



GUIDELINE:

Notification of Intention to Terminate Contract with Trustees of Approved Superannuation Funds and Retirement Schemes by Administrators and Investment Managers

**The Financial Services Commission
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LEGISLATIVE REFERENCE: Sections 10(1), 22 and 46(1) of the Pensions (Superannuation Funds and Retirement Schemes) Act, 2004 (the "Pensions Act")

1.0 BACKGROUND

- 1.01 Trustees of every superannuation fund ("fund") and retirement scheme ("scheme") are required under Section 10(1) of the Pensions Act to designate an administrator and an investment manager for the fund or scheme. The legislation also provides for the same entity to be designated as the administrator and investment manager for a fund or scheme.
- 1.02 While the trustees are ultimately responsible for the operation of a fund or scheme many of the activities involved in the day to day management of the fund or scheme are outsourced to designated administrators and investment managers licensed by the Financial Services Commission ("FSC"). Hence, it is imperative that policies, procedures and controls are implemented to ensure that the fund or scheme operates smoothly.

2.0 OBJECTIVE

- 2.01 The objective of this guideline is to outline the FSC's expectation regarding the requirement for administrators and investment managers to notify the FSC where they intend to terminate their administration and investment management contract with the trustees of a fund or scheme.

3.0 FSC'S EXPECTATION REGARDING NOTIFICATION OF INTENDED TERMINATION

- 3.01 Where an administrator or investment manager intends to terminate the administration or investment management contract the FSC requires that:

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- a. The intended termination must comply with the existing administration and investment management contracts.
- b. The administrator or investment manager notifies the FSC (in writing) of its intention to do so within 14 days of that decision being made.
 - (i) The notification must include the following:
 - the effective date of the intended termination;
 - detailed reason(s) for the decision to terminate, including
 - a. persistent lateness in receiving contributions;
 - b. tardiness of the trustees in providing pertinent information in a timely manner; and
 - c. any other reasons.
 - (ii) The proposed date on which the trustees of the fund or scheme will be advised of the administrator's or investment manager's intention to terminate.
- c. Within 7 days after the effective date of the termination of the contract the administrator or investment manager of the fund or scheme is required to provide the FSC with written confirmation that:
 - (i) the administration and investment management contracts were complied with as it relates to the termination;
 - (ii) all obligations of the administrator or investment manager were performed in keeping with the contracts; and
 - (iii) all records of the affected fund or scheme have been handed over to the trustees.

Questions regarding this Guideline may be directed to:

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