

FSCA COMMUNICATION 6 OF 2019 (PFA)

Draft Interpretation Ruling: Interpretation of Section 37C of the Pension Funds Act, Act 24 of 1956

1. PURPOSE

The purpose of this Communication is to inform stakeholders that the Financial Sector Conduct Authority (FSCA) has published, in terms of section 142(7) of the Financial Sector Regulation Act, 2017 (Act No. 9 of 2017) (“FSR Act”), a draft Interpretation Ruling on the interpretation of section 37C of the Pension Funds Act, 1956 (Act No. 24 of 1956) (“PF Act”) for public comment.

2. BACKGROUND

- 2.1. Subsequent to the publication of PFA Guidance Notice 8 of 2018 (Guidance Notice), the FSCA received various enquiries pertaining to the application of section 37C of the PF Act to paid-up members. This was prompted by a provision contained in clause 4.6(e) of the Guidance Notice that was seen as being inconsistent with the content of Information Circular, PF No. 2 of 2010 that was published by the then Registrar of Pension Funds on 8 March 2010.
- 2.2. As a result, the FSCA is intending to issue, under section 142(1) of the FSR Act, an Interpretation Ruling on the interpretation of section 37C of the PF Act in order to provide legal certainty and to ensure consistent interpretation and application of section 37C of the Act.
- 2.3. Before issuing the Interpretation Ruling, the Authority is releasing a draft Interpretation Ruling for public comment as required in terms of section 142(7) of the FSR Act.
- 2.4. This Communication as well as the draft interpretational ruling¹ is available on the FSCA’s website at <https://www.fsca.co.za>. Interested parties are invited to make written submissions on the draft Interpretation Ruling, using the comments template available on the FSCA’s website, on or before **13 December 2019** at FSCA.RFDSection37C@fsca.co.za.

3. ENQUIRIES

For further information regarding this Communication and the contents of the interpretation ruling please contact the FSCA by emailing Roslynne Van Wyk at roslynne.vanwyk@fsca.co.za.

¹ “Notice regarding the publication of the draft Interpretation Ruling * of 2019 (PFA) - Application of section 37C of the Pension Funds Act.”.