



## CIRCULAR ON THE OPENING OF A BODY CORPORATE BANK ACCOUNT IN TERMS OF THE SECTIONAL TITLES SCHEMES MANAGEMENT ACT

### Revision history

This section records the change history of this document,

Revision #	Date of Release	Author (s)	Summary of Changes
1.0		Ms Johlene Wasserman	EXCO submission: 12 July 2021

### Approvals

The undersigned has approved the release of version 1 of CSOS' Practice Directive on the Circular of the opening of a Body Corporate bank account in terms of the STSMA.

The undersigned has approved the release of Version 1 of CSOS' Circular.

Name	Designation	Signature	Date
Adv Boyce Mkhize	Chief Ombud		31/08/2021
Mr Taurean Holmes	LATCOM Chairperson		6/8/21
Mr Mthobi Tyamazshe	Chairperson of the Board		6/8/21

## CIRCULAR ON THE OPENING OF BODY CORPORATE BANK ACCOUNT

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No: 1

2021

### SECTIONAL TITLES SCHEMES MANAGEMENT ACT, 2011 (ACT 8 OF 2011)

#### CIRCULAR ON THE OPENING OF A BODY CORPORATE BANK ACCOUNT

In this Circular, any word or expression to which a meaning has been assigned by the STSMA and Regulations under the STSMA shall bear the same meaning assigned to it in the STSMA or Regulations made in terms of the STSMA, and unless the context indicates otherwise.

<b>Term</b>	<b>Definition</b>
<b>“Act”</b>	means the Community Schemes Ombud Service Act, No. 9 of 2011, and includes any Regulations made in terms of the Act;
<b>“Bank Account”</b>	means the bank account in the name of the body corporate;
<b>“Body Corporate”</b>	means in relation to a building and the land in a sectional title scheme the body corporate of that building referred to in section 2(1) of the STMSA. Section 2(1) states that with effect from the date on which any person other than the developer becomes an owner of a unit in a scheme there shall be deemed to be established for that scheme a body corporate of which the developer and such person are members, and any person who thereafter becomes an owner of a unit in that scheme is a member of that body corporate.
<b>“Circular”</b>	means a Notice issued in terms of the Sectional Titles Schemes Management Act;
<b>“CSOS”</b>	means the Community Schemes Ombud Service;

<b>“Estate Agent”</b>	means any person who for the acquisition of gain on his own account or in partnership, in any manner holds himself out as a person who directly or indirectly advertises that he, on the instruction of or on behalf of any other person renders any such service
<b>“Managing Agent”</b>	means an agent appointed by the body corporate;
<b>“Ombud”</b>	means the Chief Ombud and/or Regional Ombuds appointed in terms of the CSOS Act;
<b>“STSM Act”</b>	means the Sectional Titles Schemes Management Act, No. 8 of 2011 and includes any Regulation made in terms of the Act;
<b>“Trust Account”</b>	means a trust account opened in terms of either the Estate Agency Affairs Act, No. 112 of 1976 or the Attorneys Act, No. 53 of 1979.

## 2. OBJECTIVES OF THE CIRCULAR

- 2.1 The objective of this Circular is to provide operational guidelines and clarity on the opening and operation of a body corporate bank account.
- 2.2 The Circular is not intended to amend, replace, override or supersede the CSOS Act or STSM Act.

## 3. LEGISLATIVE FRAMEWORK

- 3.1 Community Schemes Ombud Service Act, No. 9 of 2011
- 3.2 Constitution of the Republic of South Africa, No. 108 of 1996
- 3.3 Housing Development Schemes for Retired Persons Act, No. 85 of 1988
- 3.4 Promotion of Administrative Justice Act, No. 3 of 2000
- 3.5 Sectional Titles Schemes Management Act, No. 8 of 2011
- 3.6 Sectional Titles Act, No. 85 of 1986
- 3.7 Estate Agency Affairs Act, No. 112 of 1976

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3.8 Attorneys Act, No. 53 of 1979.

#### **4. SCOPE OF APPLICATION**

4.1 The Circular applies to the following persons: -

4.1.1 Sectional title developments as defined in the STSMA, all persons who own units in such schemes, and all persons who manage such schemes.

4.1.2 The Community Schemes Ombud Service.

#### **5. BODY CORPORATE TRUST ACCOUNT**

5.1. In terms of section 3 of the STSMA, the trustees must open and operate a bank account with any bank or financial institution registered in terms of the Banks Act No 94 of 1990.

5.2 In terms of Prescribed Management Rule 21, contained in Annexure 1 of the STSMA, the trustees must ensure that all monies received by the body corporate are deposited to the credit of an interest-bearing bank account in the name of the body corporate, or a trust account opened in terms of either the Estate Agency Affairs Act, No. 112 of 1976 or the Attorneys Act, No. 53 of 1979.

5.3 Should the body corporate be managed by a managing agent, the managing agent may operate a centralised trust account into which individual members, of each managed sectional title scheme, deposits their levy and other contributions.

5.4 The operation of a bank account for and on behalf of the body corporate as provided must be consistent with the purpose and programs of the body corporate as provided for in the body corporate resolutions and/or its founding documents.

#### **6. ADMINISTRATIVE PROCEDURE**

6.1 The following documents are required to open a body corporate bank account, namely:

6.1.1 Proof of address (the domicile of the body corporate);

6.1.2 Copies of the identity documents of the signatories (trustees' resolution must be signed for such appointment of signatories);

6.1.3 A copy of the founding documents (certificate of establishment, audited financial statements of the body corporate); and or

6.1.4 Any other document as required by the financial institution/bank.

## **7. REVIEW OF THE CIRCULAR**

7.1 This Circular will be reviewed annually or as and when there is a change in legislation, or if a court decision amends or varies any of the provisions contained herein.

7.2 The amended Circular will be published on the CSOS website.

## **8 COMMENCEMENT OF THE CIRCULAR**

8.1 This Circular will commence on the date of signature hereof and will remain in force until amended, substituted, withdrawn or repealed.

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