

Communication to members of the Ovation Retirement Annuity Fund, the Ovation Pension Preservation Fund and the Ovation Provident Preservation Fund “the Ovation Funds”

Update on administration

The trustees of the Ovation Funds wish to report their satisfaction with the excellent job that the EFS staff have done with respect to the administration services provided to the Ovation Funds under very difficult circumstances. It is no easy feat to take over the administration of retirement funds under difficult circumstances, but the magnitude of the complexities surrounding the Ovation Funds that were "*trapped*" in a curatorship situation for years is hard to explain.

The EFS administration systems are without a doubt among the best that the trustees have seen in the industry. This has given the trustees great comfort and has enabled them to be kept informed, on an ongoing basis, on all aspects relating to the administration of the Ovation Funds. In addition to the robust administration systems, the trustees have also noted that the fees charged by EFS are extremely fair.

The audit of the Ovation Funds is currently taking place. The auditors of the Ovation Funds met with the trustees on 9 March 2011. The auditors indicated no areas of concern related to the current administration of the Ovation Funds by EFS.

The trust look forward to a long standing relationship with EFS and they firmly believe they appointed an administrator that has the interests of members at heart and provides a professional and superior administration service built on solid administration systems and excellent service ethics.

As you will see later on in this communication, the trustees believe that they have determined a way forward with respect to section 14 transfers out of the Ovation Funds. With this in mind, I urge members and intermediaries to take into account what the trustees have asked me to convey in relation to the services provided and fees charged by EFS. Please also note that the Ovation Funds are not valuation exempt and the FSB has communicated clearly to the trustees and the administrator that they will investigate any bulk transfer instruction received from intermediaries very thoroughly before approving such request in terms of FAIS.

Retention values

The retention amount retained by the curators of Ovation Global Investment Services (Pty) Limited (OGIS) and Ovation Global Investment Nominees (Pty) Limited (OGIN) has, in part, now been released.

The amount was paid over to the Ovation Funds on 2nd March 2011 and will be reflected on your account balance once the action points described under the next heading have been concluded.

Section 14 transfer

For some time now section 14 transfers out of the Ovation Funds to other retirement funds have been placed on hold by the board of trustees.

The reason for this is that certain certifications and undertakings are required to be signed by the principal officer and the actuary of the Ovation Funds before the Registrar of Pension Funds will approve a section 14 transfer.

These certifications could not have been accurately and truthfully signed by the aforementioned persons until certain decisions were taken by the trustees regarding the losses allocated to the so-called "*disappointed investors*".

The "*disappointed investors*" are those investors who wished to become members of the Ovation Funds prior to the curatorship of OGIS and OGIN.

These "*disappointed investors*" contributions were deposited into the Ovation Funds' bank account and "*swept*" into the OGIN bank account before curatorship. Because the "*disappointed investors*" had not completed all the required forms the contributions remained in the OGIN bank account. These contributions were then misappropriated from the OGIN bank account.

The debate centred around whether these contributions (monies) should be regarded as belonging to the investors (in which case the investors would suffer the loss) or belonging to the Ovation Fund (in which case the Ovation Funds would suffer the loss).

A legal opinion was obtained from Senior Counsel which concluded that the misappropriated monies belonged to the Ovation Funds. The Trustees have agreed with this opinion.

The implication of this is that a debit will have to be made against **all members' fund credits**. This amount will then be placed in to a contingency reserve account to meet the claims of the "*disappointed investors*" when such "*disappointed investors*" call to be paid.

It is unlikely that the debit to be made to the member fund credits will be a significant amount and it is likely, on average across the Ovation Funds, in total to be less than 2%.

The decision by the trustees must be reflected in a rule amendment and must be implemented before the section 14 documentation can be signed off.

The following action points relate to the completion of the process:

- Trustees to sign off rule amendment.
- Rule amendment to be submitted to the FSB and trustees to write to the FSB explaining the rationale for the amendment and/or meet with the FSB.
- Take into account some time for queries from the FSB.
- Once the rule amendment is registered, the debit will be made and the outstanding section 14 documents will be signed by the principal officer and actuary. The section 14 documents will then be submitted to the FSB (we cannot predict the turnaround time with certainty).

If you have any further queries regarding the contents of this communiqué, please do not hesitate to contact us.



Gail Le Grellier
Principal Officer