



**Financial Services
Tribunal**

THE FINANCIAL SERVICES TRIBUNAL

Case No. A2/2026

In the matter between:

THE LEATHER INDUSTRY PROVIDENT FUND

Applicant

and

THE FINANCIAL SECTOR CONDUCT AUTHORITY

Respondent

TRIBUNAL PANEL: PJ Veldhuizen and LTC Harms

Appearance for Applicant: n/a

Appearance for Respondent: n/a

Date of hearing: n/a

Date of Decision: 14 May 2026

Summary: Reconsideration of a decision of the Financial Sector Conduct Authority to reject statutory actuarial valuation reports submitted by a Fund in terms of Section 230 of the Financial Sector Regulation Act 9 of 2017.

DECISION

A: INTRODUCTION

1. The Applicant is The Leather Industry Provident Fund ("the Fund").
2. The Respondent is the Financial Sector Conduct Authority ("the Authority")
3. This is an Application in terms of Section 230 of the Financial Sector Regulation Act 9 of 2017 against the decision taken by the Authority, to reject the Statutory Actuarial Valuation Reports ('the Reports) submitted by the fund in terms of section 16(1) of the Pensions Fund Act 24 of 1956 ("the PFA"), as at 31 December 2018 and 31 December 2021.
4. Section 230 of the Financial Sector Regulation Act 9 of 2017 ("the FSR Act") provides the basis for the Applicant to lodge this Application for reconsideration and seek appropriate relief.

B: THE ROLE OF THE AUTHORITY

5. The Authority plays a critical role in regulating pension funds in South Africa, including the review of Statutory Valuation Reports submitted under section 16(1) of the PFA.
6. Section 16(1) of the PFA requires an Actuary to conduct a valuation of the fund at least once every three years to assess its financial condition. The Actuary must submit a signed report to the Registrar (now the Authority), detailing whether the fund is capable of meeting its benefits and commitments. Additionally, the Actuary may be required to perform interim valuations and investigations into the fund's financial condition.
7. The Actuary's report must comply with the provisions of the PFA and any

applicable regulations.

8. The Authority, as the successor to the Registrar, is empowered to review Statutory Valuation Reports to ensure compliance with the PFA and its regulations.
9. The Authority may reject a report if it fails to meet the prescribed standards or if it does not adequately address the fund's financial condition. For instance, the Authority may require additional investigations or adjustments if the report does not provide sufficient evidence that the fund can meet its obligations or if a deficit scheme is deemed inadequate.
10. The Authority's mandate is to protect the interests of fund members and ensure the financial soundness of pension funds. This includes verifying that the Actuary's valuation methodology and assumptions comply with the requirements of the PFA and any relevant regulations.
11. The Authority is permitted to reject Statutory Valuation Reports submitted under section 16(1) of the PFA if they fail to comply with statutory requirements or do not adequately demonstrate a fund's financial soundness. The Actuary's obligations to conduct valuations and submit compliant reports are central to this process, and the Authority ensures that pension funds operate in a manner that protects members' interests and adheres to legal standards.

C: THE FACTS

12. As foreshadowed above on 13 January 2026, the Authority rejected the Reports setting out its reasons as follows:

2. The reports submitted by the Fund as at 31 December 2018 and 31 December 2021 have been considered. The Authority rejects these valuation reports as they do not correctly reflect the financial condition of the fund for the following reason:
 - 2.1 The Fund has been unable to provide the build-up of the Investment Reserve Account that specifically shows the proportionate allocation to exiting members, as required in Section 15G of the PFA. The Fund has, therefore, not been able to show compliance with this section of the Act and has not shown a liability relating to the amounts due in this regard.
 - 2.2 While resolutions were provided, separate builds ups showing the application of these could not be provided. The manner in which the expense strains were met is, therefore, unclear.
3. The Authority requires the submission of statutory actuarial valuation reports in terms of section 16(1) of the PFA within 90 days of the date of this letter in accordance with section 24 of the PFA, making appropriate allowance for the liabilities relating to minimum benefits and the expense strain. These need to be submitted as new submissions on the FSCA Retirement On-Line system.

13. It must be noted that this rejection is many years post-submission, and although there is no prescribed time period in the PFA, this is not ideal.

14. The Applicant filed this Application for Reconsideration on 23 January 2026.

15. The Applicant successfully applied to the Tribunal for a suspension of the 90-day period within which the Authority required it to submit new submissions. This suspension was granted on 2 February 2026.

16. The Respondent filed Further Reasons on the 23rd of February 2026, and the Applicant filed Augmented Reasons on the 6th of March. Both parties filed Heads of Argument.

17. The Applicant grounds its application on the following basis:

17.1 The Authority's rejection was unlawful and ultra vires.

- 17.2 The Reports complied with the statutory requirements.
- 17.3 Section 15 G does not require disaggregated disclosure in the Reports.
- 17.4 Unreasonable delay and procedural unfairness.
- 17.5 The directive to resubmit is without a legal basis.
- 17.6 Irregularity in the examination process.
18. On the other hand, the Respondent argues simply that the Reports did not correctly reflect the Fund's financial condition as required by section 16 of the PFA, and that it was obliged to reject the Reports, on this basis alone.

D: THE LEGISLATION

19. Section 16(1) & (2) of the PFA provides:
- (1) A registered fund shall, once at least in every three years, cause its financial condition to be investigated and reported upon by a valuator, and shall deposit a copy of such a report with the registrar, and shall send a copy of such report or a summary thereof, prepared by the valuator in a form prescribed and signed by the valuator, to every employer participating in the fund.
 - (2) Such investigation shall be made in respect of the position as at the expiration of a financial year, and such report shall be deposited with the registrar within twelve months from the close of that year.
20. Section 15(3) of the PFA provides:

- (3) If the registrar is of the opinion that any document furnished by a registered fund in terms of [subsection \(1\)](#) does not correctly reflect the revenue and expenditure or the financial position (as the case may be) of the fund, he may reject the said document, and in that event—
- (a) he shall notify the fund concerned of the reasons for such rejection; and
 - (b) the fund shall be deemed not to have furnished the said document to the registrar: Provided that in such event the registrar may apply the provisions of [section thirty-three](#), even though the period concerned may have expired before application is made for extension.

21. Section 16(9) of the PFA provides:

- (9) The provisions of [section 15 \(3\)](#) in connection with a document relating to the financial position or the revenue or expenditure of a fund referred to therein, shall apply with the necessary changes in respect of a copy of a report deposited with the registrar in terms of [subsection \(1\)](#) of this section and which in the opinion of the registrar—
- (a) other than in respect of a report on the valuation of a fund as at its surplus apportionment date, does not correctly reflect its financial condition referred to in the said [subsection \(1\)](#); or
 - (b) in respect of a report on the valuation of a fund as at its surplus apportionment date, does not correctly reflect its financial condition in [subsection \(1\)](#) or does not fairly take into consideration the interests of one or more of the stakeholders that may be entitled to participate in a scheme in terms of [section 15B \(1\)](#) based on the result of such report.

22. Section 15(G) of the PFA provides:

15G. Right to share in surplus accounts on exit.

- (1) Notwithstanding anything to the contrary in the rules, members who cease to be members of the fund should receive, as part of their transfer values or benefit payments, a share of any credit balances in the member surplus account, the investment reserve account and such contingency reserve accounts as the board deems appropriate, in the ratio that the liability of the fund in respect of the past service of the members leaving the fund bears to the liability of the fund towards all its members in respect of past service at that date: Provided that the board may use a reasonable alternative if there are sound administrative reasons why such a calculation cannot be performed. (
- (2) Notwithstanding anything to the contrary in the rules, existing members and former members may not participate in the employer surplus account when they transfer out of a fund or when they become entitled to a benefit, unless the relevant employer so directs.

E: DISCUSSION

23. Cut of all of its surplusage, the question before the Tribunal is whether:
- 23.1 The Reports correctly reflected the Fund's financial condition – section 16(1) of the PFA.
- 23.2 The Fund demonstrated compliance with the proportionate allocation of the IRA to exiting members under section 15(G) of the PFA.
- 23.3 The absence of a demonstrable build-up of the IRA and the absence of liability recognition rendered the Reports defective.
- 23.4 The Authority was empowered to reject the Reports - section 16(9) of the PFA.
24. The Fund makes the submissions that:
- 24.1 The rejection of the report was unlawful, ultra vires, and based on a fundamental misunderstanding of the applicable legal requirements.
- 24.2 Section 15(G) Section of the PFA does not impose any obligation on the evaluator to disaggregate or separately disclose actual liabilities arising from the operation of their section in a report.
- 24.3 The Reports complied with all the applicable legislative requirements.
- 24.4 The Authority acted with bias, capriciously, and on a wrong principle in exercising its discretion.

24.5 The extraordinary delay of over six years in disposing of the reports constitutes procedural unfairness and unreasonableness.

24.6 A directive to submit “new” reports is without legal basis and impermissible.

25. The Authority submits that the Fund failed to demonstrate compliance with section 15(G) of the PFA, failed to show that no outstanding liabilities existed in respect of existing members, and reflected treatments of the IRA that were inconsistent with the Rules.

26. On the facts, the Authority was not satisfied that the reports satisfactorily reflected the Fund’s financial condition. The legislator, when using the wording ‘in the opinion of’ in section 15(3) of the PFA, clearly intended to give the Authority a wide discretion as to whether any document required to be filed met the requirements of the PFA.

27. In this matter, the Authority was not satisfied, and the reasons it provided are sensible and rational.

28. In rejecting the reports, the Authority was fulfilling its mandate, and the Tribunal finds that the Reports submitted failed to satisfactorily reflect the Fund’s financial condition, and that the Authority was required to reject the Reports and require new Reports to be filed. The submission that the Authority lacked the power to require new Reports to be filed is without merit. It must be that if the Authority had the power to reject the Reports, it goes without saying that the Fund had an obligation to file

compliant Reports, and the Authority consequently has the right to demand this resubmission.

29. On the issue of the delay in disposing of the Reports, the Tribunal has noted above that this is not ideal. However, there is no period set out in the legislation requiring the Authority to dispose of reports within any particular time frame, and accordingly, this submission by the Fund must fail.

F: CONCLUSION

30. Accordingly, there is no reason to interfere with the Authority's decision to reject the Reports, and the application for reconsideration should be dismissed.

ORDER

- (a) The Application for Reconsideration is dismissed.

Signed on behalf of the Tribunal on 14 May 2026.

___*Sgd PJ Veldhuizen*___

PJ VELDHUIZEN & LTC HARMS