UNIVERSITY OF CAPE TOWN RETIREMENT FUND (THE "FUND")
(PENSION FUND ACT REGISTRATION NUMBER 12/8/31582/R
PROPOSED SURPLUS APPORTIONMENT

This document has been prepared for current members, current pensioners in receipt of an annuity from the Fund, UCT (the employer) and former members of the Fund. It deals with the apportionment of the surplus in this Fund.
(UCT, for purposes of this document means the University of Cape Town, the principal employer and any other participating employers in the Fund.)

1. Why must any surplus be apportioned?

The Pension Funds Second Amendment Act (the "Act"), 2001 requires *inter alia* that any surplus in a fund must be apportioned at the statutory valuation of the Fund following commencement of the Act. The apportionment must take place in terms of a scheme ("the surplus scheme") to be approved by the Registrar of Pension Funds ("the Registrar").

The Fund's surplus apportionment date is 31 December 2001.

2. How did a surplus arise in the UCT Retirement Fund?

The Fund is a defined contribution arrangement. This means that member benefits are determined by the contributions paid.

There are essentially <u>five ways</u> in which a surplus can arise in this type of fund. They are-:

- Members who resigned may not have received their full retirement savings contributions plus interest.

  Up to 1 October 1997, the Fund rules provided that if a member resigned, he/she forfeited part of his/her retirement savings if he/she had less than 5 years' service with UCT.

  As at 31 December 2001 the Fund had built-up an amount of R692 181 in respect of all such former members, living at the time, who resigned before 1 October 1997.

- The Fund could hold excessive reserves (for contingencies like an increase in the cost of the death and disability benefits, or the expenses of the Fund.)

  The Fund holds contingency reserves, which the Fund's actuary and the Trustees regard as prudent. (The nature of these reserves is discussed in section 3 below.) However, the risk reserve built up from the commencement of the Fund in January 1995 to March 1999 may no longer be held as the Fund fully insures its death benefits.

  R9 933 441 of the surplus comes from the risk reserve.

- Members may not have been credited with the full investment return earned on their contributions.

  Members of this Fund have always been credited with the full investment return. No surplus arises on this account.

- Some members of the Fund were credited with a Transitional Retirement Reserve (TRR) when they joined the Fund on 1 January 1995.

  In terms of the Fund rules part of the TRR may revert to UCT if the member exits the Fund within a specified period. There is a small amount of R103 000 due to UCT in terms of these rules.

- The total contribution to the Fund may be higher than that required to finance the benefits set out in the Fund Rules.

  As at 31 December 2001, UCT contributed 22.5% and 20.912% of pensionable salary in respect of permanent and fixed term contract employees respectively. The cost of providing the Fund and associated benefits was 19.25% of pensionable salary for permanent employees and 18.74% for fixed term contract employees.

  Permanent employees were credited with an additional retirement savings of 3.25% of pensionable salary and fixed term contract employee were credited with an additional 2.172% of pensionable salary retirement savings. *Thus currently all excess contributions are credited to the members in the form of additional retirement savings*.

The actuary of the Fund has confirmed that there is no other material surplus or source of surplus for the Fund.

3. How much surplus does the Fund have?

The Fund's actuary has calculated the financial position of the Fund as at 31 December 2001 and 31 December 2000 (the last valuation date) to be as follows:

	31.12.2000 R '000	**31.12.2001 R '000**
Liabilities		
Active and deferred Member Accumulated Credits	423,362	492,370
Member Transitional Retirement Reserve (1)	40,317	39,341
Pensioner account (in respect of pensioners in receipt of living annuities from the Fund)	4,286	9,987
Risk Reserve (2)	13,573	0
Data Reserve (2)	-	2,802
Processing Error Reserve (2)	-	4,202
Surplus apportionment cost reserve (2)	-	881
General Reserve (2)	2,413	103
Total liabilities (A)	**483,951**	**549 687**
Assets		
Assets at market value (B)	**483,951**	**560 312**
Surplus = (A) – (B)	**-**	**10 625**

Notes on the various Fund reserves

(1) This represents the full value of the Transitional Retirement Reserve accounts. To the extent that members exit the Fund and are not paid their full Transitional Retirement Reserve in terms of the Fund rules, there will be a reversion of this amount to the Employer (as provided for in the rules).

(2) Data reserve takes into account the quality of the data submitted for the valuation of the Fund.

Risk Reserve: The Fund previously built up a risk reserve as is shown in the above table as at 31 December 2000. However, the Financial Services Board has determined that no risk reserve may be provided for where funds (such as this Fund) fully insure its death benefits. Accordingly, the amount of the risk reserve not required for other Fund reserves is to be treated as surplus for apportionment. Accordingly, the risk reserve as at 31 December 2001 is shown as nil.

Processing error reserve is a provision for mismatching and for timing differences in the actual investment or disinvestment of moneys from the times when they are deemed to have occurred in the calculation of benefits or the accrual of investment returns.

The General Reserve as at 31 December 2001 holds only the amount due to the Employer as at 31 December 2001 in respect of TRR reversions in terms of the Fund rules.

The reserve for the costs of the surplus apportionment exercise includes: costs of the former member representative, legal consulting, actuarial, administration, advertising, tracing, printing, communication and benefit payment costs.

The balance of the Fund assets as at 31 December 2001 after allowing for the various Fund liabilities and reserves as specified above, represents the Fund surplus for apportionment. The surplus for apportionment is derived from:

- The balance of the Risk Reserve (which was built up between 1 January 1995 and March 1999) after making adequate provision for the other Fund reserves.

- Retirement savings credits in respect of some former members which must be paid to them in terms of the Act.

The reversions of the TRR due to UCT and retained in the General Reserve as at 31 December 2001 will be transferred to an Employer Surplus Account in the Fund, subject to the approval of the Registrar of Pension Funds.

4. Was there any improper use of surplus by UCT?

The answer is no. (The Act requires –an employer to refund the Fund if there was.).

The Fund's actuary, the former member representative and the Trustees are satisfied that UCT has not benefited in any way in an improper manner from the surplus.

5. Who will benefit from the surplus?

The Trustees propose that the beneficiaries of the surplus will be some current members (including living annuitants), some former members and UCT.

The Financial Services Board has ruled that:

- Only members and former members who were alive on the 31 December 2001 (the surplus apportionment date) may participate in the surplus apportionment, and

- Any rights to benefits arising from a surplus apportionment vest in the member or former member at the surplus apportionment date. Accordingly, if such a former member dies after the surplus apportionment date, the benefits will become payable to his or her estate.

Accordingly, the Fund is undertaking an investigation to seek to identify all former members who died on or prior to 31 December 2001 and these former members will be excluded from the apportionment.

The Fund has the names of all former members who exited the Fund since it commenced on 1 January 1995. The Fund advertised the surplus apportionment scheme in national newspapers during the period 7 to 13 January 2005 and again on 26 August 2005.

In respect of former members, the Fund will send this communication to the last known address on record. The Fund will thereafter make attempts to trace former members in cases where the documentation is returned.

In terms of the Act, any amounts due to former members who cannot be traced must be retained in a contingency reserve account in the Fund. This account can only be used to pay amounts due to these former members when they are eventually traced or to pay over to a fund if and when established by law to receive such amounts.

6. <u>How is the surplus to be apportioned?</u>

The Trustees propose that the surplus of R10 625 622 be allocated as follows:

- Former members who resigned prior to 1 October 1997 with less than 5 years' pensionable service will receive the balance of their retirement savings retained by the Fund, together with investment returns on this amount. This amount is a total of R692 181. In terms of the Act, this amount must be the first allocation of any surplus.

  Whilst amounts vary per former member, the average amount due to these former members amounts to R4 840 (before any tax due) as at 31 December 2001.

- The balance of the surplus (R9 933 441) to be allocated to current members (including living annuitants in receipt of an annuity from the Fund) and former members in proportion to the contributions made on their behalf to the establishment of the risk reserve between 1 January 1995 and 31 March 1999 (this is the period over which the risk reserve was built up as indicated in 2 above). This means that the balance of the surplus will go to the people whose contributions built it up, in proportion to their contributions.

  For purpose of calculating these proportions, the relevant contributions are accumulated with the investment returns achieved on Portfolio A (in which the risk reserve was invested) from the month of payment of the contribution up to the 31 December 2001.

  Only periods of permanent employment count - no Fund risk contributions were payable in respect of contract employees since they are not covered for Fund-provided insured death benefits.

  Whilst amounts vary, the average amount due, calculated over all current (including living annuitants) and former members entitled to participate in this portion of the surplus is R3 084 (before any tax due) as at 31 December 2001.

Once the surplus apportionment scheme has been approved by the Registrar, separate communication will be sent to affected members and former members setting out amounts (if any) that may be due to them.

- UCT will receive R103 000 being the reversion of the TRR due to UCT in terms of the Fund Rules. This will take place by way of a transfer from the General Reserve to the Employer Surplus Account (as required in terms of section 15F of the Pension Funds Act.).

  Once this amount is transferred to an Employer Surplus Account, UCT is entitled to use the amount for a contribution holiday.

There is no further surplus to be apportioned.

The Trustees proposal will mean that the surplus is to be apportioned between former members and current members as follows:

	Manner in which the apportionment will be applied/paid	**31.12.2001** **R '000**
Surplus for apportionment		**10 625**
*Allocated as follows***:**		
Former members who did not receive the full contributions on exit	In cash - traceable former members. Fund contingency reserve for untraceable members.	692
Former members who contributed towards the risk reserve	In cash - traceable former members. Held in a Fund contingency reserve for untraceable members.	3 297
Current members and living annuitants who contributed towards the risk reserve	Added to current member credit	6 636

The following amount will be allocated for the use of UCT:

	31.12.2001 **R '000**
The amount of the TRR reversions due to UCT in terms of the Fund Rules is to be transferred in terms of section 15F of the Act from the General Reserve to the Employer Surplus Account	103

7. How will amounts due to members and former members be paid?

An allocation will only accrue once the Registrar of Pension Funds has issued a certificate approving the apportionment scheme.

Amounts due to members and former members as at 31 December 2001 will be accumulated with the net investment return on Portfolio A (which houses the surplus) from 31 December 2001 up to the date of payment.

The tax treatment of any amounts due to current and former members is set out in SARS General Note GN29. The Trustees understanding of the provisions of GN29 is set out in an annexure to this note.

The Financial Services Board has announced that the Fund may pay the amounts due to <u>former</u> members as follows:

- In cash – subject to tax

  or

- Subject to tax, to another fund (if that fund allows this) or to a retirement annuity; at the request of the former member.

In terms of the provisions of PF 118, the Trustees hereby give notice that they will pay any amounts due to former members in the form of cash (subject to the deduction of any tax due), unless the former member requests alternative transfer arrangements in writing to the Fund.

A former member who wishes to transfer any amount due to an insurer, a retirement annuity fund or another pension or provident fund, must themselves investigate the tax implications of the transfer, make the arrangements for the transfer and provide the Fund with transfer instructions. The Fund takes no responsibility for any implications arising out of such transfers. Former members who wish to make such transfer requests to the Fund should not issue the request at this stage but await further advices from the Fund. The Fund will advise all current and former members of the amount due to them (if any), only after the Registrar approves the surplus apportionment scheme. At that stage former members will be given the opportunity to provide transfer instructions to the Fund.

8. Financial position of the Fund following the surplus apportionment

The financial position of the Fund as at 31 December 2001, after the apportionment of surplus as specified above, will be as follows:

	31.12.2001 R '000
Liabilities	
Active and deferred Member Accumulated (after surplus apportionment)	498,761
Member Transitional Retirement Reserve	39,341
Pensioner account (after surplus apportionment)	10,233
Risk Reserve	0
Data Reserve	2,802
Processing Error Reserve	4,202
Surplus apportionment cost reserve	881
Employer Surplus Account	103
General Reserve	0
Total liabilities (A)	**556,323**
Assets	
Assets at market value (net of amounts due to former members) (B)	**556,323**
Surplus = (A) – (B)	**0**
Contingency reserve - former members who cannot be traced	Unknown

The above table assumes that all former members entitled to a surplus apportionment will be traced. Where former members cannot be traced, the amounts will be held in a contingency reserve for these former members. Accordingly, the balance in this contingency reserve is unknown at this stage.

9. Could a surplus arise in the future?

There are two ways in which a material surplus could arise in future, namely:

- The Fund's actuary and Trustees have set aside prudent reserves (a Data Reserve, a Processing Error reserve). It is possible that in future these reserves may not be fully required – they could then be released as surplus.

  Of course these reserves may also turn out to be inadequate, in which case the benefits of the Fund would need to be reduced as set out in the Fund Rules.

- The Fund could continue to contain costs, resulting in excess contributions. If these excess contributions are not credited as extra pension savings they would build a surplus. The policy of the Trustees at this time is to allocate excess contributions as extra retirement savings, although after 31 December 2001 a small excess will be retained from time to time to meet unexpected Fund costs or contingencies.

10. If a surplus were to arise in future, who would own it?

If a surplus were to emerge in future it belongs to the Fund until it is apportioned (following due process) in terms of the provisions of the Act.

11. What is required for the approval of the surplus scheme?

The Trustees must submit the surplus scheme to the Registrar. They must observe certain requirements as follows:

- The representative of the former members, Mr Solly Fazel-Ellahi, must report to the Registrar that he is satisfied with the proposed treatment of former members
- The actuary of the Fund must certify that the proposed apportionment of the existing surplus complies with the Act
- At least 75% of the Trustees must vote in favour of the proposed apportionment scheme.
- Details of all outstanding objections must be provided to the Registrar.

The Registrar of Pension Funds must approve the surplus scheme. The Registrar has the right to require further reports or information in connection with the surplus scheme and may also refer it to a specialist tribunal for final decision.

The surplus scheme is only effective once approved by the Registrar.

12. What if I don't agree with the Trustees proposal for apportionment?

You have got 12 weeks in which to lodge an objection to this proposed apportionment of the surplus. Unless your objection is resolved and/or you withdraw your objection before the surplus scheme is submitted to the Registrar, your objection will be disclosed to the Registrar. In the event that you wish to raise an objection, please submit details of your objection in writing to either the Principal Officer or the former member representative:

Ms A. Tilney
Principal Officer: UCTRF
University of Cape Town
Private Bag X3
RONDEBOSCH
7701

Email: annt@bremner.uct.ac.za

Telephone: 021- 650 2159/4376
Fax: 021- 650 4780

Mr S. Fazel-Ellahi
Former Member Representative
c/o UCTRF
University of Cape Town
Private Bag X3
RONDEBOSCH
7701

Email: solly@absamail.co.za

The final date for objections is 18 November 2005.

Important cautions and notes

Please note the following:

- The Registrar of Pension Funds requires that only people who were alive on the surplus apportionment date may receive a surplus allocation. Therefore, no surplus apportionment payment may be made in respect of a former member who died on or before 31 December 2001, even if he/she was allocated a notional surplus allocation as part of the surplus apportionment process.
- The proposed apportionment set out in this communication document is subject to the complaints process detailed above and the approval of the Registrar of Pension Funds. The proposed surplus allocation may therefore change.
- No person has any claim to the amounts allocated in terms of this proposed surplus distribution scheme until the surplus scheme is approved by the Registrar.
- Any surplus amount that becomes payable to a member or former member may not be pledged or paid to the benefit of any other person.

ANNEXURE

TAX TREATMENT OF SURPLUS APPORTIONMENT AMOUNTS PER SOUTH AFRICAN REVENUE SERVICES (SARS) GENERAL NOTE GN 29

Disclaimer

SARS General Note GN29 deals with the tax position relating to surplus apportionment amounts. Unfortunately GN29 is not completely clear nor does it not cover all situations in respect of former members.

The following note provided by the Trustees of the UCT Retirement Fund (the "Fund") is an attempt to summarise the provisions of GN29 but this cannot be regarded as any form of tax advice or opinion from the Trustees.

The Trustees will accept no responsibility for the tax implications of any surplus apportionment payments to former members or as a result of the Trustees acting on any transfer instructions received from former members. Former members should accordingly seek their own tax advice when deciding the form in which they wish to receive any amount due.

NOTE The "surplus apportionment date" referred to in this note applicable to the Fund is 31 December 2001.

1. Current members of the Fund and pensioners in receipt of a pension from the Fund

At the date that the FSB approves the surplus apportionment, any amount due to the then current members of the Fund (including current living annuitants within the Fund) will be added to their Member Accumulated Credit in the Fund. No tax is payable at the time the amount is allocated to the Member Accumulated Credit. However, tax will be payable in the normal course when the member draws a benefit (including a living annuity payment) from the Fund.

2. Former members

The Fund must apply for a tax directive before paying out an amount due to a former member (paragraph 9(3) of the Fourth Schedule of the Income Tax Act).

In terms of GN29, the amount due to a member who exited the Fund prior to the surplus apportionment date is deemed by SARS to accrue on the date that the surplus apportionment scheme is approved by the Registrar.

GN29 (and Financial Services Board Circular PF 118) states that any benefit that becomes payable to a member who withdrew from the Fund prior to the surplus apportionment date is not regarded by SARS as a consequence of a benefit payable on retirement, death or withdrawal from a fund. Consequently no deduction against the lump sum will be allowed under the Second Schedule of the Income Tax and the payment is taxed by SARS as an accrual in the tax year within which the Registrar of Pension Funds approves the surplus apportionment scheme.

(a) Distribution by way of an additional pension to a former member who exited and at the same time retired outside the Fund on or before 31 December 2001

GN29 deals with the case of a former member who exited the Fund and at the same time retired and purchased a pension outside the Fund from an insurer before the surplus apportionment date.

GN29 appears to imply that, if the insurer is prepared to accept the amount and use it to enhance the pension, then no tax is payable on the surplus apportionment amount. Tax would of course be payable in the normal course on the increased pension. (Note: It is the Trustee's understanding that insurers are generally not prepared to accept funds for purposes of increasing pensions in payment.)

If the insurer will not accept the surplus apportionment amount, then the Fund can pay the surplus apportionment amount to the former member in the form of a once-off bonus pension which in terms of GN29 will be taxed at the former member's marginal tax rate. (Note: this is likely to be less favourable than if the amount is simply paid as a lump sum to the former member, which as indicated below is, taxed at average rate.)

(b) Distribution to former members who exited (but did not then retire) before 31 December 2001

Amounts paid in the form a lump sum

GN29 specifies that any amount paid out as a lump sum to a former member who exited the Fund prior to the surplus apportionment date will be taxed at the former member's average rate of tax in terms of the Second Schedule and section 5(10) of the Income Tax Act. (Average tax rate is calculated as the average rate of tax of the individual excluding the surplus apportionment amount.)

Payments to another pension fund or a retirement annuity

GN29 does not specify the tax treatment if the surplus due is not received in a lump sum but instead is transferred at the request of a former member to an insurer (to enhance a pension in payment), to a retirement annuity or to another pension or provident fund of which the former member may currently be an active member.

It is the Trustees understanding that such transfers will first be subject to tax at the former members average rate in terms of the Second Schedule and section 5(10) of the Income Tax Act.

Transfer to a preservation fund is not permitted

GN29 states that amounts due to former members cannot be paid to a preservation fund.

(c) Distribution to a member who was active at 31 December 2001 but subsequently exited the Fund

GN29 does not deal specifically with a member who was active in the Fund at the surplus apportionment date but who subsequently exited the Fund before the surplus apportionment scheme was approved by the FSB. Accordingly the SARS tax treatment of such members can only be known when a tax directive is obtained for such a former member. However it is understood that SARS is likely to treat such members as per (b) above.