

RF Talks



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Foreword



Welcome to this quarter's edition of RF Talks. In this issue, we focus on key regulatory developments and important insights shaping the retirement funds industry.

We begin with a comprehensive review of the readiness of the industry for the Two-Pot System, providing a detailed assessment of the progress made since its implementation. This is followed by updates on the necessary rule amendments and fees associated with the Two-Component System, offering critical guidance for trustees and administrators.

Next, we turn to highlights from two major industry events: the BATSETA Winter Conference and the 5th APSA Annual Conference, both of which explored important trends such as ESG practices and the evolution of Africa's pension systems. These discussions offer valuable perspectives on the future of retirement funds.

As we progress through the year, we remind funds of the importance of timely compliance with financial submissions, covered in an article on the submission of annual financial statements. Finally, we conclude with a legal update on a recent court case that has significant implications for the retirement industry.

We trust that this edition provides you with the insights and updates you need to stay informed and compliant in these ever-evolving times. As always, we welcome your feedback and look forward to continuing to serve you. Please feel free to reach out to us with your comments or questions by e-mail to sanchia.petrie@fsca.co.za.

Sincerely,

Astrid Ludin

Deputy Commissioner

Two-Pot System – FSCA Industry Readiness Assessment

By: Andy Raphahlela (Retirement Funds Conduct Supervision)



With the pronouncement that the Two-Pot legislation will finally take effect on 1 September 2024, the Financial Sector Conduct Authority (“FSCA”) found it prudent to embark on an exercise to determine the retirement funds industry’s readiness for the implementation of the new legislation.

Consequently, the past quarter became a busy one for the FSCA as it was for the industry, and the Retirement Funds Conduct Supervision Team launched a campaign to meet administrators and self-

administered funds to enquire on their readiness and preparedness for implementing the Two-Pot System.

At the same time, a survey was conducted where benefit administrators and self-administered funds were requested to answer structured questions so as to enable the FSCA to pick up on issues of concern and to gain an understanding of the industry’s readiness. The survey was conducted between 1 May 2024 and 20 June 2024. The questions covered the respondents’ Two-Pot awareness and training, member communication, systems and process readiness, resource allocation and operational readiness, as well as any notable challenges or concerns retirement funds or benefit administrators may have.

From these exercises, it was established that about 67 administrators out of 114 active administrators were likely to be impacted by the Two-Pot as they administer active members who are likely to claim. Furthermore, 11 self-administered funds out of a total of 17 were also likely to be impacted as they too indicated that they had active and eligible members for Two-Pot claims.

A number of findings were made from the assessment and the FSCA is grateful to the retirement funds industry for affording it the time and cooperation in making the assessment a success.

Below is a summary of the *Key Findings* from the assessment:

Key Findings 13B Benefit Administrators	Key Findings Self-Administered Funds
<p>(1) Two-Pot Awareness and Training</p> <p>All administrators were aware of the Two-Pot system and many have conducted extensive internal discussions and workshops since 2023, when Two-Pot was first expected to take effect.</p> <p>Furthermore, 85% of administrators were found to have informed their staff about the Two-Pot System and had initiated or planned training on the new legislation. The other 15% had already informed their staff about the new legislation, but training had not yet taken place and was either currently underway or scheduled to begin in the following month.</p> <p>It was also established that 98% of administrators had ensured that the boards of all funds under their administration were aware of the Two Pot System. Training had been provided to 54% of boards, with more sessions planned.</p>	<p>(1) Two-Pot Awareness and Training</p> <p>All self-administered funds indicated awareness of the Two-Pot System, demonstrating a comprehensive understanding of the legislation that is to come among trustees.</p> <p>While 82% of the funds had informed and trained their staff on the new legislation, 18% were either unsure about whether staff were trained or had not yet conducted training.</p> <p>It was also established that 82% of the funds' trustees had received training on the Two-Pot System, whilst 18% indicated that they were either unsure about whether training was conducted or had not yet conducted training.</p>
<p>(2) System and Process Readiness</p> <p>System Changes: 67% of administrators had updated or were finalising updates on their systems to accommodate the Two-Pot System. This included system developments, testing, and implementing new functionalities. 33% of administrators were actively working towards updating their systems but had not yet completed the necessary adjustments for compliance with the Two-Pot legislation.</p> <p>Claims Processes: 44% of administrators had already updated their claims processes and forms. The remaining 56%</p>	<p>(2) System and Process Readiness</p> <p>System Changes: 45% of self-administered funds had updated or were in the process of finalising updates on their systems to accommodate the Two-Pot System and this included system enhancements, configurations, and testing. On the other hand, 55% of the funds had not yet updated their systems for the Two-Pot System.</p> <p>Claims Processes: 27% of the funds had completed or were finalising updates to their claims processes and forms, while 73% indicated that updates were still in progress.</p>

<p>were in various stages of development and testing, aiming for completion by the implementation date.</p>	
<p>(3) Communication and Member Awareness</p>	<p>(3) Communication and Member Awareness</p>
<p>73% of administrators indicated that members were made aware of the Two-Pot System through various methods, including newsletters, webinars, and direct communication. 27% indicated that member communication was planned and scheduled to begin in the next month (July 2024).</p>	<p>All funds were satisfied that their members were aware of the Two-Pot System through various communication methods, such as newsletters, pamphlets, and roadshows.</p>
<p>(4) Resource Allocation and Preparedness</p>	<p>(4) Resource Allocation and Preparedness</p>
<p>Adequate Resources: 76% of administrators considered themselves adequately prepared for the implementation of the Two-Pot System. They have taken steps such as system development, resource allocation, and process updates.</p>	<p>Adequate Resources: 82% of the funds considered themselves adequately resourced for the implementation of Two-Pot and were prepared to handle the anticipated claim volumes. Measures taken included (or will include) hiring additional staff, automating claim processes, and ensuring skilled staff. However, 18% of funds indicated a 'Maybe' to being adequately resourced.</p>
<p>Handling of Claims: 67% of administrators are confident in managing the anticipated claim volumes, implementing automated processes, and recruiting additional staff as needed. While 33% are assessing their capacity and making the necessary adjustments and provisions in order to manage the anticipated claims.</p>	<p>Handling of Claims: 82% of the funds have a backup plan in place to manage large volumes of claims, including dedicated teams, temporary staff, and additional resources. While 18% of funds do not have a backup plan in place to manage large volumes of claims.</p>

<p>Fraud Prevention: 94% of administrators indicated that they would have additional measures in place to prevent and limit fraudulent claims, including in some cases, identity validations, two-factor authentication, audit trails, claim vetting, and banking detail verifications. There would also be personnel appointed to manage and flag suspicious claims. 6% of administrators indicated that their current processes were sufficient to prevent fraudulent Two-Pot claims.</p>	<p>Fraud Prevention: All self-administered funds indicated that they had measures in place to prevent and limit fraudulent claims. Some indicated that they will also have identity validations, two-factor authentications, audit trails, claim vetting processes, and banking detail verifications. As with 13B administrators, certain staff would also manage and flag suspicious claims.</p>
<p>(5) Additional Considerations</p>	<p>(5) Additional Considerations</p>
<p>Complaints Handling: 94% of administrators indicated that they were prepared to handle complaints, queries, and escalations arising from delays or dissatisfactions with Two-Pot payments. 6% of administrators answered with a “No” or a “Maybe” indicating that they were not yet ready to handle the increased volume of complaints relating to Two-Pot payments.</p>	<p>Complaints Handling: 91% of the funds were prepared to handle complaints, queries, and escalations arising from delays or dissatisfaction with Two-Pot payments, while 9% of funds indicated a ‘Maybe’.</p>
<p>Tax Directives: 72% of administrators have plans in place to handle/process tax directives for Two-Pot Benefit Payments, ensuring compliance with SARS guidelines when issued. 11% of administrators indicated a ‘Maybe’ and a further 17% indicated that they did not have processing plans in place to handle tax directives for Two-Pot Payments.</p>	<p>Tax Directives: 91% of the funds have plans in place to handle the process of tax directives for Two-Pot Benefit Payments, ensuring compliance with SARS guidelines when issued. While 9% of funds indicated a ‘Maybe’.</p>
<p>Benefit Counselling: 84% of administrators will provide benefit counseling services to their members. In contrast, 13% have indicated that they will not offer these services, while 3%</p>	<p>Benefit Counselling: 78% of the funds will offer benefit counselling services to members, although some will exclude financial advice, while 22% of funds will not offer benefit counselling services to members.</p>

remain uncertain, responding with a 'Maybe.'

The following were notable challenges or concerns applicable to privately administered and self-administered fund, respectively:

13B Benefit Administrators	Self-Administered Funds
<p>(1) Legislative considerations: The readiness of some administrators was contingent on the finalisation of relevant legislation and regulatory clarifications.</p> <p>Many rule amendments were also in draft format awaiting submission to the FSCA.</p>	<p>(1) Rule Amendments Submission: 82% of the self-administered funds had not yet submitted rule amendments for approval in respect of the Two-Pot System.</p>
<p>(2) Training Gaps: About 15% of administrators had not yet commenced comprehensive staff training, highlighting a potential area for improvement.</p>	<p>(2) Administrative Systems Readiness: 55% of the funds surveyed indicated that their systems had not yet been updated to allow for the administration of the Two-Pot System.</p>
<p>(3) Technical and Operational Issues: Ongoing system developments and testing phases present challenges, with dependence on external service providers and legislative finalisations (for example guidance from SARS on tax issues).</p>	<p>(3) Levying of fees for Two-Pot payments: Approximately 70% of self-administered funds are likely to charge transaction fees for Two-Pot related payments. The FSCA and trustees should monitor that these are not exorbitant as that might lead to poor member outcomes.</p>
<p>(4) Levying of fees for Two-Pot payments: Approximately 60% of 13B Administrators are likely to charge transaction fees for Two-Pot related payments. The FSCA and trustees should monitor that these are not exorbitant as that might lead to poor outcomes for members.</p>	

Overall, the findings above highlight a proactive approach by most administrators and self-administered funds in preparing for the Two-Pot System. While this is encouraging as significant progress has been made, ongoing efforts are still required to address remaining challenges to ensure a seamless transition to the new regulatory framework.

The FSCA will continue to monitor the funds' and administrators' Two-Pot implementation efforts and specifically staff training and member communication efforts. The FSCA will also monitor the timeous implementation of system updates and the submission of rule amendments. Furthermore, the levying of transaction fees for Two-Pot payments will be carefully monitored to ensure that this does not lead to poor member outcomes where exorbitant amounts are levied on members. Trustees will also need to consider these charges carefully.

A short second-round follow-up questionnaire was issued to industry on 21 August 2024 as a means to monitor the implementation of some of the recommendations noted above and to check how administrators and funds are performing against their own implementation plans. The responses are being analysed and key findings will be published in due course.

Submission of Two-Component System Rule Amendments

By: Sanchia Petrie (Fund Governance and Trustee Conduct)

The Financial Sector Conduct Authority (FSCA) has issued an important update for the retirement funds industry through Communication 32 of 2024 (RF), published on 3 September 2024. This communication provides a detailed overview of the progress in submitting and processing rule amendments related to the recently implemented Two-Component System. The Two-Component System, which allows retirement fund members to access a portion of their retirement savings while preserving the rest, requires specific rule amendments to be registered with the FSCA before funds can give effect to the new System.

Background

The process of submitting rule amendments for the Two-Component System began earlier this year. In February 2024, the FSCA issued Communication 3 of 2024 (RF), outlining the initial requirements for funds to follow. This was followed by Communication 16 of 2024 (RF) in April 2024, which introduced updated submission guidelines based on ongoing engagements with industry stakeholders. At that time, the FSCA set a submission period from 2 May 2024 to 15 July 2024, providing sufficient time for retirement funds to prepare and submit their rule amendments.

However, due to a low number of submissions by the initial deadline, the FSCA extended the submission period through Communication 24 of 2024 (RF), allowing funds until 31 July 2024 to submit their rule amendments. Funds that missed this deadline were advised that their submissions would be processed only after the first batch had been completed, in line with standard Service Level Commitment timelines.

Progress on rule amendments

As of 3 September 2024, the FSCA has received a total of 846 applications for rule amendments specifically aimed at implementing the Two-Component System. Of these:

- 748 rule amendments have been registered, accounting for approximately 88% of the total submissions.
- 89 applications are pending due to queries raised by the FSCA. These queries need to be addressed by the relevant funds before the amendments can be registered.

- 9 new submissions were received after 24 August 2024, due to delays such as late payments. These are currently being processed.

The FSCA is working diligently to resolve all outstanding matters and responses to the queries raised by the FSCA are currently under review.

Addressing non-compliance

Some retirement funds did not fully comply with the requirements laid out in Communication 16 of 2024 (RF), resulting in inaccuracies in their rule amendment submissions. The FSCA has raised queries with these funds and has provided specific deadlines for them to respond. Failure to address these issues may delay the registration of their amendments.

Communication with fund members

For retirement funds whose rule amendments have not yet been registered, it is crucial that they communicate with their members immediately. Members must be informed of the reasons why the rule amendments have not yet been processed and registered, and they should be made aware that the Two-Component System cannot be implemented until the necessary amendments are approved by the FSCA.

What's next?

Attached to FSCA Communication 32 of 2024 (RF) is Annexure A, which lists the names of the funds whose rule amendments have been successfully registered. This annexure will allow stakeholders to verify which funds are fully compliant and ready to implement the Two-Component System.

Retirement funds that have not yet had their rule amendments registered are encouraged to address any outstanding queries and comply with the FSCA's requirements as soon as possible. Timely communication with fund members is also critical to ensure transparency and maintain trust during this transition period.

For more information on the status of specific rule amendment submissions, funds can refer to Annexure A or contact the FSCA directly. The FSCA remains committed to ensuring that the retirement funds industry successfully transitions to the Two-Component System while protecting the interests of members.

FSCA Requests Critical Information on Two-Component

By: Sanchia Petrie (Fund Governance and Trustee Conduct)

The Financial Sector Conduct Authority (FSCA) issued Communication 33 of 2024 (RF) on 13 September 2024 to the retirement funds industry. This communication is aimed at gathering vital information on administration fees associated with the newly implemented Two-Component System for retirement funds. Alongside the communication, the FSCA published Information Request 2 of 2024 (RF), providing specific details about what is required from administrators and self-administered funds.

A new era for retirement funds

The introduction of the Two-Component System marks a significant shift in how retirement funds in South Africa are managed. The system, which came into effect on 1 September 2024, is enabled by the Pension Funds Amendment Act 31 of 2024 and the Revenue Laws Amendment Act 12 of 2024. This new legal framework allows retirement fund members to access a portion of their retirement savings while preserving the remainder for retirement.

The change is designed to offer flexibility to members, but with that comes the need for proper management of fees to ensure that members are not unfairly charged when accessing their savings. Boards of retirement funds now have a heightened responsibility to ensure that all fees related to withdrawals from the savings component are reasonable and justified.

Why the Information Request?

The FSCA has a clear goal with Information Request 2 of 2024 (RF) — to obtain a comprehensive understanding of the administrative costs tied to the Two-Component System. The information gathered will assist in ensuring that members are not burdened with excessive fees when accessing their savings, as well as transparency and fairness in how the system is being administered.

Retirement funds are expected to answer several important questions regarding the costs involved. These include setup costs, ongoing administration costs and any additional fees that will be charged to members who elect to withdraw from their savings component. The FSCA intends to use this information to compile a report, which will be made publicly available once the findings are complete.

What information is required?

Administrators and self-administered funds must complete a detailed questionnaire, which covers several key areas, including:

1. **Setup and implementation costs:** Administrators are requested to provide estimates of the costs incurred in adapting their systems to manage the Two-Component System, training staff, setting up call centers, and drafting and sending member communication. These setup costs are crucial to understand as they will impact how fees are structured going forward.
2. **Fee structure and recoupmnt:** The FSCA wants to ascertain how administrators plan to recover these costs and whether such costs will be absorbed by the business or passed on to members.
3. **Ongoing administration fees:** The FSCA is seeking clarity on the ongoing costs of maintaining the System. This includes keeping accurate records aligned with the Two-Component System and determining how these costs will be managed.
4. **Withdrawal fees:** Specific attention is being paid to any fees that may be charged when a member withdraws from their savings component. Administrators must disclose whether there are flat fees, sliding scale fees, or other transactional costs associated with these withdrawals. Transparency in this regard is key to protecting members' interests.
5. **Consistency and fairness:** The FSCA is also requesting administrators to confirm whether fees will be applied consistently across all funds, or if there is room for negotiation. Additionally, there is a focus on whether smaller withdrawals will be subject to reduced fees to ensure fairness, particularly for low-income members.

The importance of compliance

The deadline for submitting the requested information is 30 September 2024. Administrators and self-administered funds that fail to comply with this request risk facing penalties. Non-compliance could lead to fines of up to R10 million or imprisonment for up to 10 years. Additionally, administrators may be fined an amount of R1000 for each day they fail to provide the required information.

Given the serious nature of this request, the FSCA urges all administrators to prioritise the completion and submission of the questionnaire. The information gathered will not only ensure compliance but also contribute to a more transparent and fair retirement system for all members.

Late and Non-Submission of Annual Financial Statements

By: Kgama Kgaka (Retirement Funds Prudential Supervision)

Why is it so important for retirement funds to plan ahead and maintain accurate monthly management accounts in order to submit their annual financial statements (“AFS”) the Financial Sector Conduct Authority (“FSCA”) on time?

In terms of section 15(1) of the Pension Funds Act, 1956, every registered fund shall, within 6 months as from the expiration of every financial year, furnish to the FSCA such statements in regard to its revenue, expenditure and financial position as may be prescribed, duly audited and reported on by the auditor of the fund.

However, the FSCA has received a number of extension applications relating to submission of the 2023 AFS and some of the reasons provided by funds for seeking extension to submit the AFS include the following:

- More time required for auditors to perform audit procedures relating to the revised Schedule IB as per FSCA Communication 19 of 2023.
- Auditors awaiting finalisation of FSCA RF Notice 26 of 2023, which granted exemption from infrastructure reporting on the Report of independent auditors on compliance with Regulation 28 (Schedule IB1) for large funds.
- Auditors were not booked on time and/or engagement letters were not signed on time. In some instances, the auditors were booked on time but there was lack of audit resources.
- Departure of key finance staff members that were responsible for the preparation of AFS and new staff members requiring more time to accurately prepare the AFS.
- Board of the fund not being properly constituted, and the fund having to apply to the FSCA for the appointment of section 26(2) trustees.

- Delays in obtaining investment information required from the investment managers to finalise audits.

The FSCA has generally granted extension applications in relation to the submission of AFS, however, it is 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 AFS from the due date should be reduced from 6 months to 4 months. The objective is for the FSCA to access the information reported in the AFS as soon as possible. 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 AFS 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 AFS. Non-responsiveness to penalty notification letters is seen in a serious light. It is therefore important for the FSCA to be aware of situations where funds are terminating or where they experience difficulties as non-responsiveness may lead to penalties being imposed. 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 as funds are afforded sufficient time to submit AFS.

As part of good governance, funds should plan ahead by annually revising their section 13B administration agreements and service level agreements when it comes to the preparation of the AFS, audit engagements with auditors and providing sufficient time for the board to review and sign-off on the AFS.

Timely submission of statutory returns is not only in the best interests of the fund, but also its members and other stakeholders of the fund as it allows the FSCA to intervene swiftly and proactively with the board to resolve concerns and ensure better protection of fund assets. Financial oversight of retirement funds is key in ensuring the sustainability of funds and that funds meet their obligations to members and beneficiaries when they arise. Through strategic investments in the various sectors of the South African economy, retirement funds continue to make a valuable contribution to the economy and society.

Good governance and oversight by boards over the financial function of retirement funds is crucial. Boards must ensure that they plan ahead and that funds maintain accurate monthly management accounts in order to submit their AFS to the FSCA on time. Better still, in the event of a penalty being imposed, forward planning ensures that the penalty is recovered from the "culprits" by the fund. For this, annual review of agreements and engagements is necessary based on performance criteria.

Batseta Winter Conference 2024

By: Duduzile Nhlapo (Fund Governance and Trustee Conduct)



Batseta held its 10th annual Winter Conference at Sun City, in the North-West province from 29-31 July 2024. The theme of the Conference was “Cultivating Sustainability and Inclusion now” and the objective of the conference was to provide a platform for local and global experts and fiduciaries in the retirement industry to engage in conversation on how retirement funds can contribute to transition imperatives, climate goals, and social development aligning with principles of ESG practices, impact investing, and infrastructure investment which are imperative to the sector. Discussions were centered around reporting requirements, transformation, governance best practices, and the regulatory environment.

It was highlighted by the speakers that there is a need for transparency and accountability in sustainable finance and there were discussions on the necessity of fostering a holistic approach towards achieving long-term sustainability and inclusive growth. Various

speakers provided input on best practices, recommendations and lessons learnt regarding the above-mentioned points.

Over the course of three days, the conference featured numerous sessions which included breakaway sessions. Below is an overview of the topics that were discussed, and the views shared by presenters and commentators.

Investing for growth - combating systemic inequality & bridging social gaps

It was highlighted that the impact of infrastructure investment is a necessary condition for growth and that there is a need for more private sector investment in order to bridge inequality and social gaps, reliance cannot only be placed on government.

Five decades, five lessons, five decisions boards should consider for long term prosperity

It was mentioned that responsible investing is not obvious, and that it is important to know the trends that allow investors to make maximum profit; take cognisance of the markets that change every now and then and the importance of funds to be informed when making investments was emphasized.

Building financial confidence by addressing the 'pots' of misinformation

The compulsory preservation that will be created by the Two-Pot System as well as an opportunity for retirement savings to grow was noted. The importance of managing member expectation and avoiding misinformation with regards to the Two Pot system was alluded to by one of the presenters. The importance of members being educated about the Two-Pot System and the changes it will bring to retirement funds was one of the key points. It was mentioned that there must be ongoing engagements to empower members to make financially sound decisions and not to be impulsive so that they can retire comfortably.

In addressing Two-Pot readiness, it was emphasized that there has to be clear and accessible advice to the members of retirement funds, and the expectations of members who will not be able to withdraw from their savings pot as they do not meet the minimum threshold of R2 000 should be managed.

It was suggested that member communication must be simple and understandable. Since the internet is the main source of information, emphasis was put on the importance of ensuring that the information provided is correct so that members are not misinformed. It was recommended that members should be educated on what "marginal tax rate" refers to in order for them to make informed decisions regarding withdrawals from their savings pot, if they elect to withdraw.

The 5th APSA Annual Conference 2024

By: Sanchia Petrie (Fund Governance and Trustee Conduct)



In a remarkable demonstration of collaboration and commitment to strengthening Africa's pension systems, the Africa Pension Supervisors' Association (APSA), with support from Financial Sector Deepening (FSD) Africa and the Pensions and Insurance Authority (PIA) of Zambia, successfully co-hosted the 5th APSA Annual Conference at the Radisson Blu Mosi-Oa-Tunya in Livingstone, Zambia. The name of the venue, "Mosi-Oa-Tunya," translates to "The Smoke that Thunders," a fitting description for the nearby Victoria Falls, one of the Seven Natural Wonders of the World. Beyond its symbolic location, the venue also holds significance as a testament to pensioners' investments, illustrating how pension funds can contribute to the development of nations and create a lasting contribution to society.

The Financial Sector Conduct Authority (FSCA) of South Africa, which holds an executive position and chairs APSA, attended this year's conference held from 24-26 July 2024,

under the theme “Chronicling Africa’s Pension Journey Towards a Dignified Retirement”. The event provided a platform for key stakeholders across the continent to assess the progress made in building secure retirement systems while addressing persistent challenges. This resonates with APSA’s core mission to improve the pension landscape across Africa and create a collaborative environment where member nations can share knowledge, experiences, and strategies to drive meaningful reform.

The challenges facing Africa’s pension systems

Pension funds are an essential part of ensuring financial security in retirement. However, across Africa, the pension coverage is significantly low. Currently, only 19.8% of the African population is covered by some form of pension, compared to the global average of 77%. Meanwhile, the poverty rate in Africa stands at 37%. The factors contributing to these gaps are multifaceted: low pension participation rates, high unemployment, an overwhelmingly informal workforce (85%), low earnings, and inadequate pension education.

Addressing these issues is critical to avoid exacerbating poverty levels in retirement. The need to establish robust and sustainable pension systems across the continent has never been more urgent. African countries must work towards increasing coverage, ensuring more citizens—especially those in the informal sector—have access to pension savings that can support them in their later years.

At the heart of APSA’s strategy is the drive to improve trust in pension systems. One initiative discussed at the conference was the creation of a unified platform that would facilitate the collection and sharing of data among African pension regulators. By streamlining administrative processes and reducing costs, APSA seeks to address the lack of readily available data while simultaneously improving transparency and accountability.

APSA’s growth and milestones

Since its founding in 2019, APSA has continued to grow both in size and influence. In the past year alone, five new members have joined the association, bringing more diverse perspectives and strengthening APSA’s network. The association also celebrated a key milestone in January 2024 when it officially registered as a legal entity. This formalisation marks an important step in APSA’s journey toward securing dignified and sustainable retirement for all workers, regardless of their background.

Key highlights from the conference

1. The role of technology in pension supervision

One of the key topics at this year's conference was the transformative role of technology in enhancing pension supervision across the continent. Discussions centered around how digital tools are improving efficiency, risk management, and regulatory compliance within the sector. Presentations highlighted the benefits of technology in reducing reporting burdens, improving data accuracy and enabling better decision-making and risk mitigation.

However, challenges remain. Supervisory capacity—whether in terms of skills, budget, or resources—continues to be a concern. Additionally, technological advancements raise questions about job displacement, particularly in the context of artificial intelligence and automation. Cybersecurity also emerged as a major risk. Despite these concerns, leveraging technology is essential for the future of Africa's pension systems. Countries such as Ghana and Kenya have already made significant strides in adopting mobile apps for pension management, serving as examples of what can be achieved through innovation.

2. The role of ESG in Pension Fund Investment

Environmental, Social, and Governance (ESG) considerations are becoming increasingly important in pension fund investments, especially in the context of climate change. Africa, being particularly vulnerable to the effects of climate change, must adopt sustainable investment strategies to build long-term resilience. This involves integrating ESG principles into fund management and ensuring proper disclosure practices. At the conference, experts highlighted the opportunity to collaborate with organisations such as the Pan African Fund Managers Association (PAFMA) to manage assets sustainably. PAFMA is a membership association that brings together fund managers in Africa. It has 9 members from 16 countries overseeing assets under management (AUM) of \$122 billion in pensions and collective investment schemes (CIS).

Africa's youthful population, with a median age of 18.8 years, offers a unique opportunity to harness the power of long-term investments. However, this also presents challenges, as this young workforce requires education and employment opportunities to contribute meaningfully to pension systems. A collaborative approach to embracing ESG investing could help Africa tackle both environmental risks and the need for inclusive economic growth.

3. Expanding pension coverage to the informal sector through micro-pensions

With 85% of Africa's workforce employed in the informal sector, there is a critical need to extend pension coverage to these workers. Traditional pension schemes are ill-suited for this sector, as they often assume an employer-employee relationship. However, several African countries have pioneered micro-pension schemes that offer a viable solution. Kenya's Mbao Pension Plan (a mobile phone-based contributory pension plan for informal workers) and Rwanda's Ejo Heza (a government sponsored voluntary defined contribution scheme open to all citizens) are prime examples of how innovative models can provide informal workers with the tools to save for retirement.

During the conference, APSA announced a significant partnership with pinBox Solutions, a global leader in digital micro-pension inclusion. This partnership will see APSA and pinBox roll out a series of initiatives across Africa, including regional roundtables, country-level roadshows, and tailored retirement literacy toolkits for women and youth in the informal sector. These efforts aim to bring digital micro-pensions to the forefront of Africa's pension reform agenda, ensuring more workers have access to secure retirement savings.

4. Exploring alternative investment opportunities for pension funds

Another major theme was the potential of alternative investments, such as private equity and infrastructure, to diversify pension fund portfolios and enhance returns. Africa's infrastructure needs are immense, with a funding gap estimated at between \$68 billion and \$108 billion annually. Pension funds, particularly in Sub-Saharan Africa, have the opportunity to help close this gap by investing in infrastructure projects that provide steady returns and protect against inflation.

Infrastructure investments not only offer financial benefits but also contribute to economic development and job creation, making them a win-win for both pension funds and broader national interests.

5. Managing longevity Risk in an aging population

Africa's elderly population is growing rapidly, and with it, the need for sustainable pension systems that can support longer retirements. The conference discussed various strategies for mitigating longevity risk, such as asset-liability modeling and data-driven predictive analytics. Regulators also explored innovative financial products tailored to younger generations (Gen Z and Alpha) to help them build strong financial foundations for their extended lifespans.

The need to address post-retirement health costs was also emphasised. As more people live longer, the strain on healthcare services and retirement savings will increase, making it essential for African countries to develop policies that encourage lifelong income generation and provide adequate support for the aging population.

The road ahead: A unified approach to pension reform

The 5th APSA Annual Conference highlighted the urgent need for African nations to come together to solve the continent's pension challenges. By harnessing the power of technology, embracing ESG investing, expanding coverage through micro-pensions, and exploring alternative investments, African pension systems can evolve to meet the needs of both current and future generations.

APSA's role in this journey is critical. As it continues to grow and formalise its presence across the continent, APSA will play an increasingly important role in advocating for pension reform, supporting digital inclusion, and fostering collaboration among its member states. Africa's pension journey is far from complete, but with the right strategies and partnerships in place, the continent is well-positioned to ensure dignified retirement for all its citizens.

The Interpretation of Section 37C(1)(a)-(c) of the Pension Funds Act 24 of 1956

By: Duduzile Nhlapo (Fund Governance and Trustee Conduct)

The Pension Funds Act 24 of 1956 makes provision for the protection of dependants of pension fund members (the members). Section 37C of the Act places a duty on the board of the fund to trace the member's dependants within twelve months of it becoming aware of the death of the member, and pay the benefit to such dependants and or nominee. Furthermore, this section provides that in the event the fund does not become aware of or cannot trace any dependant within twelve months of the death of the member and if the member has not designated a nominee or if the member has designated a nominee to receive a portion of the benefit in writing to the fund, the benefit or the remaining portion of the benefit after payment to the designated nominee, shall be paid into the estate.

In the matter of the *South African Retirement Annuity Fund v Pension Funds Adjudicator* the question before court was the interpretation of the above stated section 37C, on whether the twelve months period starts to run upon the member's death or when the fund is made aware thereof. In this case, the interpretation of the section became relevant as the Fund became aware of the member's death, more than twelve months later. The South African Retirement Annuity Fund (Applicant) argued that it did not have an obligation, to trace the member's dependants and pay the death benefit to them as it became aware of the death of the member after the twelve months had elapsed. Accordingly, the board took a decision to pay the death benefit into the deceased member's estate.

The member's dependant and spouse (Ms Viljoen) was aggrieved by this decision and lodged a complaint to the Office of the Pension Fund Adjudicator (OPFA). The OPFA decided that the Applicant's duty to trace the dependants started at the time the Fund was made aware of the deceased member's death, not at the time of the member's actual date of death. The OPFA set aside the decision by the Fund to pay the death benefit into the deceased's estate and ordered the Fund to pay the death benefit to the deceased's beneficiaries.

The Applicant argued that OPFA's interpretation was against the literal interpretation of the statutory provision, therefore it appealed the decision of the OPFA. The court held that the decision made in the case of *Masindi v Chemical Industries National Provident Fund* provided a logical interpretation of the section 37C with regards to the twelve-month period running from the time the Fund became aware that the deceased had died. The

Court further found that any other interpretation would be absurd as it would be defeating the purpose and spirit of the Act, which is to protect the member's dependants and give them access to death benefits, without having to compete with other creditors who lay their claims against the deceased estate.

The court also considered section 12(3) of the Prescription Act 68 of 1969, which provides that prescription may not start running on the date the debt becomes due if the creditor is not aware of the facts that give rise to the debt. The court further held that the interpretation advanced by the Applicant goes against the purpose and the spirit of the Act. It was further held that the interpretation advanced by the Applicant not only defeated the purpose of the Legislature in enacting section 37C(1) of the Act; but it also failed in ensuring that the Fund carried out its mandate to trace the dependants and investigate their dependency on the deceased member.

The court upheld the determination of the OPFA as it was consistent with the purpose of the Act and ordered the Applicant to comply with the OPFA's order as within 60 days from the date of the order.



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