



Insurance and Pensions Commission (IPEC)

Guideline on Transfer of Fund Business

Authorisation

This Guideline is issued in terms of section 3(1) of Statutory Instrument 69 of 2020, which empowers the Commission, whenever it considers it necessary, convenient and in the best interest of policy owners and pension and provident fund members, to issue general guidelines and standards.

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Application of the Guideline

1. This Guideline replaces Circular 4 of 2019 and shall apply to the transfer of assets and liabilities between funds as well as the transfer of business between Fund Administrators, including Life Insurers who administer pension funds.
2. This guideline shall not apply to:
 - a) the transfer of assets and liabilities resulting from the dissolution of registered funds. Following the mandatory approval by the Commission for the fund to be dissolved, the procedure to be adopted in transferring the assets and liabilities of the fund will remain governed by section 10(2) of the Pension and Provident Funds Act [Chapter 24:09] or the fund rules as the case maybe.
 - b) a transfer of an individual member's benefits from one fund to another, save for the requirement that the funds issue such member with a benefit statement as at date of transfer and another as at date of receipt of the benefits.

Background to the Guideline

3. The Insurance and Pensions Commission issued Circular 4 of 2019, in April 2019, after noting that, in transferring assets and liabilities, some registered funds were failing to comply with section 27 of the Pension and Provident Funds Act [Chapter 24:09] (hereinafter referred to as the Act).
4. The Commission had witnessed cases where registered funds transfer assets and liabilities to another fund without the Commissioner's approval in terms of section 27 of the Act.
5. The Commission had further noted that the funds involved do not:
 - a) fully document the process and all transactions pertaining to the transfer. This has resulted in information gaps between the receiving fund and the transferring fund.

- b) reconcile the assets transferred to the liabilities, that is, the allocation of the assets and liabilities to individual members of the fund.
 - c) in the case of the receiving fund, apportion received assets to individual members of the fund in terms of their capital accumulation credits on transfer.
 - d) confirm the finalisation of the transfer through a hand over takeover signing off that all transfer requirements were met as provided for in the legal and regulatory framework, for example, whether or not all assets and liabilities were transferred to the receiving fund.
 - e) Properly communicate with the fund members to raise awareness and justify the transfer. This is meant to ensure that all members are adequately consulted before the transfer is effected.
 - f) Issue benefit statements with all the necessary information to the members informing them of their transfer values and clearly indicating the funded and unfunded portion in the event of funds that will not be fully funded.
6. The issues noted in the paragraphs above result in challenges when computing capital accumulations and tracking the full employment history of members from such funds when they retire.
7. Despite the existence of Circular 4 of 2019, the Commission also noted continued non-compliance, particularly in the transfer of business between fund administrators. Further, there were some gaps that were observed as the Circular was being implemented, thereby necessitating the need to review the Circular.
8. To enhance and bring clarity on certain provisions where non-compliance has been observed, and to address the shortcomings that have been observed during implementation of the Circular, which include the following:-
- (i) Transfers of pension fund business that have been made before written approval of the Commission.

- (ii) Receipt of contributions by administrators before registration of receiving fund.
- (iii) Complaints from members about trustees' unilateral decisions to transfer fund business from one administrator to the other without consulting members.
- (iv) No notice or short notice being given to transferring fund/administrator, hence creating a gap between transfers and delays in registering the fund with the new administrator while ensuring business continuity.
- (v) To allow for transfer of real assets where possible.

The Commission hereby issues this Guideline.

Procedure to be followed on Transfer of Assets and Liabilities Between Registered Funds

9. In terms of section 27 of the Act, every fund must seek the Commissioner's approval before notifying the current administrator, to transfer assets and liabilities to another administrator.
10. No fund/administrator shall transfer or receive assets and liabilities without prior written approval from the Commission.
11. The notice required in terms of section 27(2) of the Act, and which will accompany the request for approval, must state the name of the transferring fund and the name of the receiving fund/administrator.
12. The terms of the transfer referred to in section 27(2) of the Act shall contain the following:
 - a) reasons for the proposed transfer; and
 - b) advantages of the proposed transfer.
13. The scheme setting out the details of the proposed transfer referred to in section 27(2) of the Act shall include the following:
 - a) the value and nature of assets and liabilities that will be transferred to the other fund.

- b) the spread of assets and liabilities across the different membership categories.
- c) the timelines in which the fund will transfer the assets and liabilities.
Where different asset classes are to be transferred at different dates, this must be clearly stated and the reasons thereof given.
- d) a schedule of members' accumulations which, at least, must provide the following per member: -
 - (i) name, age and identification particulars.
 - (ii) date of employment and date of joining the fund.
 - (iii) the funded (and unfunded) portions of the member's benefit.
 - (iv) current contact details of the member, and at least one alternative contact person in the event that the primary member cannot be contacted.
 - (v) status of member, that is, active contributor, dormant or preserved.

14. Upon obtaining the approval from the Commissioner, the transferring fund shall proceed to notify the current administrator and give a 3-months' notice. Registration of the new fund with another administrator can only coincide with the lapse of the 3 months' notice.

15. When all transfer values have been determined, the current administrator shall, issue benefit statements to the members. The benefit statement must indicate the following:

- a) the purpose of issuing the statement. For example, benefit statement for the purpose of transfer of assets and liabilities from fund x to fund y.
- b) the amount, in relation to the individual member, that will be transferred to the receiving fund.
- c) an indication on whether or not the amount is fully paid up or consists of contribution arrears.
- d) the date on which the last contribution to the accumulation referred to in the statement was paid to the fund.

- e) a note advising the member to lodge, with the Commission, any concerns in relation to the information appearing on the statement. The note must be printed no smaller than and as legible as the letters of the rest of the statement.
 - f) any other relevant information for the benefit of the member.
16. To protect the transferring members from losing value, the Commission may allow the transfer of shares and other unitised assets in the event of a fund invested in such at the time of transfer.
17. Upon receipt of all the assets and liabilities, the receiving fund/administrator shall issue all members with benefit statements indicating the transfer values of all the members as opening values, and the provisions of paragraph 15 shall apply in the issuance of the benefit statements by the receiving fund/administrator. These benefit statements shall be issued to the members no later than 30 days after the receipt of all assets and liabilities. Where the receiving fund does not receive all assets and liabilities by the end of the financial year, the receiving fund shall issue benefit statements to the members within six months after the end of that financial year.
18. Prior to issuing the benefit statements referred in paragraph 15, the fund must seek written approval from the Commission on the content of the proposed benefit statements.
19. No later than 21 days after receiving the written approval from the Commission, the transferring fund shall, where necessary, submit to the Commission for registration, the amendments to the fund rules.
20. No later than 21 days after receiving all assets and liabilities, the receiving fund shall submit to the Commission:
- a) where necessary, amendments to the fund rules for registration.
 - b) a schedule as at the date of receipt of all assets and liabilities, showing the individual member's accumulation and the additional information stated under paragraph 10(d) above.

21. Upon the transfer of all assets and liabilities or once every two months during the process of the transfer, whichever comes sooner, each fund shall submit a schedule certified as correct by the Principal Officer showing:
 - a) the nature of the assets and liabilities transferred or received; and
 - b) where applicable, the assets and liabilities still to be transferred or received as the case maybe.
22. Where the transferring fund submits a schedule in which assets and liabilities are marked as transferred, it should annex a confirmation of receipt of such assets and liabilities from the receiving fund.
23. The receiving fund shall inform the Commission, in writing, of the nature and value of assets and liabilities received from the transferring fund within seven(7) days of receiving the assets and liabilities.
24. After the transfer of all assets and liabilities, the funds concerned shall submit, within fourteen (14) days, a certificate of transfer in which they jointly acknowledge the transfer of the assets and liabilities. Key persons to the transfer, being, the principal officer, respective administrators and a representative of the trustees shall append their signatures to the certificate.
25. Schedules that show the nature and value of assets and liabilities so transferred or received by the fund, as the case maybe, shall accompany the certificate. The certificate must include a section in which the key persons mentioned in paragraph (s), acknowledge the nature and value of the assets and liabilities appearing on the schedules as a complete and correct record of the assets and liabilities so transferred or received.
26. The process of transferring assets and liabilities between funds shall apply, with necessary changes to the following:
 - a) partial transfers relating to a participating employer or a specified group of members of the fund.
 - b) transfers pursuant to an amalgamation with another fund or division of a fund. (please note that the amalgamation or division must be approved by the Commission in line with section 27 of the Act).

- c) instances where a fund converts from one type of a fund to another, if such conversion involves transfer of assets and liabilities. For example, where a stand-alone fund joins an umbrella fund under the same administrator

Procedure for Change of Administrators

27. Every fund shall notify the Commission of the intended change of administrator prior to implementing the transfer of assets and liabilities/ or records and information, as the case maybe, between such administrators.
28. Once the Commission acknowledges receipt of such notification in writing and approval is granted, paragraph 12 to 25 of this Guideline shall apply, with necessary changes, to the transfer of assets and liabilities between the fund administrators.
29. No administrator will receive contributions from a fund before the Commission authorises such a transfer from another administrator.
30. The 3-months' notice period shall also apply on such transfers.

Penalties for non-compliance with this Guideline

31. The Commission reserves the right to invoke the provisions of section 5 of the Insurance and Pensions Commission (Issuance of General Guidelines and Standards) Regulations, 2020 published in Statutory Instrument 69 of 2020, where an Administrator fails to comply with this Guideline by taking business unprocedurally and starts receiving contributions from an unregistered pension fund, as well as receiving contributions from a fund that has not been given the approval to transfer business by the Commission.
32. Please be guided accordingly.



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COMMISSIONER OF INSURANCE, PENSION AND PROVIDENT FUNDS