

# CPF POLICY ON REFUND OF MISTAKEN EMPLOYER CONTRIBUTIONS

Revised Effective January 1, 2017

At their 171<sup>st</sup> Regular Meeting the Board of Trustees adopted a revised policy on the refund of mistaken employer contributions, effective January 1, 2017. The terms of the revised policy are set forth below.

1. Subject to the terms and conditions of this Policy, an Employer that makes a contribution to the Central Pension Fund in excess of the amount required by the terms of the Employer's collective bargaining agreement and/or participation agreement and under a mistake of fact or law may request a refund of only the principal amount of such excess contribution within the three (3) year period immediately preceding the Central Pension Fund's receipt of a written request made pursuant to this Policy. The gross amount of the refund, however, will be subject to offsets, as more fully described below.
2. No refund of mistaken contributions shall be granted by the Central Pension Fund without a written request for such refund having been received within three (3) years after the date that such mistaken contributions were received by the Central Pension Fund, except in cases where a randomly scheduled payroll audit of the Employer reveals the payment of mistaken contributions. In such cases, the refund period shall be extended to cover the entire period of the payroll audit.
3. It is the Employer's responsibility to make accurate report to the Central Pension Fund, to perform its own internal audit of those contributions in a timely manner so as to discover any errors in time to request a refund under this Policy. Employers should not rely on the payroll audits conducted by the Central Pension Fund to identify erroneous payments.
4. Notwithstanding any other provision of this Policy, contributions will not be refunded within the three (3) year period, or payroll audit period, with respect to any contributions utilized in a benefit calculation for any recipient in pay status at the time of the request or audit.
5. No refund will be made to an Employer with an outstanding delinquency and the request will be held in abeyance until such delinquency is resolved.
6. The gross amount of any approved refund shall also be subject to offset for any unresolved discrepancies, including assessed but unpaid liquidated damages and interest.
7. No contributions will be refunded if the monies are no longer in possession of the Central Pension Fund because the contributions have been reciprocated to other retirement plans.
8. In the event an Employer should timely request the return of allegedly mistaken contributions pursuant to this Policy, the following rules shall apply:
  - a. Such request must be made in writing to the Central Pension Fund.
  - b. Such request must be accompanied by copies of all documentation upon which the Employer relies to substantiate its request and that is reasonable necessary for the Central Pension Fund to verify

the contributions were, in fact, made in error, and to determine the exact amount of the allegedly mistaken contributions.

c. The Central Pension Fund in its sole and exclusive discretion may either demand such further documentation as it deems necessary to ascertain the precise amount of the allegedly mistaken contributions, or may direct the Fund Auditor to conduct an audit of the Employer's books and records relative to the period of time covered by the request. The cost of any such audit will be deducted from the amount of the contributions, if any, that are subsequently refunded to the Employer.

d. The failure and/or refusal of the Employer to promptly and fully comply with the terms of this Policy shall result in the denial of the refund request.

9. The Fund Office shall make the initial determination as to whether the Employer is entitled to a refund under this Policy. If a request is denied in whole or in part, a formal written notification of the denial shall be forwarded to the Employer setting forth the grounds for the denial of the request. In addition, the Employer shall be advised of its right to appeal the Fund Office's denial to the Board of Trustees, which appeal will be heard at the Board's next regularly scheduled meeting.

10. Any and all Credited Service to participants based on refunded contributions shall be cancelled.

11. The Board of Trustees expressly reserves the right to modify or amend this Policy at any time; however, any modification or amendment shall be effective prospectively only, unless otherwise required by law.

12. This Policy shall be effective for with respect to refund requests received from Employers on or after January 1, 2017.