

**IN THE ENFORCEMENT COMMITTEE ESTABLISHED IN TERMS OF
SECTION 10(3), READ WITH SECTION 10A OF THE FINANCIAL
SERVICES BOARD ACT, 97 OF 1990**

CASE NO: **53/2011**

In the matter of:

THE REGISTRAR OF PENSION FUNDS

Applicant

and

OLD MUTUAL TRUST LIMITED

Respondent

ORDER

WITH DUE CONSIDERATION to the settlement agreement (attached marked annexure "A") in terms of section 6B(7)(a) of the Financial Institutions (Protection of Funds) Act, No. 28 of 2001, I hereby determine that the Respondent on 31 December 2010 contravened section 13B(1) of the Pension Funds Act, No. 24 of 1956 read with condition 7.3 as determined in Board Notice 24 of 2002 and impose a penalty of R27 500 to be paid on or before 15 December 2011. The remaining terms and conditions of the settlement agreement are incorporated and made an order of the Enforcement Committee.

I make no order regarding costs.

Signed at PRETORIA on 6 December 2011.



C. F. Eloff

"Annex A"

IN THE ENFORCEMENT COMMITTEE ESTABLISHED IN TERMS OF SECTION 10(3), READ WITH SECTION 10A OF THE FINANCIAL SERVICES BOARD ACT, 97 OF 1990

CASE NO: **53/2011**

In the matter of:

THE REGISTRAR OF PENSION FUNDS Applicant

and

OLD MUTUAL TRUST LIMITED Respondent

SETTLEMENT AGREEMENT IN TERMS OF SECTION 6B(7)(a) OF THE FINANCIAL INSTITUTIONS (PROTECTION OF FUNDS) ACT, 28 OF 2001

PARTIES TO THE AGREEMENT

1. The parties to this agreement are the Registrar of Pension Funds ("the Registrar") herein represented by Jurgen Arnold Boyd in his capacity as the Deputy Registrar of Pension Funds;

and

Old Mutual Trust Ltd ("Respondent") a company duly incorporated and registered in accordance with the laws of the Republic of South Africa, bearing registration number 1927/000328/06. The Respondent is approved by the Registrar as an

X



administrator in terms of section 13B(1) of the Pension Funds Act, No 24 of 1956 ("the Act"). The Respondent is represented by Vincent John Boule in his capacity as a director of the Respondent, and who warrants that he is authorized by the Respondent to conclude this agreement.

WHEREAS

2. The Registrar is of the opinion that the Respondent contravened section 13B(1) of the Act read with condition 7.3 as determined in Board Notice 24 of 2002.
3. The Respondent wishes to enter into a settlement agreement with the Registrar as contemplated in section 6B(7)(a) of the Financial Institutions (Protection of Funds) Act, No 28 of 2001 ("the FI Act").

NOW THEREFORE IT IS AGREED AS FOLLOWS

4. It is agreed between the parties that the Respondent contravened section 13B(1) of the Act read with condition 7.3 as determined in Board Notice 24 of 2002, in that on 31 December 2010 it failed to maintain liquid assets equal to or greater than 8/52 of its annual expenditure.

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5. The Registrar took into account the following mitigating factors:

5.1. The Respondent accepted responsibility for the contravention;

5.2. The Respondent co-operated with the Registrar's investigation and enforcement action;

5.3. The officers of the Respondent displayed remorse for the contravention.

6. In light of the above, the parties have agreed that the Respondent will pay a penalty of R27 500 on or before 15 December 2011, in settlement of the matter.

7. This agreement is subject to the approval of the Enforcement Committee and the parties specifically record that they are aware of the possibility that the Enforcement Committee may not accept the terms of this agreement. If the Enforcement Committee declines to make this agreement an order, then in such event this agreement will be null and void.

8. If the Respondent does not comply with the terms of this agreement and the Registrar institutes legal proceedings to enforce the agreement, the Respondent consents to pay all legal costs to the Registrar on the Attorney and Client scale.

9. No leniency or postponement given by the Registrar to the Respondent or any amendment to the terms and conditions of this agreement will be binding unless such postponement, leniency or amendment is reduced to writing and signed by

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the parties. Any leniency, postponement granted by the Registrar or any amendment to this agreement shall not be a novation of the cause of action in terms whereof the Respondent was found to have contravened the Act.

10. Any receipt of a payment by the Registrar after the due date shall be without prejudice to any of the rights of the Registrar.

11. The parties choose as their domicilium citandi et executandi their respective addresses set out below for all purposes arising out of or in connection with this agreement at which addresses all the processes and notices arising out of or in connection with this agreement, its breach or termination may validly be served upon or delivered to the parties. However the notice contemplated in terms of section 6E of the FI Act may be delivered by electronic email. For the purpose of this agreement the parties' respective addresses shall be:

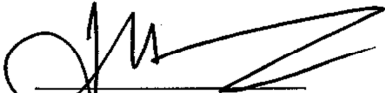
11.1. Financial Services Board
Block B, Riverwalk Office Park
41 Matroosberg Road
Ashlea Gardens ext 6
Pretoria
0081

11.2. Respondent:
Nedbank/BOE Building
Clock Tower Precinct
V & A Waterfront
Cape Town
8001



12. The parties humbly request that the Honorable Chairperson makes the settlement an order, as envisaged in section 6B(7)(b) of "the FI Act".

Signed at PRETORIA on 5/12/11 on behalf of the Registrar.



J. A. Boyd

Signed at SANDTON on 30 NOVEMBER ²⁰¹¹ on behalf of the Respondent



V. J. Boulle