



FSCA RF NOTICE 5 OF 2023

PENSION FUNDS ACT, 1956 (ACT NO. 24 OF 1956)

EXEMPTION OF FUNDS FROM THE CONDITIONS IN BOARD NOTICE 75 OF 2009, TO QUALIFY FOR AN EXEMPTION FROM SECTION 28 OF THE PENSION FUNDS ACT, 1956

The Financial Sector Conduct Authority, hereby under section 28(17) of the Pension Funds Act, 1956 (Act No. 24 of 1956), read with section 281(1) of the Financial Sector Regulation Act, 2017 (Act No. 9 of 2017), exempts funds from the conditions set out in paragraph 9.2 (a) and (b) of Board Notice 75 of 2009, to the extent set out in the Schedule.

**KATHERINE GIBSON
DEPUTY COMMISSIONER**

Date of Publication: 31 January 2023

SCHEDULE

EXEMPTION OF FUNDS FROM THE CONDITIONS IN BOARD NOTICE 75 OF 2009, TO QUALIFY FOR AN EXEMPTION FROM SECTION 28 OF THE PENSION FUNDS ACT, 1956

1. Definitions

In this Schedule “**Act**” means the Financial Sector Regulation Act, 2017 (Act No. 9 of 2017), and “**PF 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 or the PF Act shall have the meaning so assigned to it unless a different meaning is assigned elsewhere in this Schedule, and –

“**applicant fund**” means a fund that applied for an exemption from paragraph 9.2(a) or paragraph 9.2(b) of the Board Notice, as prescribed in terms of section 28(17) of the PF Act; and

“**the Board Notice**” means Directive PF No. 4, published under section 28(17) of the PF Act in Board Notice 75 of 2009, of Government Gazette 23238 of 8 June 2009.

2. Exemption of an applicant fund

The Authority hereby, under section 281(1) of the Act, exempts an applicant fund from paragraph 9.2(a) and paragraph 9.2(b) of the Board Notice, subject to the applicant fund meeting the following conditions:

- (a) That the applicant fund submits an application in the format set out in Form D to the Board Notice, together with a specific request to be exempted from paragraphs 9.2(a) and/or 9.2(b), which request must confirm compliance with paragraphs 9.2(c), 9.2(d) and 9.3;
- (b) that on the date that the fund takes a resolution to liquidate or partially liquidate the fund due to withdrawal of a participating employer, the fund or the relevant participating employer withdrawing does not have more than 100 members; and
- (c) that all the remaining requirements and conditions in the Board Notice, and specifically paragraphs 9.2(c), 9.2(d) and 9.3, are complied with.

3. Amendment and withdrawal of exemption

- (1) The exemption referred to in paragraph 2 above applies to all applicant funds that apply online at www.fsca.co.za for an exemption from paragraph 9.2(a) and/or paragraph 9.2(b) of the Board Notice **on or after 1 February 2023**.
- (2) The exemption is subject to –

- (a) amendment thereof, published by the Authority by notice on the website of the Authority; and
- (b) withdrawal in a like manner.

4. Short title and commencement

This exemption is called the Exemption of funds from the conditions in Board Notice 75 of 2009, to qualify for an exemption from section 28 of the Pension Funds Act, 2023, and comes into effect on the date of publication.