

# **STATUTORY MANAGER REPORT**

To : Mr Andy Raphahlela  
Manager: Insurers & Retirement Fund Benefit Administrators Supervision  
FSCA

From : Krishen Sukdev  
Statutory Manager  
N-e-FG Administrators (Pty) Ltd

Date : 30 June 2023

Re : Update on N-e-FG Matters

Dear Mr Raphahlela

Please find below an update of matters at N-e-FG.

## **1. Recap of Previous Statutory Manager Reports :**

- a) About R344,74m was invested in various N-e-FG Funds and the value with interest as at 31 July 2022 was R470,00m;
- b) It has emerged that Assets were invested outside their mandates and that members were continuously misled on the value and whereabouts of their investments;
- c) A moratorium was placed on all benefit payouts.
- d) There is currently an analysis of the cash flows being undertaken to understand when and where the monies were invested and by whom; and
- e) There are delays in giving effect to the FSCA Directives of February 2023; particularly with changing signatories on the Bank Accounts.

## **2. Current Actions**

Current actions focus on the following main areas:

- a) Compliance with FSCA Directives;
- b) Co-ordinating the Recovery Process with the Section 26 Trustees; and
- c) Holding those responsible to account for their actions.

In respect of the Compliance with FSCA directives, the areas of concern are the changing of signatories on the Bank Accounts and the gaining of access to the member records. Efforts to change signatories are ongoing including several visits to the Banks. Some Bank records were obtained in the interim. Some member records were obtained and are being analysed.

The Recovery Process is ongoing. The Insurance Broker has been notified of a pending claim. There have also been discussions with a third party in this respect. Importantly the value of the loss needs to be confirmed. This will happen once the analysis of the cash flows is complete so that the quantum of the losses can become part of any claim.

We also await the results of the Analysis of the Cash Flows to give direction on the way forward in terms of holding those responsible for the losses to account.

## **3. Stakeholder Communication**

A Stakeholder Communication was issued effective 31 May 2023. There have been responses to numerous queries as well. I am co-ordinating communication with the Section 26 Trustees and the following communication will go out to stakeholders by 31 July 2023.

## **4. Future of EB Administration Entity and Retirement Funds**

The Administration Entity has liquidity constraints and faces a potential loss of business. The FSCA has issued an intention to withdraw the 13B Administration Licence of Phahamisa Administrators (Pty) Ltd and stakeholders were provided with an opportunity to provide comments. We await the decision of the FSCA on this matter.

## **5. Pension Fund Adjudicator Decisions**

The Pension Fund Adjudicator (PFA) continues to make findings against the Retirement Funds associated with Phahamisa Administrators (Pty) Ltd. We have communicated regularly with the Office of the PFA

## **6. Next Steps**

The next steps will be focussed on:

- a) Continue to make efforts to access the bank records;
- b) Continue with the recovery process;
- c) Analyse member records obtained;
- d) Keep members updated; and
- e) Hold those responsible for the losses to account, taking direction from the analysis of the cash flows of the entities.

Kind Regards

Krishen Sukdev

Cc Mr John Mackay  
Mr MakgOMPI Raphasha

## ANNEXURE ONE – UPDATE ON COMPLIANCE WITH FSCA DIRECTIVES

### 2.1. Directorship

**Mr McDonald has resigned as a director of Phahamisa Administrators (Pty) Ltd as well as a staff member. Mr McDonald is thus no longer involved Phahamisa Administrators (Pty) Ltd.**

2.2. All managerial and administration functions in Phahamisa Administration in relation to the business being carried out by the company under its approval as benefit administrator under Section 13B of the Pension Funds Act No 24 of 1956 (PF Act) (i.e. administering the collection of contributions and the disposition of benefits on behalf of various retirement Funds)

**Mr McDonald is no longer a staff member of Phahamisa Administrators (Pty) Ltd.**

2.3. any function that allows Mr McDonald access to the Bank Accounts used to receive / pay/ administer contributions of retirement funds

**The Bank Accounts are only assessed by Internet Banking. No devices are utilised. I had requested the passwords to access the Accounts on a temporary basis whilst the signatories were being transferred – this was not provided. Mr McDonald has provided assurance in writing that he is not utilising the banks accounts subsequent to the FSCA Directive. This will be tested once I am a signatory on the accounts.**

2.4. any function that allows Mr McDonald access to the administration system used by Phahamisa Administrators to administer the collection of contributions and the disposition of benefits on behalf of retirement Funds.

**Mr McDonald has no access to the Administration system.**

### 3. Phahamisa Administrators is further directed to:

3.1. Take such steps as are necessary to cause that the control (Power to access and transact) of all bank accounts of Phahamisa Administrators and retirement funds being administered by Phahamisa Administrators are vested with the Statutory Manager (Mr Krishen Sukdev) and Business Rescue Practitioner (Mr Adriaan Prakke) of Phahamisa Administrators;

**This is in process as the necessary requests have been made to ABSA and Nedbank. There have been continuous delays in transferring the signing powers. I am liaising with the authorities and Section 26 Trustees to explore other options to give effect to the FSB Directive.**

3.2. Ensure that payments of Phahamisa Administrators and retirement funds being administered by Phahamisa Administrators require approve from both the Statutory Manager and Business Rescue Practitioners

**This is in process as the necessary requests have been made to ABSA and Nedbank. Please see 3.1 above.**

3.3. Conduct a full reconciliation of all contributions received and the disposition of benefits of various retirement funds from at least the date of appointment of the Business Rescue Practitioner. This must be provided to the FSCA by 1 March 2023.

**The records were previously not available to carry out a reconciliation. This was due to non-payment of fees to Service Providers. We have recently gained access to the records and will commence the process of analysing the records.**

4. Mr McDonald is directed to:

4.1. immediately, upon receipt of this Notice and Directives, cease to make payments from all bank accounts of Phahamisa Administrators and retirement funds being administered by Phahamisa Administrators;

**Mr McDonald has confirmed in writing that he has not made any payments since 7 February 2023. We shall test this once I have access to the Bank Records.**

4.2. return all property belonging to Phahamisa Administrators and means of access (eg Bank Tokens and Certificates issued by Banks), to all bank accounts of Phahamisa Administrators and Pension Funds being administered by Phahamisa Administrators. This must be handed to the Statutory Manager of Phahamisa immediately upon receipt on this Notice and Directive.

**Mr McDonald has advised in writing that he is not utilising the current bank accounts. The access to Bank Accounts is purely web based and does not require any tokens or certificates. There have been substantial delays in giving effect to the Directives.**

4.3. take such steps that are necessary to cause that the control (power to access and transact) of all controls of Phahamisa Administrators and retirement funds being administered by Phahamisa Administrators are transferred to the Statutory Manager and Business Rescue Practitioner of Phahamisa Administrators

**There have been delays in giving effect to the FSCA directives in so far as changing bank signatures. See 3.1 above.**

4.4. allow the Statutory Manager full access to the Accounting records, financial statements and other information including reports by the Business Rescue Practitioner, relating to the affairs of the Financial Institution

**We have gained access to some of the member records and I will be working with the Section 26 Trustees to analyse these records.**

4.5. refrain from accessing all records of Phahamisa Administrators and return all means to do so to the Statutory Manager immediately upon receipt of this Notice and Directive.

**Mr McDonald cannot access any records and is no longer a staff member.**