

Good Governance for Retirement Funds: A South African perspective

OECD / IOPS MENA Workshop on pension regulation and supervision

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Circular PF 130

FSB Guidance on how the statutory fiduciary duties of trustees should be observed in practice

Circular PF 130

- Issued 11 June 2007
- Amplifies the fiduciary duties of trustees contained in sections 7C and 7D of the Pension Funds Act 24 of 1956
- Main Document: Outlines 12 governance principles based on three broad areas
 - Governance of the board of trustees
 - Governance of the fund's business
 - Management of relationships
- Annexures: Code of conduct for trustees, Investment Policy Statement and Guidance on performance appraisals

Unpacking the 12 governance principles of Circular PF130

Principle 1: Roles, responsibilities and accountabilities of the board

- Trustees act jointly:
 - Confidentiality
 - Communication
- Responsibilities of the Chair
- Responsibilities of the Principal Officer
- Conflicts of interest:
 - Structural
 - Non-structural
 - Actual, potential and perceived
 - Avoidance and recordal
- Independence

Principle 2: Composition and competency of the board and sub-committees

- Role of Sponsor:
 - To provide skills
- Sub-committees
- Proper mandate to sub-committees and risk management by sub-committees

Principle 3: Trustee education

- Importance of education for new trustees
- Importance of ongoing education no matter how experienced
- Trustee education must be from an independent source so as not to create dependency
- Transfer of institutional memory by retiring trustee

Principle 4: Trustee assessment and governance breaches

- Importance of annual appraisal
- The purpose is not to show who is the best or worst trustee, but to indicate weaknesses of the board itself
- Breach of governance by a trustee: must have process for managing and enabling provision in the fund rules to suspend or expel a trustee
- Action against a trustee is not to punish that trustee but to protect the integrity of the governance in the fund

Principle 5: Internal controls

- Trustees exercise oversight function
 - Must be clear identification and assignment of operational responsibilities
- Importance of proper reporting and obtaining expert advice
- In particular
 - Regular assessment of those with operational responsibilities
 - Regular review of fees and costs
 - Regular review of information processes, software, accounting and financial reporting
 - Monitoring of conflicts of interest amongst those with operational responsibilities
 - Protection of confidential information
 - Regular review of compliance

Principle 6: Expert advisors

- Trustees are not expected to have expert skills and must get expert advisors where they do not have those skills
- Expert advice must be assessed and be independently given
- Trustees must interact with experts directly
- Criteria for choice of outsourced expertise, beauty parades and reviews

Principle 7: Risk management

- Annual risk assessment to include:
 - Identification of each risk
 - Probability of risk (low, moderate, high)
 - Impact (nil, moderate, severe)
 - Mitigation strategy
 - Compare with previous year
- Who is responsible for the identification of the risks and their management?
- Risks include non- financial risks (threats to governance)
- Rights of recourse
- Fidelity cover
 - Obtain advice regarding terms and quantum
 - Good risk management may reduce premium
 - Good risk management will reduce the trustees' personal exposure
 - Advise stakeholders

Principle 8: Investment issues

- Investment policy statement to have:
 - Who are the investment advisors
 - Who is the custodian
 - Whether there is SRI policy, and its definition
 - Reason for form of investments (insurance policy or segregated mandate)
 - Performance benchmarks
 - Risk attributed to each asset class
 - How ownership rights are exercised
- No captive investment arrangements
- Balance of cost obligation and employer's rights
- Custodian arrangements



Principle 9: Communication and access to information

- Make available to members and employer as much relevant information
 - Clearly
 - Meaningful
- Fund information is confidential, especially member's information and data
- Fund information belongs to the fund
- Trustees must not disclose information without permission
- Information about the fund must be returned to it

Principle 10: Members and Beneficiaries

- Must communicate to them regularly
- Trustees' decisions
- Investment performance details
- Fund arrangements and expert advisers
- Respond to communication promptly and with respect
- AGM / Roadshows

Principle 11: Employer and Sponsor

- Mutual duty of good faith
- Fund should not intrude on employer relationship
- Importance of communication between the fund and the employer – not to be through employer appointed trustees

Principle 12: Regulatory authorities

- Co-operative approach with regulators
 - Registrar of Pension Funds
 - Commissioner of SARS
 - FAIS Registrar
 - NCA Registrar

Purposes of Good Governance are to ensure that

- Benefits promised in the constitution / rules of the fund are actually delivered
- Those benefits are optimal and the associated risks are minimised with these contradictory concepts appropriately balanced
- The process involved in providing these benefits justifies the costs and is transparent to the stakeholders
- The process of delivering these benefits is credible, i.e. a demonstrably trustworthy process of benefit delivery

A good governance structure should include the establishment of:

- Policies
- Goals / objectives
- Strategy to achieve these goals
- Structure and controls for the implementation of governance policy and objectives
- A monitoring system
- A risk management process

Thank You



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