

## 1. Amendments to the Income Tax Act to make provision for the Two-pot system

The Revenue Laws Amendment Act, 2024 has been promulgated by publication in the Government Gazette. The Act introduces amendments to the Income Tax Act to make provision for the Two-pot system, which will come into effect on 1 September 2024.

It should be noted that certain corrections and amendments to the Revenue Laws Amendment Act are proposed in the Draft Revenue Laws Second Amendment Bill, 2024, which amendments are also due to come into effect on 1 September 2024. It however at this point appears uncertain whether this Bill will be enacted by 1 September 2024, which obviously places retirement funds, as well as the South African Revenue Service (SARS) and the Financial Sector Conduct Authority (FSCA), in a very difficult position as far as their preparations for the Two-pot system are concerned.

## 2. Demarcation regulations: 2024 escalation of policy benefits

The Minister of Finance has granted approval for the publication of the 2024 annual policy benefit escalations in terms of the demarcation regulations, issued in terms of the Long-term Insurance Act and the Short-term Insurance Act. The demarcation regulations specify which types of contracts are regulated under the Long-term Insurance Act and the Short-term Insurance Act as health policies, and accident and health policies, respectively, and accordingly are excluded from the Medical Schemes Act.

The regulations provide that all benefit amounts referred to in the regulations escalate annually, from the effective date, by the Consumer Price Index (CPI) annual inflation rate published by Statistics South Africa. The benefit amounts have from 1 April 2024 increased by 6 percent.



### 3. Amendments to section 14 transfer forms

The Financial Sector Conduct Authority (FSCA) has on 8 May 2024 published draft amendments to the conduct standard on section 14 transfers, FSRA Conduct Standard 1 of 2019 (PFA). The reason for the amendments were explained as follows in the Communication accompanying the amendments:

“The Minister of Finance is in the process of finalising amendments to Regulations under the PFA to give effect to the so-called Two-Pot system. The aforementioned amendments will result in misalignment between the current prescribed section 14 application forms and the Two-pot Regulations, as the current section 14 application forms do not provide allowance for the transfer value in relation to the two-pot system. The section 14 application forms only allow for a single transfer value, whereas the implementation of the Two-pot Regulations will require the transfer value to be differentiated in two parts in the forms. As such the section 14 application forms will have to be revised.”

The proposed amendments entail that all the various section 14 transfer forms are removed from the conduct standard, and that the FSCA is empowered to determine the content and format of the forms by way of publication on its website.

The FSCA, in the Communication accompanying the amendments, said the following:

“It is important to note that the amendments to the revised section 14 application forms will be consulted on separately to the necessary legislative amendment and as a parallel process, to avoid any delays in consultation on the proposed legislative change.”

Pursuant to the above, the FSCA has now published the proposed amendments to the section 14 transfer forms, which can be commented on until 31 July 2024.

### 4. Clarification on the treatment of section 14 transfers during the transition to the Two-pot system

The Financial Sector Conduct Authority (FSCA) has, in FSCA Communication 21 of 2024 (RF), provided clarity as to how funds and administrators must treat section 14 transfers over the period of transitioning to the Two-pot system in instances where a transfer is still in process on 1 September 2024, and for new transfers as of 1 September 2024.

The Communication contains a table of scenarios on how funds and administrators must give effect to the requirements of the Two-pot system before the transfer is finalized. The table deals with retrospective transfers, section 14(8) transfers and prospective transfers. The part of the table dealing with retrospective transfers is quoted here below. A retrospective transfer is a transfer where the number of members and the amounts are known at the effective date of the section 14 application.



Retrospective Transfers				
	Status of S14 (1) Application	Seed Capital	Savings Component	Withdrawal from Savings Component
Scenario 1	Not approved on 1 September 2024.	Calculated from transfer value by transferor fund as at 1 September 2024.	Established from transfer value by transferor fund at 1 September 2024.	Withdrawal is payable by transferor fund.
Scenario 2	Approved before 1 September 2024, and transfer value not yet transferred on 1 September 2024.	Calculated from transfer value by transferor fund as at 1 September 2024.	Established from transfer value by transferor fund at 1 September 2024.	Withdrawal is payable by the transferee fund only.
Scenario 3	Approved after 1 September 2024, and transfer value not yet transferred.	Calculated from transfer value by transferor fund as at 1 September 2024.	Established from transfer value by transferor fund at 1 September 2024.	Withdrawal is payable by the transferee fund only.

## 5. Retirement fund contributions - online submission of report on contraventions of section 13A

Paragraph 4(3)(c) of FSCA Conduct Standard 1 of 2022 (RF), on the requirements related to the payment of retirement fund contributions, stipulates that the fund's board of trustees must ensure that any material contravention of, or material failure to comply with, section 13A of the Pension Funds Act, is reported to the Financial Sector Conduct Authority (FSCA), in the format determined by the FSCA, with the proposed course of action taken by the fund to remedy the contravention or failure, within 30 days of the board being informed of such contravention or failure by the monitoring person.

The FSCA has in FSCA RF Notice 8 of 2023 determined the format of the above-mentioned report. The FSCA has now published FSCA Communication 22 of 2024 (RF), in which it is stated that the FSCA has noted that submissions from retirement funds have either not been in the prescribed format or contain incorrect information which renders the uploaded file inaccessible. Annexure A to the Communication accordingly provides guidance on the correct manner of completion of the template, as well as the correct manner in which the file and additional documents must be uploaded.

## 6. FSCA launches *Know Your Rights* campaign

The Financial Sector Conduct Authority (FSCA) has launched a nationwide Know Your Rights campaign to educate the public about the Two-pot retirement system. Once implemented, the Know Your Rights campaign will explain how the Two-pot system works and the impact it will have on a fund member's retirement benefits.

The FSCA's multi-channel communications campaign is set to kick off on 1 July 2024, and run till 30 September 2024. Besides the introduction of the Two-pot system, the campaign will also focus on other aspects of retirement funds, such as consumer rights, how retirement fund contributions work, and the recourse available to consumers when employers fail to make contributions.

The FSCA is also collaborating with the financial industry and other key stakeholders to ensure that the campaign reaches as many members as possible.



The Know Your Rights campaign also seeks to ensure that employees making retirement contributions are aware of their rights. The FSCA previously issued two communications, naming over 4 178 employers who are defaulting on retirement fund contributions. As fund contributions form part of the employee remuneration package, it is important for employees to know if their contributions are affected by employer defaults and what recourse they have in such a case.

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

This newsletter provides information of a general nature and does not constitute advice in respect of a particular client