

MEMBER COMMUNIQUE
TO ALL MEMBERS OF THE OVATION RETIREMENT ANNUITY FUND,
OVATION PENSION PRESERVATION FUND AND OVATION PROVIDENT
PRESERVATION FUND (the Funds)
FEBRUARY 2010

Dear Member

1. TRANSFER OF FUNDS ADMINISTRATION AND ASSETS

Members are kindly referred to the communiqué dated 15 October 2009 published on the Ovation website by the Ovation Curators. In terms of the mentioned communiqué the Cape High Court granted an order authorizing the transfer of the administration of the Funds from Ovation Global Investment Services (Pty) Ltd (“OGIS”) to EFS Investment Solutions (Pty) Ltd t/a Intervest (“EFS”) and the corresponding transfer of the Funds assets held by Ovation Nominees (Pty) Ltd (“OGIN”) to EFS Nominees (Pty) Ltd (“EFSN”).

At the request of the Trustees an audit was conducted by an audit firm (BDO Spencer) after the conclusion of the mentioned transfers. The purpose of the audit, amongst other things, was to confirm that the assets held by the various management companies in the name of OGIN were successfully transferred into the name of EFSN. On 20 January 2010 BDO Spencer issued their audit report confirming the successful transfer of assets.

2. CLAIMS IN TERMS OF THE FUNDS FIDELITY AND PROFESSIONAL INDEMNITY POLICIES

As has been communicated previously the Funds have submitted claims in terms of the above-mentioned policies to the insurers, Santam Ltd (“Santam”) for the losses suffered by members who were exposed to the Common Cents cash portfolios and for those members whose investments form part of the so-called unallocated deposits.

Summonses have been issued against the insurer Santam in the Western Cape High Court (case numbers 16895/09 and 20829/09). Santam, by way of their attorneys, Webber Wentzel, (“WW”) have filed notices to defend and have also filed their plea in case number 16895/09. An issue that was raised by the Trustees with WW was the potential conflict of interest for WW due to the fact that they are acting as attorneys for the Ovation curators and for Santam. This issue has been referred to the Cape Law Society’s ethics committee and it is expected that a determination by the Cape Law Society will be made before the end of February 2010.

As there are no guarantees that a judgment in the above mentioned cases will be in favor of the Funds should the cases proceed to trial, the Trustees would like to stress that nothing prohibits a member from instituting a claim for the Common Cents and/or the so called “unallocated” losses suffered. It is however for each member to decide whether

any grounds for such a claim exist and if so against which person or entity such a claim should be instituted. On this issue we would like to draw the attention of members to page 96, paragraph 17.16 of the curators 6th report to the court where it is stated that certain Independent Financial Advisors (“IFAs”) may have breached the FAIS Codes applicable to IFAs which may result in claims for damages suffered by affected members against their IFAs

3. ADMINISTRATION OF THE FUNDS

At date hereof members’ financial advisers should have received various communiqués:

- 27/11/09- Intervest/Curator into letter, Intervest general information letter and Ovation Q&A;
- 30/11/09 - EFS due diligence;
- 2/12/09 – Ovation letter re transfer of non retirement funds assets and Intervest discretionary application forms;
- 31/12/09 – Intervest registration guidelines and fee system from EFS as administrator of the Funds. Future communiqués by the Trustees will be published on the EFS website.

3.1 Board of Trustee

With effect from 1 January 2010 Cathy van der Merwe (BComm Hons) has been appointed as Trustee. Cathy is a director and the Managing Director of EFS. The Board of Trustees now comprises:

Bob von Witt (Chairperson)

Cathy van der Merwe

Hunter Thyne (Independent Trustee)

Deon van Eeden (Independent Trustee and Principal Officer)

3.2 Appointment of Auditors

BDO Spencer Steward has been appointed as auditors of the Funds with effect from 1 January 2010. OGIS will however remain responsible for the outstanding annual financial audits of the Funds (for the years, 2005, 2006, 2007, 2008 and 2009).

3.3. Valuation Exemption Status of the Funds

The valuation exemption status of the Funds has expired. The required applications for valuation exemption will be submitted as soon as the outstanding financial audits have been completed. At this stage no date has been set for the finalization of the outstanding audits.

3.4 Funds’ Rules

The Funds Rules are in the process of being revised and the target date for submitting the consolidated rules to the Financial Services Board is 31 March 2010. Once the rules have been approved a summary of the rules will be published on the EFS website.

3.5 Investment Options Available to Members

The current investment options available to members will be reviewed by an Investment subcommittee during the first half of 2010. In all likelihood the number of investment options currently available to members will be reduced. Members will be notified of the final investment list and the time period within which a members investments must be aligned with the final investment options list, if so required.

GF van Eeden
Principal Officer
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This communiqué has been placed on the EFS website at the request of the Trustees of the Funds.