

1. Determination of fees charged by the FSCA

The Financial Sector Conduct Authority (FSCA) has, in terms of FSCA General Notice 1 of 2024, determined the fees payable to the FSCA from 1 October 2024. This is in respect of all functions performed by the FSCA, like for instance in respect of licensing applications, applications for extensions and exemptions, section 14 transfers and rule amendments.

2. FSCA information request about the trustees of a fund

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 recently redesigned the Trustee Training Toolkit, and the revamped Trustee Training Toolkit had to be completed by 30 September 2024. The FSCA at the time reminded trustees that completion of the Trustee Training Toolkit is compulsory, and that the FSCA will monitor the completion thereof and take regulatory action where there is a lack of compliance.

To evaluate whether there has been non-compliance with the obligation to complete the new Trustee Training Toolkit by 30 September 2024, the FSCA requires up-to-date regulatory information on the trustees of retirement funds. The FSCA has accordingly published an information request, in terms of which the principal officers of all funds or their administrators must submit up-to-date regulatory information of trustees, by completing Annexure A to the information request, on or before 6 November 2024.

The requested information will enable the FSCA to take appropriate regulatory action against non-compliant trustees. It is the FSCA's intention to, as a first step, publish a list of the names of non-compliant trustees.



It is made clear in the information request that a failure to provide the requested information by 6 November 2024 will constitute a punishable offence.

3. Quarterly newsletter from the FSCA retirement funds supervision division

The retirement funds supervision division of the Financial Sector Conduct Authority (FSCA) has published its quarterly newsletter in which they give feedback on various issues. Inter alia, the following is of note:

- The FSCA will carefully monitor the levying of transaction fees for the payment of savings withdrawal benefits under the Two-pot system to ensure that this does not lead to poor member outcomes. Trustees will also need to consider these charges carefully to ensure that all fees related to withdrawals from the savings component are reasonable and justified.
- The FSCA has until now generally granted extension applications in relation to the submission of annual financial statements. It is however imperative for the industry to prepare itself for the future as it is proposed that the period within which retirement funds will be required to submit financial statements should be reduced from 6 months to 4 months. As a result, in future there will be a strict approach in the FSCA's consideration of extension requests.
- In cases where retirement funds do not submit their financial statements on time, the FSCA issues penalty notification letters which provide an opportunity for funds to make submissions relating to the late or non-submission of their financial statements. Some funds have, in the submissions made, requested a reduction or waiver of the penalty amount imposed. The FSCA will also take a much stricter approach in its consideration of these requests.

4. Amendments to the Two-pot legislation

To make provision for the Two-pot system, amendments have been made to the Income Tax Act and the Pension Funds Act, which came into effect on 1 September 2024. The amendments to the Income Tax Act however contain certain errors, as well as aspects which are not in accordance with National Treasury's intention, and to remedy these, further amendments to the Income Tax Act are proposed in the Revenue Laws Amendment Bill.

The amendments are largely of a technical nature and do not have a major impact on the manner in which the Two-pot system must be implemented. There are however certain aspects that are of note, whereunder the following:

- Currently the following funds and members are excluded from the Two-pot system:
 - legacy retirement annuity policies that have been approved for exemption by the Financial Sector Conduct Authority;
 - beneficiary funds;
 - unclaimed benefit funds;



- pensioners;

- members of a provident fund or provident preservation fund who were 55 years of age or older on 1 March 2021, unless they have elected to participate in the Two-pot system.

- The definitions of “retirement component” and “savings component” will be amended to also exclude the following from the Two-pot system:
 - funds where a liquidator has been appointed before 31 August 2024;

 - funds with no member assets immediately before 1 September 2024.

- An unclaimed benefit fund is no longer excluded from the Two-pot system. An exclusion will however apply to members to whom an unclaimed benefit, as defined in the Pension Funds Act, is due as at 31 August 2024.

- The definition of “savings component” will be amended to make it clear that, on retirement, an annuity can be purchased directly from the savings component. If the member wants to purchase an annuity with the amount in the savings component, it is in other words not necessary to first transfer it to the retirement component.

- If a provident fund member who was 55 or older on 1 March 2021 elects to participate in the Two-pot system, the seeding amount must be based on the value of the member's vested component on the last day of the month in which the election was made.

- The definition of “savings withdrawal benefit” will be amended to provide that a member with less than R2 000 in his/her savings component will be allowed to withdraw this amount upon exit from the fund, regardless of whether he/she has already made a withdrawal from the savings component during the tax year.

- The Revenue Laws Amendment Bill also contains the following amendment, which is not Two-pot related, but which is important to take note of. Due to a drafting error in the definition of “pension preservation fund”, it is currently only possible to transfer from a pension preservation fund to a pension fund, pension preservation fund, provident preservation fund or retirement annuity fund. It is in other words not possible to transfer from a pension preservation fund to a provident fund. The definition of “pension preservation fund” will be amended to also make it possible to transfer from a pension preservation fund to a provident fund.



5. Taxation Laws Amendment Bill, 2024

The Draft Taxation Laws Amendment Bill, 2024, published in August 2024, has been amended pursuant to comments received during the public consultation process. From a retirement fund perspective, apart from certain technical corrections, the following is of note.

Paragraph 6A of the Second Schedule to the Income Tax Act will be amended to make provision, in respect of transfers on or after normal retirement age, for a tax-free transfer from a retirement annuity fund to another retirement annuity fund, irrespective of whether the transfer is voluntary or involuntary.

The proposed amendment will come into operation on 1 March 2025 and apply in respect of years of assessment commencing on or after that date.

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