

1. Publication of list of employers with arrear contributions

The Financial Sector Conduct Authority (FSCA) has for some time indicated that it intends publishing a list of employers with arrear retirement fund contributions. This list has now been published.

The list contains the names of 3 262 employers and only includes employers whose contributions are outstanding for four or more months. The purpose of the list is to inform affected members and relevant stakeholders that the employer's contributions are in arrears. The FSCA has, by way of further background, said the following in the press release accompanying the list:

“Failure to pay over contributions as required is not only a contravention of the PFA but leads to prejudice and unfair outcomes for members. Whilst the retirement benefits of the members are compromised due to such a contravention by an employer, other benefits such as risk benefits payable to the members (where applicable) are also impacted. If the employer does not pay over contributions for a period of 3 months, the insurer will repudiate the claim on the basis of outstanding premiums and the dependants, in the case of a death benefit, will not be paid the insured portion of the death benefit payable from the fund.”

The FSCA has in the Communication accompanying the list stated the following regarding the way forward:

- It intends to publish a list of non-compliant employers on a quarterly basis;
- Retirement funds must ensure that proper records of the reports relating to arrear contributions are kept as required in terms of the Pension Funds Act, and that reports to the FSCA in this regard are accurate and submitted in a timely manner.

It is also stressed in the above-mentioned press release that *“where the contravention persists for a period of 90 days, the Boards are required to approach the South African Police Service (“SAPS”) to lay a charge against the employer”*. It is in this regard said that *“the FSCA is continuing to engage with the relevant authorities to ensure that the criminal element of this contravention is effective”*.



2. FSCA levies and fees proposals

The Financial Sector Conduct Authority (FSCA) has on 19 September 2023 published its levies and fees proposals for the 2024/2025 financial year, including the proposed levies and fees in respect of retirement funds and retirement fund administrators. To cover its budgeted operational expenditure, the FSCA is proposing to increase the levy variables and fees by inflation adjustments of 6%. The 6% proposed increase is below the last reported Consumer Price Index (CPI) of 6.9% as at December 2022, to reduce the impact of the increase on regulated entities.

Comments on the proposed levies and fees can be provided until 2 November 2023.

3. Service level commitment by FSCA's retirement funds supervision division

The retirement funds supervision division of the Financial Sector Conduct Authority (FSCA) has published a service level document, in which they commit to certain delivery times. The following is stated in the preamble to the document:

"The service delivery commitments are an indication of the maximum amount of time it will take to process 90% of received applications.

The FSCA is committed to maintaining and exceeding the 90% target performance of the service delivery commitments.

The FSCA will continue to maintain and improve on 90% of the SLCs provided that the following requirements are adhered to:

- *Customers submit accurate and complete information online*
- *Customers respond to queries within 30 calendar days online*
- *Processing begins once the customers payment has been received and allocated by the FSCA*
- *All responses must be made online at www.fsc.co.za under the Retirement Funds tab (Feedback/Response) within 30 days of the FSCA request for further information on cases.*

This does not apply to extraordinary cases e.g. bulk applications, projects, revocations, reconsiderations etc.

This Service Level Commitment comes into effect from 1 October 2023."



E-mail addresses are provided in the document of persons who must be contacted if an application has not been processed within the specified service level period.

4. Enhancements to the tax directives system

The South African Revenue Service (SARS) has sent a letter to retirement fund administrators and insurers in which it indicated that it will be implementing enhancements to the tax directives system during September 2023.

The letter, inter alia, deals with recognition of transfers (ROT's), and states the following:

“To assist the Fund Administrators / Long-Term Insurers to understand the Recognition of Transfer (ROT) decline reasons, SARS has enhanced the response messages to be more meaningful to ensure that the recipients understand what needs to be corrected before attempting to resubmit the ROT.

Fund administrators / Long-term Insurers are reminded that when a retirement benefit is successfully transferred or there was a purchase of annuity on retirement, the receiving fund / Long-term Insurer must submit a ROT to SARS. This is to confirm that the member's benefit, as indicated on the tax directive, was received. SARS sends a notification to the receiving fund if the ROT has not been submitted to SARS after 21 working days. Where an ROT remains outstanding after 21 working days, the taxpayer will receive a notification. Should the ROT not be received from either the fund or the taxpayer after 21 working days, this may result in the taxpayer's return being rejected and the transfer / purchase of annuity (POA) will be treated as a withdrawal benefit and will be subject to tax as such.”

5. Dates for completion of the new Trustee Training Toolkit

Section 7A(3) of the Pension Funds Act requires trustees of retirement funds to attain prescribed levels of skills and training within 6 months after being appointed or elected and to retain such prescribed levels throughout their term of appointment.

Conduct Standard 4 of 2020 prescribes the Trustee Training Toolkit as the official minimum training requirement for all trustees of retirement funds in South Africa. The Trustee Training Toolkit is a free e-learning programme which has been specifically developed to provide trustees with a better understanding of their roles and to assist them in performing their fiduciary duties more effectively and efficiently.

The Financial Sector Conduct Authority (FSCA) has been working on redesigning the Trustee Training Toolkit, and has on 27 September 2023 published a notice in which it determines the dates for completion of the new Trustee Training Toolkit.

Trustees who were appointed on or before 26 September 2023 must complete the first 11 modules of the new Trustee Training Toolkit within six months from the date of publication of the above-mentioned notice, in other words by 26 March 2024.



All new trustees appointed or elected after the date of publication of the notice must complete the first 11 modules of the Trustee Training Toolkit within six months from the date of appointment or election.

The first 11 modules of the new Trustee Training Toolkit are available at <https://elearning.fsca.co.za/home>.

It is stated in the Communication accompanying the notice that the new toolkit is required to be completed by all trustees, irrespective of whether they completed the old toolkit.

Regarding the rationale for the new toolkit, the following is said in the Communication:

“Whilst the (old) Trustee Training Toolkit (TTK) was useful for the purposes of providing board members with the requisite skills, it was elementary in its scope and coverage. Accordingly, it was considered necessary to develop a more comprehensive TTK to better equip trustees in the exercise of their fiduciary duties culminating in the launch of the new TTK on 26 September 2023. The new TTK comprises the first 11 of 22 modules. The second half of the modules is expected to be launched in March 2024.”

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