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Member circular – 11/10/2024

Attention: MEPF Members

MEPF SCORES BIG VICTORY AGAINST THE FSCA

The Financial Services Tribunal (FST) has dealt a big blow to the attempts of the Financial Sector Conduct Authority's (FSCA) to replace the Board of Trustees of the Municipal Employees Pension Fund with an Interim Board.

Yesterday, on 10 October 2024, the FST issued a ruling that set aside the decision of the FSCA in October last year that found that the MEPF Board of Trustees was not properly constituted under the Pension Funds Act and in accordance with the rules of the Fund and to that end, issued its intention to remove the Board of Trustees and replace with an Interim Board. This decision has now been set aside by the FST.

The FSCA also refused to approve the MEPF's application to amend its fund rules and change its name.

The MEPF Board of Trustees has always upheld a view that its trustees were elected by the member structures of the Fund in accordance with the rules of the Fund in November 2021, which were registered and approved by the FSCA at the time.

The FST judges were scathing on the conduct of the FSCA. It found that the FSCA engaged in an 'excessive fault-finding spirit' regarding its decision that the MEPF board was not properly constituted. The FST also found that the FSCA's approach to whether the MEPF board was not properly constituted was 'inconsistent' and concluded that the FSCA misconceived its powers.

The decision of the FST reinforces the independence of the Board of Trustees as duly elected fiduciaries and empowered to take decisions in the best interest of the Fund.

In terms of the joinder application by certain members of the Fund who were funded by Mergence Investment Managers, an aggrieved Asset Manager that was fired by the Board of Trustees in October last year, the FST did not consider the members' application by Ndou Attorneys as it was deemed "irrelevant and vexatious".

Now that this matter has been brought to a close, the Board of Trustees urges members to engage directly with the Fund through appropriate channels to settle whatever concerns they may have and not through sponsored third parties with nefarious agendas.

Mr. PETER MODIKE
CHAIRPERSON OF THE BOARD TRUSTEES