

Legal Report April 2019

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Newsletter of Sanlam Employee Benefits: Legal

1. ASISA Retirement Savings Cost (RSC) Disclosure Standard

ASISA announced the implementation of the RSC Standard in a media release issued in May last year. The Standard is effective from 1 March 2019, with the final date of implementation by all ASISA members being 1 September 2019.

In a media release issued on 11 April 2019 ASISA stated that in terms of the new RSC Standard, ASISA members that administer umbrella retirement fund solutions are committed to presenting all relevant costs (based on certain assumptions) in a standardised manner. This will enable employers to compare like with like when considering quotations for umbrella retirement fund solutions from different ASISA members. The boards of trustees of umbrella funds will also find it easier to consider costs as part of their fiduciary duties.

By 1 September 2019, ASISA members will provide employers and trustees of umbrella funds with a disclosure template indicating all costs that will be incurred at a scheme level. The template will reflect four separate components into which various charges are allocated over various investment periods:

- investment management charges;
- advice charges;
- administration charges; and
- other charges, including regulatory, compliance and governance costs.

The RSC is calculated separately for each of the four components and then totalled to derive the RSC for the umbrella fund as a whole. The value for each of the components, as well as the total RSC, is expressed as a percentage of the investment amount in a table at four mandatory disclosure periods.

The media release states that it is important to understand that the current RSC Disclosure Standard is only relevant at an employer and trustee level. It is not a fund member cost disclosure standard and is not designed for disclosure to individual fund members. It should therefore not be confused with the ASISA Retail EAC Standard. The RSC Disclosure Standard also does not apply to stand-alone retirement funds, retirement annuity funds, preservation funds, beneficiary funds and other retail savings products covered under the Retail EAC Standard.

ASISA members are required to submit compliance certificates to ASISA annually, certifying that the RSC calculations and disclosures comply in all respects with the letter and spirit of the RSC Disclosure Standard.

2. Jurisdiction of Pension Funds Adjudicator

In terms of section 30A(3) of the Pension Funds Act, read with sections 30A(1) and (2), a complainant may lodge a complaint with the Pension Funds Adjudicator (“the Adjudicator”) if he/she has lodged a complaint with the fund, and is not satisfied with the reply received from the fund. The Adjudicator has up to now taken the view that this does not mean that a complainant is compelled to lodge a complaint with the fund before approaching the Adjudicator - it merely means that a complainant has the option of complaining to the fund before lodging a complaint with the Adjudicator.

The Financial Services Tribunal has however now in the matter of Cohen v Pension Funds Adjudicator and Others ruled that the Adjudicator may only consider a complaint if the complainant has first lodged a complaint with the fund. If a complainant lodges a complaint with the Adjudicator before first lodging a complaint with the fund, the Adjudicator does not have jurisdiction to consider the complaint.

Retirement funds or other clients requiring more information should not hesitate to contact their consultant.