FSCA NEWSLETTER

December 2024

FSCA
Financial Sector
Conduct Authority

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Q3 Newsletter 2024

Cover picture, from left to right: Fundi Tshazibana (Deputy Governor of SA Reserve Bank and CEO of the Prudential Authority); Jonathan Dixon (IAIS Secretary General); Shigeru Ariizumi (IAIS Executive Committee Chair); and Unathi Kamlana (FSCA Commissioner) at the IAIS Conference in December 2024

EDITOR'S NOTE

The year 2024 saw several regulatory developments under the stewardship of the FSCA. One of the more pressing concerns addressed this year was the issue of pension arrears. In a climate of increasing financial strain for many South Africans, the FSCA turned its attention to the long-running issue of delayed pension payments, ramping up enforcement efforts to ensure compliance with pension regulations.

While progress has been made, particularly in pushing for greater transparency and improved governance within pension schemes, some challenges remain for the sector to fully align with best practices.

The importance of protecting retirement savings was further highlighted by our Commissioner, Unathi Kamlana, when he gave the inaugural Gys Steyn Public Lecture at Stellenbosch University titled "*The effectiveness of the law in safeguarding retirement savings in the context of rising pension fund arrear contributions*". In this issue we showcase a few highlights from that lecture.

The South African economy has experienced continued turbulence, slow growth, high inflation and rising unemployment. In response to these conditions, the FSCA has also been working closely with industry stakeholders to ensure that the regulatory framework evolves to meet the demands of a changing economic landscape. Amongst others, this culminated in the successful introduction of two components (two pots) retirement system in September 2024, which we also cover with brief updates in this issue.

Another highlight in this issue is 'Green Fintech', which is the use of innovative financial technologies to manage environmental challenges and promote sustainable practices in the financial sector. Though the regulatory framework for green fintech is still in development, the FSCA has taken a proactive approach to demonstrate the growing recognition of environmental, social and governance (ESG) factors in the future of financial services.

As we close out the year, the FSCA's approach to regulation has been both dynamic and responsive to the evolving needs of the financial sector. Looking ahead, we will continue to monitor these developments closely as the regulatory landscape adapts to both domestic challenges and global trends.

We wish you all a wonderful festive season!

Best regards,
Tembisa Marele


IAIS
International
Association
of Insurance
Supervisors
IAIS

THE FSCA AND PA HOST THE IAIS ANNUAL CONFERENCE 2024

BY RENEILWE MTHELEBOFU, COMMUNICATIONS DEPARTMENT (FSCA)

The Prudential Authority and the Financial Sector Conduct Authority (FSCA) hosted the International Association of Insurance Supervisors (IAIS) Annual Conference on 5 and 6 December 2024 in Cape Town. Under the theme '*Licence to operate: the role of insurance in supporting societal resilience*', the conference brought together regulators, industry leaders and stakeholders from over 100 countries to share insights and contribute to the advancement of the global insurance industry.

Kicking off the conference, Reserve Bank Governor, Lesetja Kganyago, highlighted some of the crises in the sector has faced in recent history, including the Covid-19 pandemic, higher mortality rates, and natural disasters.

Elaborating on the electricity crisis in South Africa, Kganyago noted that it should be considered as more of a cautionary tale for the insurance sector, than a success story. "This problem, where something we previously did not worry about developed into a major risk and simultaneously become uninsurable, is likely to be repeated. Indeed, it bears a strong resemblance to the burgeoning climate crisis."

Although there is limited progress being made in shrinking insurance gaps, Kganyago highlighted the inherent opportunity for the IAIS to address this through its work programme.

The Governor also praised the IAIS for their innovation, which has led to major developments in insurance supervision practice namely the adoption of the Holistic Framework, which moves the focus from a small number of globally systemic institutions and shifts it to the entire system instead and the finalisation of the Insurance Capital Standard (ICS).

Deputy Commissioner of the FSCA, Farzana Badat, moderated a session on the societal role of insurance, where panellists considered the IAIS' work on inclusive insurance including developments to address the natural catastrophe protection gaps, including work by the IAIS and the G7.

The IAIS is the global standard-setting body responsible for developing principles, standards, guidance and supporting material for the supervision of the insurance sector. Its mission is to promote effective supervision of the insurance industry to protect policyholders and contribute to global financial stability.

Established in 1994, the IAIS is a voluntary membership organisation of insurance supervisors from over 200 jurisdictions, constituting 97% of the world's insurance premiums. The IAIS develops international standards and supports their implementation and assessment, with the aim of promoting effective and globally consistent supervision of the insurance industry so as to develop and maintain fair, safe and stable insurance markets.

FSCA UPDATE ON PENSION ARREARS AND TWO-POT WITHDRAWALS

BY ATHULE MPANDLE, COMMUNICATIONS DEPARTMENT (FSCA)

The Financial Sector Conduct Authority (FSCA) hosted a virtual media roundtable on 22 November 2024 to discuss the latest report listing employers and fund managers in arrears of pension contributions, and also to provide updates on the implementation of the two-component (two-pot) retirement system. This reformed system is aimed at providing retirement fund members with access to a portion of their savings while preserving long-term funds for retirement; and was rolled out in collaboration with the National Treasury, SARS, the retirement fund industry and civil society.

In his opening remarks, FSCA Commissioner Unathi Kamlana acknowledged that the Authority was generally pleased with the implementation of the two-pot system, which remains one of the most important structural changes to the country's retirement system. However, he cautioned that although the system provides much-needed financial relief, members should obtain advice only from qualified advisors to have a clear understanding of how these withdrawals will impact their future retirement outcomes.

The FSCA reported that of the rule amendment applications received to date, 98% have been successfully registered, and more than 2.1 million tax directive requests with a gross value of R35 billion have been processed. This was a key milestone since the September launch of "two-pots". However, a rollout of this magnitude could not be without some teething problems such as payment delays due to incorrect tax details, insufficient funds or system inefficiencies. Some of the complaints received related to communication shortfalls, high transaction fees and limited support. The FSCA reiterated its commitment to addressing these challenges.

Another contentious issue discussed at the media roundtable was that of pension contributions in arrears. No less than 7 770 employers were "named and shamed" in the third report, for failing to pay R5.2billion in pension contributions on behalf of an estimated 310 000 affected members. Municipalities are the biggest culprits of non-payment, with 149 of the country's 257 municipalities collectively owing R1.4 billion to retirement funds. Further, many small employers in industries with irregular income streams such as private security, cleaning and transport were reportedly struggling to meet their obligations.

Such non-compliance is viewed in a serious light by the regulator as it highlights the broader implications of pension arrears. With only 10% of South Africans on track to retire comfortably, delays in benefit payments exacerbate immediate financial pressures on households and compromise the financial security of members. The sustainability of this structural reform of retirement funds in South Africa depends on good governance and compliance.

The press release on the publication of pension funds in arrears can be viewed here.

NAVIGATING UNCERTAINTY: AN OVERVIEW OF SOUTH AFRICA'S FINANCIAL MARKETS IN 2024

BY MXOLISI MTHIYANE, INVESTMENT PROVIDERS DEPARTMENT (FSCA)

The South African financial sector faced a unique confluence of political shifts, market dynamics and mixed investor sentiment during 2024 as the country held its 7th national elections. Thankfully, amid the prevailing and emerging challenges, the sector and the financial markets showed reassuring resilience.

The first half of 2024 revealed pressures on the collective investment schemes (CIS) industry which experienced net outflows of R30 billion during the second quarter. This was partially offset by reinvestments of R24 billion, resulting in a net outflow of R6 billion for the quarter ending June. According to Sunette Mulder, senior policy advisor at the Association for Savings and Investment South Africa (ASISA), this trend was largely influenced by portfolio restructuring in anticipation of structural reforms, including the two-pot retirement system.

Political uncertainty ahead of the general elections on 29 May 2024 further compounded an already challenging investment climate. Despite these obstacles, the CIS industry demonstrated its enduring appeal by offering professional management, diversification and a wide range of investment opportunities to investors.

Following South Africa's national elections, the market exhibited signs of recovery and cautious optimism. The peaceful transition to a government of national unity (GNU) and the absence of load-shedding during the third quarter bolstered investor confidence. The RMB/BER Business Confidence Index recorded its highest level since late 2022, reflecting a renewed sense of stability. Over this period, the CIS industry experienced net inflows of R5 billion, supplemented by R37.3 billion in reinvested income declarations. By September 2024, assets under management grew to R3.8 trillion, marking a 4.3% increase from the previous quarter. Mulder noted that these positive developments were driven by improved political stability, enhanced electricity supply, and the effective implementation of the two-pot retirement system.

Investor behaviour during this period revealed a marked preference for diversified investment strategies. By September 2024, 50% of CIS assets were allocated to South African Multi Asset portfolios, with 30% in SA Interest Bearing portfolios and 19% in SA Equity portfolios.

Over the 12 months leading up to September, the SA Interest Bearing Short Term category attracted R40.7 billion in net inflows, making it the most favoured investment option. Conversely, the SA Equity General category saw net outflows of R11.3 billion over the same period, even as it delivered an impressive average return of 21.8%. This trend underscored the cautious stance of many investors, who, amid volatility, refrained from capitalising on the equity market's robust performance.

The hedge fund sector also emerged as a key area of growth, driven by enhanced regulatory oversight and increasing accessibility. Retail investors accounted for approximately 80% of hedge fund sales during the first half of 2024, reflecting a shift towards broader participation in this asset class. Proposals by the Financial Sector Conduct Authority (FSCA) to permit collective investment schemes to include retail hedge funds have further bolstered this trend, making hedge funds more transparent and accessible to everyday investors.

While the hedge fund industry has shown consistent growth since 2020, there remains significant potential for expansion through greater investor education on its benefits, including risk mitigation, diversification, and the potential for long-term returns.

Meanwhile, offshore investments continued to play a significant role in South Africa's financial sector. Locally registered foreign portfolios managed assets worth R913 billion by the end of September 2024, up from R765 billion a year earlier. Quarterly net inflows of R4.1 billion during the third quarter signified growing interest, although the 12-month period ending September 2024 saw overall net outflows of R2.6 billion. This reflects the nuanced dynamics of offshore portfolio management amid shifting global market conditions.

Despite the promising trends, several risks persist within the financial sector. Concentration risk remains a critical concern for the CIS industry, alongside challenges related to cybersecurity and digitisation. Market volatility, constrained capital flows and uncertainty surrounding the reforms proposed by the newly formed government of national unity continue to weigh on investor sentiment.

Additionally, while South Africa has made significant strides in addressing the impact of its greylisting, it remains an area of caution for investors. The country's energy constraints, though improved, also linger as a key challenge.


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FSCA DIGITAL BANKING FRAUD WORKSHOP: FSCA AND INDUSTRY STAKEHOLDERS TAKE ACTION

BY ATHULE MPANDLE, COMMUNICATIONS DEPARTMENT (FSCA)

As digital fraud techniques continue to evolve, so does its harmful impact on consumers and the financial industry at large. In recent years, fraud has surged, with losses in digital banking fraud alone escalating from R400 million in 2021 to a projected R2 billion in 2024. This increase highlights the urgent need for comprehensive, coordinated action.

To address this, the FSCA hosted a digital fraud workshop on 14 October 2024 in Johannesburg, where key industry players convened to explore and establish stronger preventive measures against digital fraud.

The workshop provided a platform for open collaboration between the banking and telecommunications sectors, regulators, and industry stakeholders. Among those present were the Independent Communications Authority of South Africa (ICASA), the South African Banking Risk Information Centre (SABRIC), BankServ Africa, and various representatives from the telecommunications sector.

These participants shared critical insights into fraud trends and rising threats targeted at vulnerable consumers such as SIM swap fraud, phishing and fake applications.

Notably, SIM swap fraud has become a significant contributor to digital fraud, particularly in the unstructured supplementary service data (USSD) banking environment, while impersonation and identity theft continue to exploit gaps in existing verification processes.

One of the workshop's key outcomes was the call for collaborative actions and targeted solutions. The FSCA emphasised the importance of proactive industry engagements, consumer education and tighter regulatory measures in the fight against digital fraud. Immediate actions identified as quick wins included enhanced authentication protocols, closer monitoring of SIM card distribution and improved consumer awareness programmes.

Long-term goals include creating a centralised repository of fraud data accessible across the banking, telecommunications and regulatory sectors. The potential of biometric verification for SIM cards and developing digital identities was also explored as another way to reinforce consumer protection in the future. From a policy point of view, the FSCA will work closely with ICASA to advocate for amendments to RICA legislation that will enforce stricter identity verification measures, curb fraudulent SIM swaps and prevent phone number misuse. Together with efforts to educate consumers on how to recognise fraud tactics and adopt preventive actions, these combined initiatives are seen as fundamental to reducing digital fraud incidents through collaboration.

As we approach the festive season, a period historically marked by heightened fraud activity, the FSCA urges the public to stay vigilant and informed. Recognising the signs of fraud, safeguarding personal information, and reporting suspicious activities are essential steps that everyone can take to protect themselves.

LEVERAGING GREEN FINTECH TO POSITION SA AS A LEADER IN THE GREEN ECONOMY

BY NOMTHANDAZO MTSHWENI, COMMUNICATIONS DEPARTMENT (FSCA)

The FSCA recently presented its first green fintech market review at an information session to discuss key findings and to gain a better understanding of the local green fintech landscape.

Speaking at the virtual session on 21 November 2024, FSCA's senior fintech specialist Keith Sabilika explained how the review shed light on potential risks, benefits and drivers of green fintech, and its implications for the financial sector.

According to Sabilika, green fintech is gradually emerging as a useful tool in fostering a greener, more sustainable financial ecosystem by encouraging the development of products and services that place emphasis on environmental sustainability. These include green loans, green bonds, and investment platforms that focus on environmentally friendly projects. The review also showed a positive shift in the financial sector which is embracing the sustainability imperative to help address climate change locally and globally.

What is Green Fintech?

Green Fintech refers to the use of innovative financial technologies to manage environmental challenges and promote sustainable practices in the financial sector. The concept encompasses a wide range of activities, including:

- green investing
- financing for renewable energy projects
- carbon footprint tracking, and
- the creation of tools that allow consumers and businesses to measure and reduce their environmental impact.

Source: Financial Sector Conduct Authority Green Fintech Market Review Nov 2024

Sabilika further explained to delegates that the global green finance market size was valued at $4.18 trillion in 2023 and is expected to reach $28.71 trillion by 2033, reflecting a a compound annual growth rate CAGR of 21.25% during the period. He observed that investments in green projects are surging globally, with funding reaching $495 billion in 2022; underscored by the pivotal role played by fintech companies in facilitating these investments through their various digital platforms.

The FSCA's market review revealed that local green fintech initiatives were primarily focused on carbon footprint reduction, though institutions may often select multiple focus areas and a multi-faceted approach to green initiatives. Also notable were renewable energy financing and climate risk assessments, indicating an alignment with global trends in sustainable finance and environmental responsibility.

Green fintech is not without its own set of hurdles, as the research showed. The volatility of carbon markets, insufficient policy incentives and the complexities of integrating ESG metrics into traditional financial systems remained key hurdles globally. In South Africa, challenges included the regulatory policies still under development, limited financial literacy and infrastructural constraints.

Nonetheless, leveraging green fintech could not only help address local challenges but can also position the country as a leader in the green economy. By fostering innovation in green finance and supporting businesses and consumers in their sustainability efforts, South Africa has the opportunity to capitalise on the green fintech movement to create jobs and attract investment whilst advancing its environmental goals. This can be achieved through a combination of enabling regulation and policies; driving awareness programs; proactively embracing Green Fintech solutions and addressing data privacy and cyber security challenges that these data-driven technologies depend on.

Read more findings from the FSCA's first green fintech market review by following this link.


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FSCA AND PA COLLABORATE TO STRENGTHEN OVERSIGHT OF CO-OPERATIVE FINANCIAL INSTITUTIONS

BY LAWRENCE MATJILA, MICRO AND ACCESS PROVIDERS DEPARTMENT (FSCA)

Through its Micro and Access Product Institutions department, the FSCA, in collaboration with the Prudential Authority (PA) convened a workshop on 21 November 2024 to address regulatory and supervisory challenges within the co-operative financial sector. This marked a significant step in strengthening governance, compliance and operational efficiency as co-operative banks, co-operative financial institutions (CFIs), the FSCA and the PA deliberated on the Draft Prudential Standards.

In essence, the PA's Draft Prudential Standards proposes an updated framework for registration, governance, risk management and operational requirements in the sector in order to align with best practices and modern regulatory expectations. Initially published in late 2023 for consultation, these standards are now being refined based on industry feedback; and will be finalised by the FSCA and PA to provide a robust foundation for sustainable growth.

Beyond regulatory updates, the workshop also highlighted the PA's Umoja system: a supervisory technology (Suptech) introduced earlier this year to enhance compliance processes across the sector. The system has streamlined the submission of regulatory returns as co-operative banks and CFIs were since required to submit data through the platform. This was a welcomed development by all participants; particularly in recognition of its potential to improve operational efficiency and data quality which are critical for informed industry decision-making and regulatory oversight.

Consumer protection and market conduct themes also featured prominently. The FSCA reinforced its commitment to Treating Customers Fairly (TCF) principles, which require financial institutions to deliver fair outcomes for consumers throughout the product lifecycle. The Draft Conduct Standard for CFIs aligns with these principles. While implementation has been delayed by legislative processes linked to the COFI Bill, the standard remains a priority for the FSCA in ensuring fair and accountable practices within the sector. Participants acknowledged these measures as essential for fostering trust within the sector, which in turn strengthens its sustainability.

An overview of the sector's financial health and performance was also provided. As of August 2024, the sector comprised five licensed co-operative banks with over 5,700 members and 21 CFIs serving more than 28,000 members. Together, these institutions manage significant levels of assets, loans, and deposits, highlighting their role in promoting financial inclusion. However, issues such as non-submission of returns, reliance on key personnel without succession plans, and outdated technological systems remain obstacles to their growth and resilience.

The workshop concluded with the announcement of the PA's supervisory programme for 2025, which outlines the roadmap for future engagements and oversight activities, with the next co-operative banking industry session scheduled for February 2025 in Pretoria.


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THE FSCA REFLECTS ON THE 2023/24 FINANCIAL YEAR

The FSCA successfully tabled its latest integrated report in Parliament on 27 September 2024. The annual report gives an overview of the FSCA's performance in the period from 1 April 2023 to 31 March 2024, during which 80% of overall targets for the 2023/24 financial year were achieved, as well as 90% of the targets set out in its Regulation Plan for the financial year.

Key achievements from the year include advancements in digital transformation, enhanced diversity, and impactful sustainability initiatives. These efforts reflect the FSCA's commitment to fostering a fair, resilient, and inclusive financial environment that prioritises consumer protection and responsible industry practices. To read the full report, click on Integrated Report 2023/24.

FSCA regulatory and compliance achievements

- 668 new licences were granted, including 59 for crypto asset service providers.
- 1 061 licences were suspended and 75 withdrawn.
- 1 900 regulatory actions taken against non-compliance.
- Debarment orders were issued against 156 individuals.
- R943 million imposed in penalties and fines.
- 104 scam alerts published to protect consumers.

Financial and operational metrics

- Revenue: R1.1 billion in levies collected.
- Expenditure: R952 million.
- Net surplus: R159 million, up from last year's deficit of R9.5 million.
- Procurement spend: R438 million supporting economic empowerment.

Consumer Protection and Education

- Financial consumer complaints: 11 465 complaints resolved.
- Educational activities: 102 events conducted.
- Workshops and webinars: 70 outreach sessions.
- National Financial Literacy Competition: 5 515 learners participated across nine provinces.

Digital Transformation

- Integrated Regulatory System (IRS): In implementation phase to enhance regulatory oversight, increase operational efficiency and improve consumer protection..

Diversity and Inclusion

- Gender representation: 54% of staff are female; 75% of executive committee members are female.
- Employee development: R7.2 million invested in training; R3.4 million in bursaries for employees.

Environmental Sustainability Efforts

- Energy and water savings: 14% reduction in electricity, 16% reduction in water usage, and a 36% decrease in paper usage due to sustainable practices and remote work.

THE IMPORTANCE OF INTERNSHIPS IN COMBATTING YOUTH UNEMPLOYMENT IN SOUTH AFRICA

BY GONTSE PHALA AND KGAUHELO MANTU, COMMUNICATIONS DEPARTMENT

South Africa's youth unemployment rate was the highest of any G20 country in 2023, reaching 50,4%. Looking at the 2024 statistics so far, the situation presently looks somewhat better. The Statistics SA Quarterly Labour Force Survey shows that the rate stood at 45,5% in the first quarter of 2024, 46,6% in the second quarter and again 45,5% in the third quarter.

Research points to historical inequalities, education and limited economic opportunities as big contributors to the alarming rates of youth unemployment. This is where internship programmes come in handy for abled youth struggling to secure stable employment.

Youth unemployment rate of G20 countries in 2023

In ranking order:

- Highest rate: South Africa 50,47%
- Second highest: Italy 22,89%
- Third highest: Argentina 18,82%

G20 organisation consists of 19 countries plus the European Union. At 4,2%, Japan had the lowest youth unemployment rate in 2023. Source: statista.com

Internships are recognised globally as an effective strategy for bridging the gap between education and employment by enabling students and graduates to gain valuable work experience, often a prerequisite for securing a full-time job. Indeed, internships and graduate programs help young people to develop hard and soft skills that are essential for the labour market.

Internships provide hands-on experience and practical skills directly applicable to chosen fields across sectors such as finance, engineering, information technology, etc. Firstly, the exposure to real-world tasks and challenges compliment that which cannot be learned through academic study alone, preparing candidates for the competitive job market. Secondly, they are a platform to establish professional networks through which permanent positions within their organisations may be offered. Building relationships with mentors and colleagues is key to career progression.

The FSCA recognises the significant contributions of the financial services industry to South Africa's economy and the sector's potential to create job opportunities. As a regulator of this industry, it implements internship initiatives that provide training, career development and pathways for the youth to enter the sector. In 2023, the FSCA absorbed the majority of its group of interns into permanent employment across various disciplines, with some trainees also securing jobs with other organisations in the sector.

The success of the FSCA's internship programme demonstrates a commitment to bridging the gap between education and employment, promote skills development, financial inclusion and a transformed society. By preparing young people for the workplace, the private and public sectors can play their roles in reducing unemployment in South Africa.

Reflections from the 2023/24 FSCA internship cohort

Interns-turned-employees from the FSCA's 2023/24 graduate programme expressed gratitude and pride on being offered permanent positions. Many were inspired by the experience as testament of their hard work, resilience and the transformative power of mentorship-support through well-structured internships. This is how they shared their insights, lessons learned and useful tips for their peers:

"Treat every task, big or small, as a chance to learn and prove your capabilities. The effort you put in today will shape and grow your career tomorrow, and never hesitate to ask questions or seek guidance. Every question is an opportunity to learn and deepen your understanding. For me this internship wasn't just about building a career; it was about finding purpose, contributing meaningfully to the financial sector."

"The learning that we received from the FSCA has provided me with a lot of guidance, training and encouragement which has helped me grow professionally in my career. Given that the FSCA is a considered a top employer that develops its resources and is employee centric, I was motivated to go back to school and obtain my postgraduate degree. Any advice I can give to the current internship cohort is that the journey may have its challenges, but resilience and a positive attitude will help you overcome them and grow stronger and wiser."

"As a newly appointed intern, having witnessed a group of the absorbed cohort has filled me with a generous amount of hope and excitement for the future. It is a shown track record that the FSCA is creating sustainable employment."

LEADERSHIP PROFILE

MEET SOYAPHI KHOZA, HEAD OF THE FSCA BUSINESS CENTRE

Soyaphi Khoza has been with the FSCA since 2015, previously holding various roles within the FAIS Supervision Department. In his current role, he is responsible for the Business Centre, which acts as a point of entry to the FSCA and is a regulatory information hub to manage complaints and enquiries.

Soyaphi: The early years

As a child I wanted to explore the outer world. I dreamt of being an astronaut or similar in the science field. I have always enjoyed solving problems and understanding how systems work together to make life better. I loved science and technology. As I grew older, I had to become more realistic and adjust my dreams. I remember how my brother and I used to hold debates about how hard accounting was ... and since it was challenging for many people, I felt driven to take on the challenge. That is how I ended up in the field of commercial science.

I went on to study BCom Accounting, to let myself explore a different world. My dream of being in a scientific field was, however, not entirely lost – after all, commercial science involves problem solving and putting different components together to create a solution! I furthered my studies at the Chartered Institute for Management Accounting (CIMA), and eventually joined the South African Reserve Bank in their banking supervision department. Thus started my regulatory journey.

On joining the FSCA

Moving to the FSCA was like jumping over the fence into another terrain. I started looking at banking holistically and finally got to see where regulations come from. My duties at the FSCA included all my duties at the SARB and more.

It was a big shift, there were many surprises and a lot of learning.

The value of teamwork

Some tasks require more time and attention than others, and my team rises to each challenge. Tough is a mindset. With inspiration and the correct mindset, one can achieve anything. I believe in doing things differently and in questioning how things are done, and why they are done. One perspective can be limiting, but if we all put our ideas together a bigger picture emerges. My team is driven by the same values, they are not afraid to be different, to do things in a different way, to learn and unlearn.

The most common queries and complaints received by the FSCA Business Centre

Most of the queries we received are around unclaimed benefits, but the complaints we receive are on a variety of issues. For some time now we have been receiving complaints from financial customers who are aggrieved by or are unhappy with the conduct of, and/or decisions made by financial institutions, most of which fell outside of our mandate or jurisdiction.

Most of these complaints are payment related, across various products, especially sophisticated investments products such as derivatives and forex instruments. We also receive many complaints about institutions and persons conducting unregistered business.

Queries and complaints that the FSCA Business Centre CANNOT assist with

The first thing to understand is that our primary role as the FSCA is not to resolve individual complaints. For the FSCA to address a query or complaint, it must relate directly to the FSCA's regulatory role and responsibilities. Our interest is more on the complaints data (insights) and the conduct risks that may negatively impact financial customers or the financial sector.

Even so, we don't turn customers away when they approach the FSCA with queries or complaints about any matter they believe we should handle. The Business Centre plays a critical role in assessing and filtering these matters, channelling them to the appropriate authorities, and ensuring that only those relevant to the FSCA's mandate are directed for further attention.

This process is less complex with queries. However, complaints present unique challenges, particularly when customers seek financial recourse, having disputes with financial institutions. And our message here is:

1. If you are seeking financial recourse, or having a dispute with a supervised financial institution, you must first engage directly with the supervised financial institution in terms of its complaints handling process, and if unresolved or unhappy, escalate the matter to the relevant ombud service.
2. If you believe a financial institution (supervised or not) has violated our regulations or laws or conduct standards, bring that to our attention for consideration, further investigation and/or appropriate regulatory action.

Supervised financial institutions are required to have processes and procedures in place to effectively manage complaints from their customer.

Our role as the FSCA is not to mediate disputes but to ensure that financial institutions comply with our laws and regulations and to protect the broader financial sector and its customers.

Advice for those wishing to join the FSCA

My advice is to never stop being curious. Always stay inquisitive because that is where growth lives. Be ready to learn. Always ask questions if you do not understand how things work. Immerse yourself fully and understand the FSCA culture. The organisation might seem small, but it is quite complex, with different components, regulations and operations. Our work has a ripple effect, it affects many people.

GUEST CONTRIBUTION: FINANCIAL INTELLIGENCE CENTRE

FINANCIAL SERVICES PROVIDERS AND THEIR FINANCIAL INTELLIGENCE CENTRE ACT (FICA) OBLIGATIONS

Enforcement action by the Financial Sector Conduct Authority (FSCA) has highlighted the costly consequences of not complying with FICA.

The FSCA is responsible for ensuring that financial services providers comply with their Financial Intelligence Centre Act (FICA) regulatory requirements. In the instance of non-compliance, the FSCA may impose administrative sanctions, as reported in the Financial Intelligence Centre's latest annual report.

The FICA obligations of financial services providers include:

- Registering with the Financial Intelligence Centre (FIC).
- Developing and implementing a customised risk management and compliance programme. The plan must outline the manner and process by which the institution will mitigate its money laundering and terrorist financing (ML and TF) risks as well as comply with the provisions of the Act.
- Filing regulatory reports that assist in combatting money laundering and terrorist financing namely cash threshold reports, suspicious and unusual transaction reports, international fund transfer reports, and terrorist property reports.

The FIC provides information and guidelines for these obligations on its website and via its contact centre. All financial services providers are encouraged to make use of these useful resources. In this article, we look at the four types of regulatory reports mentioned above.

Suspicious and Unusual Transaction Reports (STR)

Financial services providers are required to monitor transactions to identify suspicious and unusual transactions or activities and report them to the FIC via the Suspicious and Unusual Transaction Reports (STR's) within 15 working days. STR's are key in detecting possible money laundering and must contain sufficient information. The FIC analyses these reports and where necessary, refers them to law enforcement and other competent authorities for use in their investigations, prosecutions and applications for asset forfeiture.

Financial services providers are listed as 'accountable institutions' under item 12 of Schedule 1 of the FIC Act and are subject to regulatory reporting and other obligations.

Cash Threshold Reports (CTR)

Section 28 of the FIC Act requires an accountable institution to file a report when a cash transaction is concluded with a client above the prescribed threshold of R49 999.99. A cash threshold report (CTR) must be submitted to the Financial Intelligence Centre as soon as possible, but no later than three days after becoming aware that a cash transaction has exceeded the prescribed threshold.

International Fund Transfer Reports (IFTR)

Financial services providers carrying out cross-border electronic transfers above the prescribed threshold of R19 999.99 are required to submit an international fund transfer (IFTR) report to the Financial Intelligence Centre. The IFTR report must be submitted as soon as possible, and not later than three days after becoming aware that the transaction has occurred. The report must contain as much of the information as is readily available. Importantly, IFTR transactions that are made in foreign currency must be converted into rand value as at the date the transaction took place.

Targeted financial sanctions

Financial services providers must submit Terrorist Property Reports (TPRs) within five days of becoming aware that a person possesses property or is in control of property of a person or entity that is flagged on a United Nations Security Council targeted financial sanctions list. The list is accessible on the Financial Intelligence Centre website.

Not only is there a reporting duty where a person is a designated person, but there is also an obligation to freeze all assets. In other words, when filing a TPR, it is an offence to continue with the transaction or deal with the property in question. This requires the accountable institution to scrutinise information concerning the client, i.e. the beneficial owner, person acting on behalf of the client, person on whose behalf the client is acting or party to a transaction, against the sanctions list. Should any of the aforementioned match, the financial services provider must immediately freeze property belonging to the designated person or entity.

In instances where a suspicious and unusual transaction or activity may be connected to a person on the targeted financial sanctions list, but could not be factually confirmed, a suspicious and unusual transaction report or a suspicious activity report must be submitted to the Financial Intelligence Centre.

By submitting these reports and complying with FICA obligations, financial services providers contribute to the fight against money laundering and terrorist financing; and thus assist South Africa to exit the Financial Action Task Force (FATF) grey list.

For more information, visit www.fic.gov.za, contact the FIC Compliance Contact Centre on +27 12 641 6000 or log an online compliance query on the website.

THOUGHT LEADERSHIP

HOW EFFECTIVE ARE OUR LAWS IN PROTECTING RETIREMENT SAVINGS?

The FSCA Commissioner delivered the first-ever Gys Steyn Chair in Law Public Lecture at Stellenbosch University's Faculty of Law on Tuesday, 19 November 2024. The full speech titled "The effectiveness of the law in protecting retirement savings, particularly in the context of rising pension fund arrear contributions" is available on the FSCA website.

Below is a selection of key snippets from the public lecture.

About the Gys Steyn Chair in Financial Regulation Law – Stellenbosch University

The research chair, which will focus on various aspects of financial regulation as a prerequisite for economic stability and growth, is the first of its kind in South Africa. The Chair will incorporate aspects such as the economics of the financial sector, models of regulation, regulation of different risks in the financial sector, and regional and international financial regulation law.

The Chair is a multidisciplinary position that will provide linkages between various fields – law, accounting, economics, banking, governance, and risk management – as well as between various entities – regulators, financial institutions, law firms, exchanges, intermediaries, prosecuting authorities and academic institutions.

Overview

1. South African households struggle to save enough for retirement, with less than 10% able to retire comfortably. On average, household savings amount to just over 2% of GDP, with nearly 60% of these savings locked in contractual retirement funds.
2. Currently, 7 770 employers in the public and private sectors have been reported for failing to make timely pension contributions, with 36% of these cases occurring in the private security sector. The latest data indicates that the total arrear contributions amount to some R5.2 billion.
3. The Covid-19 pandemic exacerbated the issue of arrear contributions.
4. Pension fund arrear contributions, should they reach a prudentially significant amount, could destabilise the broader retirement ecosystem. As pension funds rely on steady contributions to maintain liquidity and fulfill their obligations, they may become strained when contributions are inconsistent or delayed. This in turn could limit their ability to invest in long-term projects, diminishing their role as major institutional investors in the economy.

Pension fund arrears in municipalities

5. Pension fund arrears also reared an ugly head in the local sphere of government, with almost 150 municipalities implicated in failing to remit pension contributions deducted from employees' salaries. The total amount of unpaid contributions is estimated at R1.4 billion.

6. One particularly egregious practice contributing to this is the recycling of employer pension contributions. This is a financial mismanagement tactic where municipalities divert contributions meant for pension funds towards operational expenses or to pay salaries. This practice not only breaches fiduciary duties, but also exacerbates the financial instability of the municipality when the backlog of unpaid pension obligations accrue interest and penalties over time.

7. The Directorate for Priority Crime Investigation (DPCI or the Hawks) have actively pursued cases against municipal officials who have violated the Pension Funds Act (PFA), compromising employees nearing retirement. For example, three senior managers at Renosterberg Municipality in the Northern Cape were charged with fraud, theft and contraventions of the Municipal Finance Management Act (MFMA) and PFA for failing to remit R73.5 million in pension contributions between 2018 and 2023.

The role of the Board of Trustees

8. The Board of Trustees have a duty to take all reasonable steps to recover arrear contributions and ensure that those steps do not inadvertently harm the financial interests of members.

9. Members are not without recourse nor powers when it comes to addressing issues of arrear contributions.

The role of members of retirement funds

10. For instance, if contributions are in arrears, members may bring an application for execution against an employer's property, as was confirmed by the High Court in Mafoko Security Patrols (Pty) Ltd v Moeketsi and Others. This right arises particularly when the Office of the Pension Funds Adjudicator has already determined in the member's favour, confirming the employer's obligation to pay.

On the personal liability of directors

11. The legal obligation to make pension contributions does not rest solely on the company as a corporate entity. Section 13A (8) of the PFA extends personal liability to directors and senior management. This means that those involved in the financial affairs of the employer can be held directly accountable if the company fails to pay over pension contributions as required.

Arrear contributions as a criminal offence

12. Under the PFA framework, failure to pay pension fund contributions on time is not just a breach of contract; it is also a serious violation of the law. Section 37(1)(a) of the PFA classifies non-payment of contributions as a criminal offence punishable on conviction by a fine not exceeding R10 million or imprisonment for a period not exceeding 10 years, or both. This heavy penalties demonstrate the gravity with which the law views failure to comply with pension contribution obligations.

13. The FSCA Conduct Standard places a positive obligation on the board of a retirement fund to report contraventions of Section 13A of the PFA to the South African Police Service (SAPS) within 14 days of the expiry of a 90-day period during which the non-compliance continues. This requirement aims to bring instances of non-payment to the attention of law enforcement for criminal prosecution.

14. The FSCA Conduct Standard however, does not impose a similar duty to initiate civil proceedings against the employer. Through civil proceedings, the actual payment of contributions can be enforced. The gap in the legislation suggests that a fine of up to R10 million may be imposed on a defaulting employer as part of a criminal conviction and as a deterrent but is not necessarily payable to the pension fund itself or as direct compensation for the affected members.
15. One of the FSCA's key responsibilities is to monitor compliance with Section 13A of the PFA in relation to the boards' obligations and fiduciary responsibilities. However, currently the FSCA does not have direct regulatory jurisdiction over employers.
16. To address current limitations in the law, the FSCA has adopted strategies to strengthen enforcement and encourage compliance through fines and deterrents such as using the power of public accountability by publishing the names of employers in arrears. This has proven to be an effective tool as almost 1 000 employers took swift action to clear the potential reputational damage and legal consequences.
17. In addition, many retirement funds have used the visibility provided by these publications as leverage to enter into settlement arrangements with defaulting employers, ensuring that outstanding contributions are paid overtime.

On evaluating the legislative framework

18. The FSCA relies on the boards of retirement funds to take legal action against employers or report their non-compliance to authorities. This is despite any conflicts of interest that may arise when boards of trustees are made up of representatives of employees and the employer in question.
19. It is anticipated that the promulgation of the Conduct of Financial Institutions (CoFI) Bill in Parliament will broaden the regulatory reach of the FSCA, bringing participating employers under its supervision as regulated entities, in addition to those currently under its oversight.

CONSUMER CORNER

INCLUSIVITY: THE FSCA EXTENDS A HAND TO THE VISUALLY IMPAIRED

BY NOMTHANDAZO MTSHWENI, COMMUNICATIONS DEPARTMENT (FSCA)

The Financial Sector Regulation Act (FSR Act) defines financial inclusion to mean all persons have timely and fair access to appropriate, fair and affordable financial products and services.

The National Treasury's financial inclusion policy further defines financial inclusion as the delivery and use of regulated, affordable and suitable financial services by those segments of society where such services are needed but not provided or are inadequate. To this effect, the FSCA published its Financial Inclusion Strategy in 2023, a roadmap for how it plans to fulfill the objectives of the FSR Act.

The FSCA is committed to enhancing financial inclusion for all South Africans, particularly vulnerable individuals who are disabled, blind and/or partially sighted. This focus is an integral part of the FSCA's broader consumer education program that aims to ensure that all members of society, regardless of their physical abilities, can make informed financial decisions.

For the visually impaired (blind and partially sighted) accessing clear, understandable information about consumer rights, financial products and services can be challenging due to the heavy reliance on visual resources such as printed materials and digital interfaces that require vision. The FSCA's Consumer Education Department is now creating specialised educational content (in braille) and resources tailored to the community's needs.

Through its outreach programmes, the FSCA educates consumers on their rights, budgeting, saving, investing and managing debt. This effort aims to improve access to information and empower blind and partially sighted individuals to make informed decisions about their finances. Extending financial literacy to the blind and partially sighted promotes equality by reducing the barriers to financial independence.

By addressing the specific needs of the blind and partially sighted community, the Authority is taking concrete steps towards building a more inclusive, equitable and resilient financial sector.

In so doing, the FSCA hopes to provide a relatable model for how financial regulators and institutions can improve financial access for people with disabilities, and ultimately create a more inclusive economy.

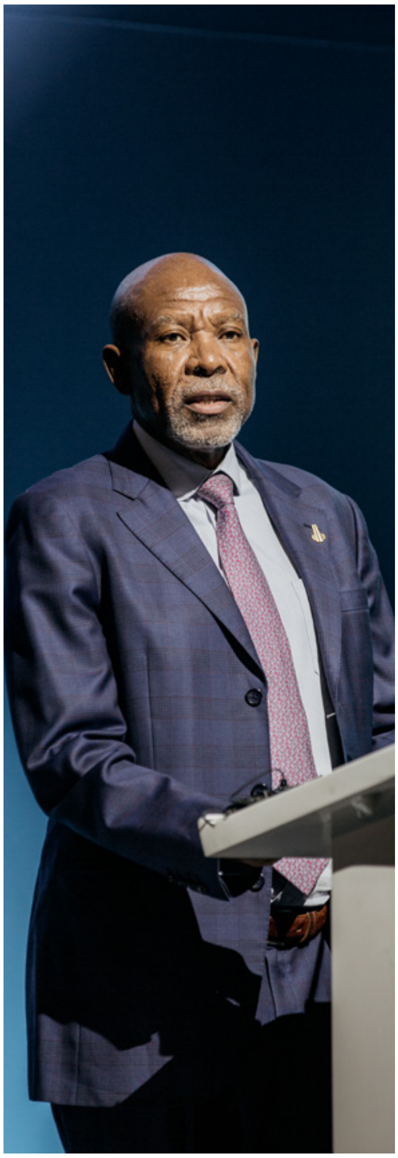
EVENTS
IRFA


IRFA
Institute of Retirement Funds Africa
Better Together
Building A Socially Secure Future
6-8 October 2024
Cape Town International Convention Centre
IRFA

EVENTS
GYS STEYN CHAIR

EVENTS
IAIS


IAIS
2024
AGM, Annual Conference
and Committee Meetings
IAIS
FSCA
IAIS 30




IAIS


2024 IAIS
Annual Conference
2024 IAIS
Annual Conference

PARTING SHOT

FSCA NEWS ROUND UP

FSCA publishes list of employers in arrears for retirement fund contributions

The FSCA has published FSCA Communication 41 of 2024 (RF) - Publication of names of pension funds and employers with arrear contributions.

Read more

Administrative sanctions on Sunlight Financial Services (Pty) Ltd and Tana Africa Capital Managers (Pty) Ltd

The FSCA has imposed administrative sanctions on Sunlight Financial Services (Pty) Ltd and Tana Africa Capital Managers (Pty) Ltd for failing to comply with certain provisions of the Financial Intelligence Centre Act, No. 38 of 2001 (FIC Act).

Read more

Update on the licence of Banxso (Pty) Ltd

The FSCA previously issued a media statement informing the public that it had provisionally withdrawn the licence of Banxso (Pty) Ltd.

Read more

The Prudential Authority and Financial Sector Conduct Authority host the annual conference of the International Association of Insurance Supervisors in Cape Town

The Prudential Authority – the prudential regulator within the administration of the South African Reserve Bank (SARB) – and the Financial Sector Conduct Authority (FSCA) will host the 2024 International Association of Insurance Supervisors (IAIS) Annual Conference on 5 and 6 December 2024 in Cape Town.

Read more

STAFF PICKS: SUGGESTED MUST-READ ARTICLES

STAFF PICKS: SUGGESTED MUST-READ ARTICLES

An effective regulator needs well-read, well-informed employees and industry. In this new section of our newsletter, FSCA employees share articles, reports and publications that they found insightful or thought-provoking. It's a chance to discover new perspectives and deepen understanding of key topics within regulation and beyond. Enjoy!

Title: Why should ICT trust you?

Context: The concept of Zero Trust Architecture (ZTA) recognises the limitations of traditional cybersecurity models, and seeks to implement principles of "never trust, always verify" implying that no system user, device or application should be trusted by default, regardless of their location within or outside the organisation's ICT environment. To read this recommendation by FSCA Senior Specialist: ICT Security and Risk, Mr Stanley Langa, go to:
https://www.microsoft.com/en-za/security/business/zero-trust

Title: One Innovation Flew over the Law's Head: The Intersection of Artificial Intelligence and Copyright

Context: In this article, researchers Razeen Khan and Ngonidzaishe Gotora analyse South African copyright laws with reference to artificial intelligence (AI). It deals specifically with the authorship of copyrightable works as contained in the Copyright Act 98 of 1978 and seeks to provide insight into the existing jurisprudence surrounding AI and copyright in the South African context. To read this recommendation by FSCA's Communications Manager Festus Masekwameng, go to
https://journals.co.za/doi/10.47348/SAIPLJ/v11/a4

Title: Over R35 billion withdrawn from pension funds in just under 3 months

Context: On 18 November 2024, SARS confirmed that over R35 billion worth of savings withdrawals had been made since the two-pot system came into effect on 1 September 2024. It is reported that the R78 billion figure in savings withdrawals projected for the first year of the two-pot system is likely to be accurate. This story was recommended by FSCA's Tando Mbono - Fund Governance and Trustee Conduct Department.
Full article: https://www.moneyweb.co.za/news/south-africa/over-r49-5bn-in-two-pot-withdrawals-says-the-taxman

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Financial Sector
Conduct Authority