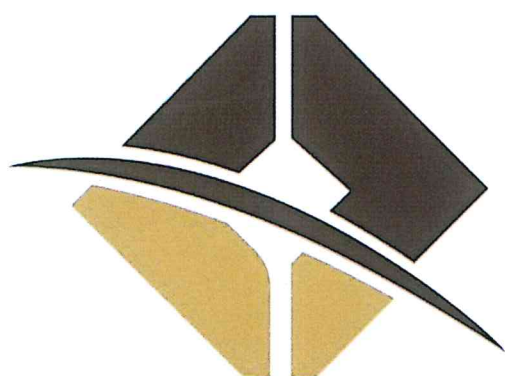




FSRA
FINANCIAL SERVICES
REGULATORY AUTHORITY

CIRCULAR NO. 1/2017

ADDRESSED TO: ALL RETIREMENT FUNDS,
EMPLOYERS, TRUSTEES, PRINCIPAL
OFFICERS, FUND ADMINISTRATORS.

SUBJECT: FULL COMMUTATION OF PENSION
BENEFITS.

EFFECTIVE DATE: 17 MARCH 2017

STATUTORY REFERENCE: INCOME TAX ORDER 1975 (as amended)

1. Pursuant to the issuance of circular no 1 of 2009, the Financial Services Regulatory Authority (FSRA) has noted that there is a continuous undesirable practise where fund members commute their full pension as opposed to commuting the allowable one third pension pay out as envisaged by the Income Tax Order, 1975 (as amended). This practise has set a wrong precedent and has impacted on the administration, functioning and solvency of funds.

2. The relevant section of the Income Tax Order hinges on the provision of **section 2 (a)** which provides that:

Provided that the commissioner may approve a fund subject to such limitations or conditions as may determine, but shall not approve a fund unless in respect of the year of assessment in question, he is satisfied that the fund is a permanent fund *bona fide* established for the purpose of providing annuities for employees on retirement from employment.

“...the Commissioner shall not approve a fund unless, in respect of the year of assessment in question, he is satisfied that the rules of the fund provide that no more than one third of the total value of the annuity to which an employee becomes entitled may be commuted for a single payment, except where annual amount of such annuity does not exceed one thousand five hundred Emalangenì.”

3. The rationale for the one- third commutation relates to the tax exemption status of pension funds and it is a condition for approval of pension funds by the Commissioner of Taxes. The objectives of the Income Tax Order is aimed at protecting retiring members by allowing them to commute one third of their pension tax free.
4. It is imperative that trustees and all persons be reminded to have regard to the primary intention of the Retirement Funds Act, 2005 and align themselves with the purpose of a pension fund, which is to provide retirement income security for the remaining life of the member.
5. The FSRA hereby advises all retirement funds, employers, trustees, principal officers, fund administrators and all persons that the Authority shall not approve any application to commute more than the statutory one third of the fund members' full pension.



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FINANCIAL SERVICES REGULATORY AUTHORITY