if applicable, has paid any balance of the BENEFITS directly to the DEPENDANT or NOMINEE in cash, the FUND will have no further obligation towards the DEPENDANT or NOMINEE.
12. More than one annuity may be purchased on behalf of an individual within the limits laid down by the South African Revenue Service.

## **PART 9: WITHDRAWAL AND TRANSLOCATION**

### **Withdrawal**

1. A MEMBER may withdraw from the FUND at any date consented to by the BOARD and falling before his RETIREMENT DATE. Such withdrawal shall not be regarded as retirement in terms of Part 6, and the FUND, depending on the MEMBER's instruction, shall pay to the MEMBER the value of the underlying INVESTMENTS held in respect of the MEMBER in terms of the RULES of the FUND.
2. Once the FUND has made payment to the MEMBER as contemplated above, the FUND will have no further obligation towards the MEMBER.
3. The MEMBER may partially withdraw once only from the FUND by taking in cash a portion of the value of the underlying INVESTMENTS held by the BOARD in respect of the MEMBER, provided that if benefits were transferred for the benefit of the MEMBER from different EXISTING FUNDS to the FUND, the MEMBER may partially withdraw on different dates once only in respect of the benefits which were transferred from each of the EXISTING FUNDS.
4. Subsequent to such partial withdrawal the MEMBER may not withdraw from the FUND in whole or in part, and the only benefit to which a MEMBER will be entitled thereafter is a retirement or death benefit.
5. Any withdrawal shall be subject to any special limitations regarding a MEMBER's accessibility to benefits, such limitations having been imposed by virtue of the RULES of the existing FUND on the original transfer of benefits to the FUND or by the Commissioner for the South African Revenue Service.

### **Translocation to another fund**

6. The benefits of a MEMBER or part thereof may be transferred to:
  - one APPROVED PENSION FUND; or
  - one APPROVED PENSION PRESERVATION FUND; or
  - one APPROVED RETIREMENT ANNUITY FUND; or
  - a combination of one APPROVED PENSION PRESERVATION FUND and one APPROVED RETIREMENT ANNUITY FUND; or
  - a combination of one APPROVED PENSION FUND and one APPROVED PENSION PRESERVATION FUND; or
  - a combination of one APPROVED PENSION FUND and one APPROVED RETIREMENT ANNUITY FUND.

This condition applies to each payment or transfer from the FUND.

be subject to the rules of the new fund. This paragraph is deemed to be effective from 30 September 2010.

## **PART 10: OPERATION AND MANAGEMENT OF THE FUND**

### **General powers and duties of Trustees**

1. The TRUSTEES and their assignees shall be obliged and be competent to perform all acts as may be necessary for or incidental to the execution of the objects of the FUND, but no act of the TRUSTEES may be inconsistent with the provisions of the RULES and Section 7C of the ACT.

### **Appointment and retirement of Trustees**

2. The BOARD shall at all times consist of six TRUSTEES, of whom at least one must be an INDEPENDENT TRUSTEE. The INDEPENDENT TRUSTEE will be nominated by the other TRUSTEES. When a TRUSTEE ceases to hold office the remaining TRUSTEES shall be entitled to nominate his successor. A vacancy on the Board will not invalidate any proceedings of the Board provided that a quorum must be present.
3. A TRUSTEE's or an alternate's term of office shall cease:
  - 3.1 if he dies or if he resigns and gives written notice to this effect to the other TRUSTEES; or
  - 3.2 if he becomes incompetent to be a director of a company in terms of the Companies Act, 2008; or
  - 3.3 if the other TRUSTEES, on account of poor performance, misconduct or because the BOARD believes that the TRUSTEE is not fit and proper to occupy the position of TRUSTEE, after having given him notice in writing, discharge him from his office; or
  - 3.4 is placed under curatorship by order of a competent court; or
  - 3.5 is an unrehabilitated insolvent; or
  - 3.6 is removed from an office of trust on account of misconduct; or
  - 3.7 has been convicted and sentenced to imprisonment without an option of a fine for any of the following: theft, fraud, forgery or uttering a forged document, perjury, an offence involving dishonesty or any offence in connection with the promotion, formation or management of a company; or
  - 3.8 other than the INDEPENDANT TRUSTEE ceases to be in employment of the ADMINISTRATOR, or a person who has a financial interest in the ADMINISTRATOR; or
  - 3.9 without permission of the BOARD fails to attend three consecutive meetings; or
  - 3.10 after the expiry of five years from the date of appointment to the post.



4. A TRUSTEE whose term of office has ceased after the expiry of five years may be re-appointed if he is willing and otherwise competent to hold office.
5. In the event of a TRUSTEE being temporarily unable to discharge his duties as TRUSTEE he shall appoint an alternate to act in his stead. The appointment shall be subject to the approval of the other TRUSTEES. In the event of an alternate being absent the remaining TRUSTEES may appoint an alternate TRUSTEE to act during the period of absence of a TRUSTEE and his alternate. If at any time there are no TRUSTEES, the ADMINISTRATOR shall appoint new TRUSTEES.
6. An alternate TRUSTEE shall in all respects be subject to the qualifications, terms and conditions applicable to the BOARD. An alternate TRUSTEE while acting for the BOARD shall exercise and discharge all powers, duties and functions of the BOARD.
7. A vacancy on the BOARD will not invalidate any proceedings or decisions of the BOARD provided that a quorum is in place.

#### **Procedures of Trustees**

8. The TRUSTEES shall meet from time to time, at least four times a year, to discuss and regulate the business of the FUND.
9. Notice shall be given to all the TRUSTEES at least fifteen days before a meeting. If all the TRUSTEES agree thereto, the notice period can be waived.
10. The BOARD elects a chairperson from its own ranks at the first meeting after any of those positions become vacant. A TRUSTEE elected as chairperson serves in that capacity until the first BOARD meeting after one year expired since his appointment in that position or until his tenure as TRUSTEE expires, whichever occurs first. At that meeting the BOARD elects a new chairperson. An incumbent may make himself available for re-election.
11. If the chairperson is temporarily not available to fulfill any of his duties, a TRUSTEE, duly authorized by the BOARD will perform those duties.
12. Four TRUSTEES shall form a quorum. The quorum must include the INDEPENDENT TRUSTEE. At every meeting all matters for discussion shall be put to the vote and the majority vote shall be binding. In the case of equal division the chairperson for the time being shall have a casting vote in addition to his deliberative vote.
13. Minutes of all meetings shall be kept and all resolutions recorded in the manner stipulated in the ACT.
14. A resolution in writing which has been signed by all the TRUSTEES, or a resolution which has been sent by electronic mail to all the TRUSTEES and ratified by them, shall

be as valid as a resolution passed at a meeting of the TRUSTEES.

15. The BOARD is empowered to authorise such of its members and/or officers as it may approve from time to time, and upon such terms and conditions as may be approved by it, to sign any document binding the FUND or any documents authorising the performance of any act on behalf of the FUND, provided that documents to be deposited with the REGISTRAR shall be signed in the manner prescribed by the ACT.
16. The BOARD may lay down regulations with regard to the procedures of the BOARD which may not be inconsistent with the RULES.
17. The BOARD, in consultation with the ADMINISTRATOR, may delegate any of their powers and duties to any institution or person, including a committee of the BOARD.

#### **Sub-committees**

18. The TRUSTEES may decide that any power of decision on any matter that is vested in them shall be delegated, on such terms and conditions as they may specify, to a sub-committee, or sub-committees, to another person or to any TRUSTEE as they nominate provided that such nomination shall be lawful and subject to the TRUSTEES fiduciary duties. The TRUSTEES may appoint persons who are not TRUSTEES to any sub-committee and may terminate such appointment at any time.
19. The decision of a sub-committee to which a power is so delegated shall, unless the TRUSTEES stipulate that it must be referred to the TRUSTEES for ratification, be regarded as a decision made by the TRUSTEES.
20. The minutes of all subcommittee meetings will be circulated to the TRUSTEES and will form part of the minutes of the next TRUSTEE meeting.

#### **Powers and duties of the Board**

21. The objective of the BOARD shall be to direct, control and oversee the operations of the FUND in accordance with the applicable laws and the RULES.
22. The duties of the BOARD shall, inter alia be to:
  - 22.1 act with due care, diligence and good faith;
  - 22.2 avoid conflict of interest;
  - 22.3 act with impartiality in respect of all MEMBERS;
  - 22.4 ensure that proper control systems are employed by or on behalf of the BOARD;
  - 22.5 ensure that adequate and appropriate information is communicated to MEMBERS informing them of their rights, benefits and duties in terms of the RULES;

- 22.6 obtain expert advice on matters where the BOARD may lack sufficient expertise;
- 22.7 ensure that the operation and the administration of the FUND comply with the ACT, the Financial Institutions (Protection of Funds) Act, 2001 and all other applicable laws of the Republic of South Africa;
- 22.8 ensure that proper books and records of the operations of the FUND are kept, inclusive of proper minutes of all resolutions passed by the FUND;
- 22.9 take all reasonable steps to ensure that the interests of MEMBERS are protected at all times.
- 23. The BOARD may do all things they deem necessary to attain the FUND's objectives, but always subject to applicable legislation and the RULES. Without limiting the generality of this, the BOARD may:
  - 17.1 appoint an ADMINISTRATOR for the administration of the FUND;
  - 23.2 delegate any of their powers to any officer, committee, or the ADMINISTRATOR subject to the provisions they deem fit;
  - 23.3 in the name of the FUND enter into and sign any contracts or documents and institute, conduct, defend, compound or abandon any legal proceedings by or against the FUND.

#### **Personal liability**

- 24. The BOARD and their assignees shall not be liable personally for any loss that, MEMBERS or their DEPENDANTS may suffer as a result of their actions, provided the action was in accordance with the provisions of the RULES and the loss did not arise from their negligence, dishonesty or fraud.

#### **Appointment of a Principal Officer**

- 25. The BOARD shall appoint a PRINCIPAL OFFICER in terms of the ACT on such terms and conditions as it may deem appropriate and may withdraw any such appointment and make another appointment in his place at any time, which appointments shall be notified to the REGISTRAR within 30 days thereof.
- 26. The BOARD must ensure that the proposed principal officer:
  - 26.1 has the relevant qualifications and expertise relating to the management and oversight of retirement funds, is fit and proper to hold such appointment; and
  - 26.2 has been informed of his/her duties and responsibilities in terms of the applicable legislation.

27. The REGISTRAR may object, to the appointment. If the REGISTRAR objects to the appointment or continued appointment of the PRINCIPAL OFFICER, the BOARD must terminate the appointment within 30 days of the REGISTRAR informing the BOARD and the appointee of his decision.
28. If for more than thirty days the PRINCIPAL OFFICER cannot fulfil his duties, the BOARD will appoint a substitute to function in his place and carry out the PRINCIPAL OFFICER'S duties while he is incapacitated, and the BOARD must notify the REGISTRAR of the name of the substitute.
29. The PRINCIPAL OFFICER performs all functions which statutes require him to perform.

#### **Bank Account**

30. The BOARD shall open a bank account in the name of the FUND.

#### **Appointment of a Valuator**

31. The BOARD, in its sole discretion, shall appoint a valuator which appointment may be changed from time to time.
32. The appointment, removal and approval of the valuator shall be subject to the provisions of the ACT.
33. Where the FUND requires exemption from the provision of sections 9A and 16 of the ACT, the BOARD shall ensure that the valuator submits the certificate as referred to in regulation 2(e) to the REGISTRAR, at least once every three years.

#### **Auditor**

34. The BOARD will appoint the AUDITOR of the FUND for such period as it determines and may withdraw such appointment and make any appointment as it deems fit. The AUDITOR shall audit the accounts of the FUND which accounts are to be kept in accordance with generally accepted accounting standards and guidelines issued by the Financial Services Board.
35. The appointment, removal and approval of the AUDITOR is subject to the provisions of the ACT.
36. Where the AUDITOR of the FUND is a partnership, the appointment of such AUDITOR shall not lapse by reason of change in the composition of the partnership, as long as

not less than half of the partners in the reconstituted partnership are persons who were partners as at the date when the appointment of the partnership was last approved by the REGISTRAR.

**Indemnity against loss**

38. The TRUSTEES shall devise means of safeguarding the FUND against losses owing to fraud or dishonesty of anyone having receipt or charge of money of the FUND.

**Expenditure of Trustees**

39. All expenses incurred by the TRUSTEES in relation to the control and management of the FUND shall be borne by the ADMINISTRATOR.
40. No remuneration shall be payable by the FUND to the TRUSTEES other than the INDEPENDENT TRUSTEE for services rendered to the FUND by them in their capacities as TRUSTEES. The TRUSTEES, in consultation with the ADMINISTRATOR, will from time to time decide on equitable remuneration for the INDEPENDENT TRUSTEE.

**Direct payment of benefits by Administrator and Insurer**

41. The TRUSTEES shall cause the ADMINISTRATOR in respect of lump sum payments and the INSURER in respect of annuity payments to pay the benefits payable in terms of the RULES, direct to the MEMBERS and other beneficiaries as determined by the TRUSTEES in terms of the RULES.

**Financial year**

42. The financial year runs from 1 January to 31 December.

## **PART 11: MISCELLANEOUS PROVISIONS**

### **Benefits Inalienable**

1. Save to the extent permitted by the ACT, the Income Tax Act, 1962, and the Maintenance Act, 1998, no benefit provided for in the RULES (including a pension purchased or to be purchased by the FUND from an INSURER for a MEMBER), or right to such benefit, or right in respect of contributions made by or on behalf of a MEMBER, shall be capable of being reduced, transferred or otherwise ceded, or of being pledged or hypothecated, or be subject to attachment or any form of execution under a judgement or order of a court of law, or to the extent of not more than three thousand rand per annum, be capable of being taken into account in a determination of a judgement debtor's financial position in terms of section 65 of the Magistrates' Courts Act, 1944, and in the event of the MEMBER or beneficiary concerned attempting to transfer or otherwise cede or to pledge or hypothecate, such benefit or right, the FUND may withhold or suspend payment of it: Provided that the FUND may pay any such benefit or any benefit in pursuance of such contributions, or part thereof, to any one or more of the DEPENDANTS of the MEMBER or beneficiary or to a guardian or trustee for the benefit of such DEPENDANT or DEPENDANTS during such period as it may determine.
2. If the estate of any person entitled to a benefit payable in terms of the RULES (including an annuity purchased by the FUND from an INSURER for that person) is sequestrated or surrendered, such benefit shall not be deemed to form part of the assets in the insolvent estate of that person and may not in any way be attached or appropriated by the curator in his insolvent estate or by his creditors.
3. Any benefit payable regarding a deceased MEMBER by the FUND shall not form part of the assets in the estate of such a MEMBER.

### **Surety in respect of housing loans**

4. The FUND will not grant a loan to a MEMBER by way of investment of its funds or furnish a guarantee to enable a MEMBER to acquire immovable property as set out on Section 19(5) of the ACT.

### **Currency**

5. All amounts payable to or by the FUND in terms of the RULES shall be payable in the legal tender of the Republic of South Africa.

#### **Unclaimed benefits**

6. Any UNCLAIMED BENEFITS will remain in the FUND until the MEMBER or DEPENDANT has been traced.

#### **Binding force of the Rules**

7. The ACT and the RULES shall bind the MEMBERS, the FUND and its officials and anyone who lays a claim in terms of the RULES or anyone whose claim is derived from the aforesaid claim.

#### **Transfers from or to other funds**

8. The FUND, in consultation with other funds, may receive benefits from or transfer benefits to those funds on the conditions laid down by the FUND.

#### **Proof of claims**

9. The FUND shall not be obliged to grant any benefit unless it is satisfied with regard to the MEMBER's age and with regard to any other circumstance which it considers relevant to the benefit and for which it requested proof or information.

#### **Interpretation of rules and disputes**

10. The decision of the BOARD as to the meaning of or interpretation of the RULES or part of a RULE shall be binding on the MEMBERS and every person claiming to be entitled to a benefit under the RULES, subject to the provisions of Section 30A of the ACT.
11. In a dispute regarding the interpretation of the RULES or the administration of the FUND, the complainant must submit his complaint directly to the FUND in writing. The FUND must reply in writing within thirty days of the receipt of the complaint. If the complainant is not satisfied with the FUND's answers and the complaint is a complaint as defined in the ACT, the complainant can refer the complaint to the Pension Funds Adjudicator for a decision at the following address: Pension Funds Adjudicator, PO Box 651826, Benmore, 2010.

#### **Inspection of and copies of documents of the Fund**

12. The RULES, the latest financial statements of the FUND and copies of any other documentation as contemplated by the ACT, shall be open for inspection by MEMBERS at any reasonable time and they may, at a fee determined by the FUND, obtain copies of the RULES.

#### **Dissolution of the Fund**

13. The BOARD, in consultation with the ADMINISTRATOR, may at any time close the FUND to new MEMBERS or dissolve the FUND.
14. The BOARD shall give notice to the MEMBERS of their intention to have the FUND dissolved.
15. The BOARD shall appoint a liquidator, which appointment shall be subject to the approval of the REGISTRAR, and the period of liquidation shall be deemed to commence as from the date of such approval.
16. During such liquidation the provisions of the ACT shall continue to apply to the FUND as if the liquidator were the BOARD.
17. The liquidator shall as soon as may be possible deposit with the REGISTRAR the preliminary accounts prescribed by regulation, signed and certified by him as correct, showing the assets and liabilities of the FUND at the commencement of the liquidation and the manner in which it is proposed to realise the assets and to discharge the liabilities, including any liabilities and contingent liabilities to or in respect of MEMBERS.

In discharging the liabilities and contingent liabilities to or in respect of MEMBERS full recognition shall be accorded to:

- 17.1 the rights and reasonable benefit expectations of the persons concerned;
- 17.2 additional benefits the payment of which by the FUND has become an established practice.

#### **Amendment to the rules**

18. The BOARD, in consultation with the ADMINISTRATOR, may amend the RULES at any time, provided that:
  - 18.1 the approval of the Commissioner for the South African Revenue Service and the REGISTRAR is obtained; and
  - 18.2 the amendment is not contrary to the ACT.
19. The FUND shall arrange for the REGISTRAR and the Commissioner for the South African Revenue Service to be notified of every amendment to the RULES.
20. Should legislative amendments or regulatory requirements call for the immediate amendment of the RULES, the amendment will apply with effect from the effective date of such legislation or regulatory requirements, notwithstanding the fact that the RULE amendments may not be effected immediately.