Section 13A and Regulation 33

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SECTION 13A: PAYMENT OF CONTRIBUTIONS AND CERTAIN BENEFITS TO PENSION FUNDS
(1) The employer or member of the fund shall pay the following to the fund *in full*:
   (a) any contribution which in terms of the rules is to be deducted from member’s salary;
   (b) any contribution for which the employer is liable in terms of the rules.

(2) The employer must submit minimum information (contribution schedules) to the fund together with the contributions or not later than 15 days after the end of the month.
(3) Any contribution to a fund shall be transmitted directly into the fund’s account with a bank, not later than seven days after the end of the month.

(4) An amendment to the rules relating to the reduction of contributions or the suspension or discontinuation of the payment of contributions does not affect any contribution which became payable at any time before the date of the resolution whereby the amendment was effected, irrespective of the date on which the amendment may take effect.
(6) For the purpose of monitoring and ensuring compliance, the principal officer or any authorised person shall submit reports to the categories of persons who have an interest in such compliance.

(7) In a case where contributions are not transmitted to a fund’s bank account by the 7th of the month, then interest will be levied calculated from the 1st of the month.
The following persons shall be personally liable for compliance and payment of any contributions:

(a) if the employer is a company, every director who is regularly involved in the management of the company’s overall financial affairs;

(b) if the employer is a close corporation, every member who is regularly involved in the management of the company’s overall financial affairs;

(c) in any other employer, every person in accordance with whose directions or instructions the governing body or structure of the employer acts or who controls or who is regularly involved in the management of the employer’s overall financial affairs.
(9) A fund must request the employer in writing to notify it of the identity of any person who personally liable in terms of subsection (8). If the employer fails to comply with this provision, all the directors, members persons comprising the governing body of the employer, shall be personally liable.

(10) A board must report any non-compliance with s13A.
REGULATION 33: REQUIREMENTS IN TERMS OF SECTION 13A OF THE ACT
(1) The minimum information to be furnished by employers with regard to schedules include: name and registration number of fund; contribution period; name and address or pay-point of the employer; responsible person to contact at the employer; identification details of the member; date of membership; percentage or amount of contributions; split between member and employer; additional voluntary contributions.
(2)(c) The person responsible for checking the receipt of electronic transfers or receiving contributions into the fund’s bank account shall report:

(i) not later than 15 days after the period set out in section 13A(2)(b) to the principal officer or authorised/monitoring person

(aa) whether any of the matters previously reported on were not resolved;

(bb) if the schedules were not submitted within 15 days.
(cc) where the contributions and the schedules cannot be reconciled with each other, other than where a discrepancy is less than 2,5\% of the total contribution payable for the relevant period, in which event such discrepancy shall be deemed not to constitute a contravention of this regulation.

(ii) within 15 days after the period set out in section 13A(3)(a) to the monitoring person if the contributions have not been received as provided in the above section. However, a 2.5\% discrepancy shall not be regarded as a failure to pay contributions for the purposes of this regulation.
(3) The monitoring person shall report in writing the failure to submit the schedules and pay the contributions in time to the board within 7 days after receipt of the report referred to in subregulation (2) above.
The board of the fund may, for reasons acceptable to it other than the failure to pay contributions in terms of section 13A(3)(a) of the Act, delay any action until the report of the following month has been received: Provided that where no acceptable reasons were furnished or there was a failure to pay contributions in terms of section 13A(3)(a), the board shall ensure that –

(a) the monitoring person brings the infringement to the attention of the members of the fund in respect of whom the contributions are payable; and

(b) the Authority is advised of the action taken
If any failure to transmit contributions continues for 90 days the monitoring person shall report the matter in detail within 14 days of the expiration of such 90 days period to the Attorney General and inform the Authority accordingly.

The Authority may, at his discretion, inform the Commissioner for South African Revenue Services of any failure to comply with section 13A of the Act for whatever action the Commissioner for South African Revenue Services deems necessary to take against the participating employers and/or the board of the fund.
SECTION 37: PENALTIES
(1) Any person who contravenes or fails to comply with section 13A is guilty of an offence and liable on conviction to a fine not exceeding R10 million or to imprisonment for a period not exceeding 10 years, or to both such fine and such imprisonment.

(2) The Authority may impose an administrative penalty against a pension fund, administrator or third party where they fail to submit any document or information required to be submitted in terms of the PFA. The penalty may not exceed R1 000 or such other amount prescribed by the Authority for every day during which the failure continues.
SUMMARY OF ROLE PLAYERS AND THEIR DUTIES
<table>
<thead>
<tr>
<th>Role players</th>
<th>Duties</th>
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<tbody>
<tr>
<td>Employers</td>
<td>pay member contribution to the fund by the 7th; submit schedules by the 15th</td>
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<tr>
<td>Board of Trustees</td>
<td>inform members about non-compliance of employer and report to FSCA on actions taken</td>
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<tr>
<td>Monitoring Person</td>
<td>report to board within 22 days; report to the SAPS, NPA and FSCA within 14 days after lapse of 90 days</td>
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<tr>
<td>Administrator</td>
<td>report to monitoring person within 15 days of non-compliance</td>
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<tr>
<td>FSCA</td>
<td>may report to SARS</td>
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<tr>
<td>Members</td>
<td>pay contributions</td>
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<tr>
<td>NPA and SAPS</td>
<td>investigate and prosecute</td>
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CHALLENGES AND OBSERVATIONS
• Reporting by boards
• Administrative lapses
• Communication to members
• Legislation
• Rules
OPPORTUNITIES
FSCA Intervention

- Meeting with SAPS and Hawks
- Training
- Issuing guidance

Funds

- Communication and training of participating employers
- Comply with rules
THANK YOU