

RF

TALKS



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Foreword

The introduction of the Two-Pot system, effective from 1 September 2024, will herald in one of the most significant reforms that the South African retirement funds industry has seen to date. The successful transition to a new regime requires continuous engagement, co-operation, and, above all, communication between all stakeholders. It is against this backdrop, that the FSCA launches its inaugural newsletter for the retirement funds sector, RF Talks, to underscore our commitment to transparency, responsiveness and engagement.

The intention of the newsletter is to share relevant and topical information, as well as new local and international developments on the regulatory front with you.

In this edition, we talk about the much anticipated Two-Pot system, providing an update on recent developments, our expectations and information on what we have done to ensure that we support the industry transition. This includes, for example, that we are inviting industry to submit applications for rule amendments from 1 May 2024, so that everyone is ready for a 1 September 2024 start!

The newsletter also touches on the achievement of a key milestone for the FSCA and the retirement funds industry – the launch of the 22 modules of the new Trustee Toolkit. The first set of 11 modules were launched in September 2023 and the second set was launched on 28 March 2024. The completion of the Trustee Toolkit is mandatory and all trustees are expected to complete all 22 modules by the end of September 2024. The new newsletter provides an overview of the Toolkit.

Another topical issue covered in this edition is the employer arrear contributions, an area of major concern for the FSCA, as it can impact the sustainability of retirement funds and affects the benefits of members significantly. We have observed this in the complaints received by the Pension Funds Adjudicator.

Lastly, the newsletter covers other matters of interest, such as case law and legal interpretation issues, which have been controversial, such as penalty interest levied, as well as the feedback from our engagement with international regulators in fora such as the International Organisation of Pension Supervisors (IOPS) and the Africa Pension Supervisors' Association (APSA).

I hope that you enjoy our first edition and look forward on any feedback on issues that you would like to see covered by email to Sanchia.Petrie@fsca.co.za.

Astrid Ludin

Deputy Commissioner - FSCA



In duplum Rule

***By Duduzile Nhlapo and Tebogo Mamasonya
(Fund Governance and Trustee Conduct Department)***

Roman law, which later made its way to Roman-Dutch law, which is the basis of our common law, is where the common law in duplum rule originated. According to the in duplum rule, interest ceases to run when the total amount of arrear interest equals the outstanding principal debt.

Since 2020, due to the financial implications of Covid 19 on employers, most retirement funds have dealt with instances in which participating employers have neglected to pay employer or member contributions, or have paid them insufficiently, in violation of section 13A of the Pension Funds Act, 1956 (PFA). According section 13A(7) of the PFA, late payment interest is charged for late or non-payment of pension fund contributions. It reads as follows:

“(7) Interest at a rate as prescribed shall be payable from the first day following the expiration of the period in respect of which such amounts were payable on—

(a) the amount of any contribution not transmitted into a fund’s bank account before the expiration of the period prescribed therefor by subsection (3) (a) (i);

(b) the amount of any contribution not received—

(i) by a fund before the expiration of the period prescribed therefor by subsection (3) (a) (ii); or...”

Regulation 33 which made provision for pension fund contribution payments was replaced by Conduct Standard 1 of 2022. Retirement funds are required by the Conduct Standard to actively pursue the recovery of unpaid contributions plus any interest that is payable.

Paragraph 5 of the Conduct Standard provides as follows:

“5. Interest on late payments (1) For purposes of section 13A(7) of the Act, compound interest on late payments or unpaid amounts – (a) must be calculated from the first day following the expiration of the period in respect of which such amounts were payable until the date of receipt by the fund; and (b) is prescribed to be the prime rate plus 2 percent.”

In the case of *Municipal Workers Retirement Fund v. Umzimkhulu Local Municipality and Others* (11458/2015) [2023] ZAKZPHC 80, the Pietermaritzburg High Court handed down a decision regarding the application of the *in duplum* rule with regards to interest on arrear contributions. The question before the court was whether the *in duplum* rule applies to arrear contributions under the PFA and whether the calculation of interest falls within the ambit of section 1(1) of the *Prescribed Rate of Interest Act, 1975* (PRIA).

In the above-mentioned case, the employer, Umzimkhulu Local Municipality, attempted to rely on the *in duplum* rule to limit the amount of interest owed to the fund. However, the High Court rejected the employer’s argument holding that the *in duplum* rule does not apply to interest arising from short- or non-payment of contributions. After considering arguments put forth by the respondent and the applicant, the court determined that a claim for interest on unpaid contributions is subject to statutory regulation. The PFA holds employers accountable for paying interest at the appropriate rate and on the day when it is due. Under PRIA, interest on unpaid pension fund contributions is not considered *mora* interest. Consequently, the court determined that the participating employer’s argument that a statutory obligation was changed to a debt that required payment and so triggered the provisions of PRIA was invalid.

In light of the decision in *Municipal Workers Retirement Fund*, even in cases where late payment interest exceeds the capital amount of arrear contributions, funds are entitled to pursue late payment interest from participating employers. To prevent a situation where they are unable to meet their obligations to members under the rules, funds must actively pursue the recovery of outstanding contributions and, where applicable, late payment interest in accordance with the PFA and Conduct Standard 1 issued by the FSCA.

Late payment interest on arrear contributions

By Tando Mbono

(Fund Governance and Trustee Conduct Department)

The scourge of arrear contributions by participating employers has dogged the retirement funds industry for a very long time. To discourage employers from the mischief of using pension fund contributions for their operational costs, the legislature introduced late payment interest (“LPI”) as a punitive measure against offending employers.

To this end, section 13A(7) was first inserted into the Pension Funds Act, 1956 by the Pension Funds Amendment Act, 1997. It currently provides as follows:

“Interest at a rate as prescribed shall be payable from the first day following the expiration of the period in respect of which such amounts were payable on-

(a) the amount of any contribution not transmitted into a fund's bank account before the expiration of the period prescribed therefor by subsection (3) (a) (i); (b) the amount of any contribution not received- (i) by a fund before the expiration of the period prescribed therefor by subsection (3) (a) (ii);

or (ii) in the circumstances contemplated in subsection (3) (a) (iii), by the insurer concerned before the expiration of the period prescribed therefor by that subsection”

At the same time Regulation 33(7) to the PFA before its repeal also dealt with the payment of LPI. However, Reg 33 was worded differently from section 13A(7) clearly provided the date from which LPI ought to be calculated after an employer had failed to pay contributions at the end of the month. In contradistinction to section 13A(7), Regulation 33 clearly stated that:

“Compound interest on late payments or unpaid amounts and values shall be calculated for the period from the first day of the month following the expiration of the period in respect of which the relevant amounts or values are payable or transferable until the date of receipt by the fund at the rate prescribed from time to time by the Minister under section 13A(7) of the Act by notice in the Gazette . Such interest shall constitute investment income for the fund and shall be payable to the fund no later than the end of the second month following the month in respect of which the amount is received or value transferred, as the case may be.”

Following the repeal of Regulation 33, the FSCA issued Conduct Standard 1 of 2022. In it, the FSCA sought, *inter alia*, to bring the language of the conduct standard in harmony with section 13A(7) by framing the provision dealing with LPI in exactly the same terms as in the legislative provision.

FSCA Communication 15 of 2023 tried to clarify the FSCA’s position that LPI is to be calculated from the 8th day of the month following the end of the period in respect of which contributions were payable. Certain stakeholders were, however, not persuaded as to the correctness of this interpretation, which interpretation is briefly outlined below.

The FSCA moved from the presumption that – as a rule of interpretation – the same words or phrases (linguistic signifiers) in a statute bear the same meaning throughout the statute unless the context indicates otherwise. By necessary implication, when the legislature uses a different word or phrase, it is presumed that the legislature intends to denote something entirely different. In the matter of *Ramalho N.O. and Others v Doubel N.O. (citation?) and Others* the court had the following to say with regards to section 28 of the PFA:

“Due weight must be attached to the use of different wording in Section 28(1) and Section 28(2) of the PFA. It is a well-known rule of interpretation that, if the same word or expression is used more than once in the same enactment then it will be taken to bear the same meaning throughout the enactment.

The corollary of course is that where different words are used, the legislature must be presumed to have intended the difference in meanings ascribed to the different words. This to my mind must also follow as a matter of logic.”

In section 13A(3)(a)(i) of the PFA dealing with monthly contributions, the legislature requires contributions payable by or on behalf of a member to be paid “*not later than seven days after the end of the month for which such a contribution is payable.*” However, in respect of LPI in subsection 7, the legislature’s change in terminology is noted. It reads thus:

“Interest at a rate as prescribed shall be payable from the first day following the expiration of the period in respect of which such amounts were payable on-“.

The FSCA’s point of departure is that words in a statute are not used unnecessarily and that different words are intended to generate different meanings. Accordingly, it is submitted that the period referred to in section 13A(7) after the expiration of which period LPI must be calculated differs from the month referred to in section 13A(3)(a) in respect of contributions.

In the view of the FSCA, the period referred to in section 13A(7) is a month plus seven days. Accordingly, on this construction, the first day from which LPI starts to run is the 8th day of the next month.

The interpretation enunciated above is not shared by certain stakeholders in the retirement funds industry, notably the Office of the Pension Funds Adjudicator (OPFA) and Batseta Council of Retirement Funds (Batseta).

In its Communication 1 of 2024, the OPFA argued that “the period” in respect of which contributions are payable is a month; the seven days thereafter is not factored in reckoning the relevant period. Accordingly, on the OPFA’s interpretation, LPI should thus be calculated from the first day of the month following the month in question.

The OPFA emphasised that words should be given their ordinary grammatical meaning with care being taken not to ascribe meaning to words based on what is deemed to be businesslike, sensible or reasonable. Otherwise, the line between interpretation and legislating can easily be crossed, opines the OPFA.

It is, however, submitted that the rules of grammar cannot in this case solve the real question as to whether, in the mind of the legislature, the word “period” is intended to include the seven days after the end of the month.

Put differently, the grammatical meaning of the word period does not change regardless of the number of months or days it is intended to refer to.

The OPFA argues further that the cross-reference in section 13A(7) to the provisions of section 13A(3)(a)(i) is for the purposes of identifying the capital amount on which LPI must be levied and does not relate to the period from which such LPI must be calculated. This is a plausible interpretation.

However, if one has regard to section 13A(7)(c) which deals with the LPI payable in respect of the transfer of a benefit from one fund to another, the legislature also references the expiry of the period provided for in sub-section 5. This cannot be for the purposes of determining the capital amount of an accrued benefit. As it happens, the period upon the expiry of which LPI starts running under sub-section 5, is sixty days. So, the noticeable thread running through sub-section 7 is that whenever the legislature refers to anything in excess of a month, the legislature uses the word “period”.

Accordingly, if we were to assign the same meaning to different words that deal with similar matters (LPI), as suggested by Batseta, the word “period” could mean a month, a month plus seven days and sixty days at the same time.

Batseta makes common cause with the OPFA. It contends that the FSCA erred in its interpretation because at paragraph 4 of the FSCA Communication 15 of 2023, the FSCA quotes section 13A(3)(a)(i) as follows:

“not later than seven days after the end of the month...”

The above quotation omits the words “for which such a contribution is payable” to complete the sentence.

Had the FSCA quoted the provision in full, continues Batseta, the FSCA would have seen that the seven days after the end of the month is a grace period.

Whilst it is so that paragraph 4 of the Communication in its reference to section 13A(3)(i) does not quote the full sentence, the FSCA is well aware that the month in question is relevant to the payment of contributions.

It is submitted, however, that the FSCA would not have come to a different interpretation for this reason alone.

Having said the above, it is submitted that there is merit in Batseta's argument that pension fund contributions are payable in monthly tranches of 25, 28 and 31 days, with certain exceptions. Therefore, the conclusion that the period in question cannot be 35 or 37, i.e. a month plus seven days is not implausible.

Given the different legal interpretations of section 13A(7), not limited to the stakeholders who made representations to the FSCA, the meaning of section 13A(7) is anything but simple in the view of the FSCA. The proponents of the first as against the eighth day from which LPI must be calculated may very well be correct or they may not be.

In light of the above, the FSCA has sought the opinion of senior counsel on this matter. Pending receipt of such opinion and subject to what senior counsel opines, the FSCA will not for the time being withdraw its Communication 15 of 2023. Following receipt of the opinion, the FSCA will decide on the appropriate course of action for purposes of providing clarity to the industry.



Mudau v Municipal Employees Pension Fund and others - Constitutional Court

By Tando Mbono

(Fund Governance and Trustee Conduct Department)

The protection of accrued pension benefits against reduction was all but settled when the Supreme Court of Appeal (“SCA”) upset the apple cart in the matter between MEPF and Mudau. This decision sent the retirement funds industry into a frenzy, eliciting extensive commentary from various commentators both within the retirement funds industry and the legal profession at large. This includes no less than the Commissioners of the Judicial Services Commission (JSC) in the October 2022 round of interviews for the SCA. Smith AJA (as he then was), being the judge who penned the decision, came in for some tough questioning from the Commissioners on his reasoning.

Starting as a complaint in the Office of the Pension Funds Adjudicator (“OPFA”), the dispute between Mr Mudau and MEPF meandered through our court system ultimately landing in the Constitutional Court, which finally put paid to the dispute. Accordingly, the focus of this article is the decision of the Constitutional Court and where applicable, reference to the lower courts’ findings will be touched upon by way of background. The background facts in this case are as set out below.

Mr Pandelani Midas Mudau was an employee of Vhembe District Municipality and a member of the MEPF throughout his employment from 3 May 2003 until his resignation on 31 May 2013. Upon his resignation, he became entitled to a withdrawal benefit in terms of the MEPF’s rules. Rule 37 of the registered fund rules stated that a member’s withdrawal benefit would be three times a member’s contributions with interest. MEPF decided to amend Rule 37 upon assessment of its risk of failing to meet future obligations

as recommended by the valuator. The amended (albeit unregistered) Rule 37 provided that a member's withdrawal benefit would be one and a half times a member's contributions with interest. The effective date of the rule amendment was with retrospective effect to 1 April 2013.

On 16 October 2013, Mr Mudau received a withdrawal benefit in the amount of R646,437.47 calculated in terms of the unregistered rule amendment. The application for the registration of this rule was submitted to the Financial Sector Conduct Authority ("the Authority") on 22 July 2013, and the Authority officially registered the rule amendment on 1 April 2014.

Mr Mudau lodged a complaint with the OPFA seeking an order for payment of the balance of R1 493 875.77. Following the determination of the OPFA in favour of Mr Mudau, the MEPF's review application of the determination was unsuccessful as was an appeal against the High Court decision to the full bench of that court. The matter ended up in the SCA.

The decision of the SCA, which was the subject of appeal to the Constitutional Court was that accrued pension benefits were capable of being reduced by way of a rule amendment. The SCA reasoned that Rule 37 of the MEPF was amended with the specific intention of reducing benefits retrospectively to 1 April 2013. The retrospectivity of the rule amendment also applied to benefits which by this date had already accrued, held the SCA.

According to the SCA, the presumption against retrospectivity does not apply where a legislative enactment (a rule amendment in this case) was introduced with the express intent of reducing vested rights.

After a reduction of the staggering amount of nearly R1.5 million, Mr Mudau appealed the decision to the Constitutional Court on the following grounds:

(a) His right to equality and to be treated the same as other members of pension funds, who are paid their benefits in terms of the registered rules, had been limited through the application of the unregistered amended rule to the computation of his benefits.

(b) His right to social security had been limited as his pension benefits, a vehicle for social security benefits, had been affected.

(c) His right to property had been limited as he had been arbitrarily deprived of his property – his accrued pension benefit.

In addition, Mr Mudau contended that the Constitutional Court's general jurisdiction was engaged, as the following questions raised arguable points of law of general public importance which ought to be considered by the Constitutional Court:

(a) whether rule amendments can bind or be applied to former members who have exited the pension fund and whose benefits have been calculated and paid before the amendment is registered;

(b) whether a pension fund can anticipate the registration of a rule amendment by the Authority and apply the rule before it had been registered and thus subjugate the statutory regime; and

(c) whether an amendment which purports to be retrospective ought to affect pending proceedings before the Adjudicator.

The Constitutional Court held that a fund may not apply a rule amendment that is not yet registered in anticipation of its future registration and determine the payment of benefits due on that basis. The decision by the MEPF to pay Mr Mudau's withdrawal benefit in October 2013, based on a rule amendment which was yet to be registered was startling and offensive to the rule of law, said the court. At that time, there was no legally recognised rule amendment and therefore, there was no legal basis for the MEPF to process the withdrawal benefit other than in accordance with the existing rule which was effective at the time. The court emphasised that it was important to note that a rule cannot be considered amended until it has been registered and approved by the Authority.

It is respectfully submitted that there is nothing groundbreaking about the above findings. The Constitutional Court itself said there was nothing controversial about this question and that the proposition contended for by MEPF was startling to begin with.

Section 12(4) of the PFA is very clear on this score. One only has to read it to understand it. Moreover, the SCA in *Mostert v Old Mutual* had already settled the question, which the *Mudau* decision deviated from without distinguishing from this case.

In *Mostert*, the SCA made it clear that under section 12(4), rule amendments do not take effect prior to the Authority approving and registering same.

As to retrospectivity of a rule amendment, in *Joint Municipal Pension Fund and Another v Grobler and Others*, the SCA held that where there is an accumulated or established benefit, the fund may not amend its rules such that the benefit of the member is reduced. That is not to say, however, the rules of the fund may not be amended to prevent further accumulation of the benefit from the date of the amendment onwards.

The Constitutional Court went into a lengthy exposition on the presumption against retrospective application of a statute and its impact on pending legal proceedings and found that the principle that legal proceedings should be determined in accordance with the law applicable at the time of the institution of proceedings unless a contrary intention is indicated, also applied in this case.

Whilst the above is helpful, it is submitted that the Constitutional Court failed to deal with the finding of the SCA that the presumption against retrospectivity does not apply in circumstances where a rule amendment has been adopted with the specific intention of reducing accrued benefits.

The court instead reaffirmed the decision in *National Tertiary* wherein it was found that:

“If a pension fund, consistent with the Act, can amend its rules so as to diminish or delete benefits provided for by the rules of the fund, it cannot be inconsistent with the Act to retain those benefits but to make them conditional on funding from the employer.”

However, the facts in *National Tertiary* are not on-all-fours with those in *Mudau*. In the former decision, the amendment of the fund’s rules related to the basis on which retirement benefits which accrued after the approval of the amendment would be calculated, not those which had accrued before such amendment.

This is consistent with the *Joint Municipal Pension Fund* decision above.

Accordingly, it is submitted that the Constitutional Court missed an opportunity to clarify and decide once and for all what are clearly contradictory decisions of the SCA in respect of what IRFA, in its submissions to the Constitutional Court, referred to as a long-standing practice in the industry, i.e. accrued pension benefits are not reducible by way of backdated rule amendments.

The Constitutional Court categorically said that, whilst this question may arise for decision at a later stage, it was not one with which it was seized at that moment. Our respectful submission is that, among others, this was exactly the question before the Apex Court in the land.

Mr Mudau also raised what we consider to be a novel argument. It was submitted on his behalf that Mr Mudau, was not a member of the fund at the time his benefit was paid to him but a creditor, in respect of whom, under the PFA, a fund may not reduce a debt by virtue of a rule amendment.

Accordingly, the argument was that in terms of section 12 of the PFA, rule amendments cannot apply to creditors with a view to reducing a fund's liability towards such creditors. The MEPF, correctly in our view, challenged this argument asserting that the creditor contemplated in section 12 is a third-party creditor not a former member.

It would have been helpful for the court to have considered this point particularly in view of the definition of a "member" in the PFA, which extends membership to former members where such former members have not received all their benefits from the fund.

Overall, the decision was a useful intervention by the Constitutional Court as it is too ghastly to contemplate how the *Mudau* decision might have been used in future if it was allowed to stand.

Textile Open Provident Fund: Exact number of trustees on the board of the Fund (Financial Services Tribunal of South Africa (Case no. A1/2023))

By Johan van Vollenhoven

(Retirement Fund Reviews and Authorisations)

The Financial Sector Conduct Authority (“the Authority”), received from the Textile Open Provident Fund (“Fund”) an application for the registration and approval of revised rules (“the Rules”) in terms of section 12(2) of the Pension Funds Act, 1956 (“the Act”) and the Income Tax Act 58 of 1962, respectively.

The administrator of the Fund is Ensimini Administration Services (Pty) Ltd, which is licensed in terms of section 13B of the Act to administer the Fund. The Fund is classified as an umbrella provident fund.

Based on the recommendations and comments from Actuarial Services within the Authority and on close analysis of the rules by the Retirement Fund Reviews and Authorisations Division, the Authority addressed numerous query letters to the Fund in terms of Section 12(6)(a) of the Act.

The Fund submitted response letters to these queries. However, one question could not be resolved, i.e. the exact number of trustees on the board of the Fund was not provided for in the Rules, which read as follows:

*“subject to the provisions of the Act and of these Rules, the sole responsibility for the management of the Fund shall be vested in the Trustees. The board of trustees shall comprise **at least 4 trustees...**”*

The Rules provided further that *“the employers may appoint the **same number of trustees** as are elected by the members ... or may appoint fewer trustees than are elected by the members in terms of that Rule and may also appoint alternate employers’ trustees”*.

In respect of member elected trustees, the Rules provided that *“the members shall elect a **minimum of two trustees**”*

Thus, the rules did not reflect the exact number of the trustees on the board of the Fund as required by section 7A(2) of the Act, which provides as follows:

Thus, the rules did not reflect the exact number of the trustees on the board of the Fund as required by section 7A(2) of the Act, which provides as follows:

“Subject to subsection (1), the constitution of a board, the election procedure of the members mentioned in that subsection, the appointment and terms of office of the members, the procedures at meetings, the voting rights of members, the quorum for a meeting, the breaking of deadlocks and the powers of the board shall be set out in the rules of the fund: Provided that if a board consists of four members or less, all the members shall constitute a quorum at a meeting.”

Read with section 26(2), section 7A(1) of the Act implies that the exact number of board members must be stipulated in the rules of the fund.

The Fund did not agree with the Authority’s interpretation of Section 7A(1) of the Act and referred the matter to the Financial Services Tribunal (“the Tribunal”) for reconsideration.

The fund argued that the Rules of the Fund are consistent with Section 7A(1) of the Act as they provided for a minimum of four trustees, and as such, the Authority *must* register the Rules as it had no discretion to refuse.

The Fund further argued that the Act only stipulates that there should be a

minimum of four trustees, there could be any number of trustees, but the minimum must always be four.

The Tribunal had difficulty with this argument as did not accept it.

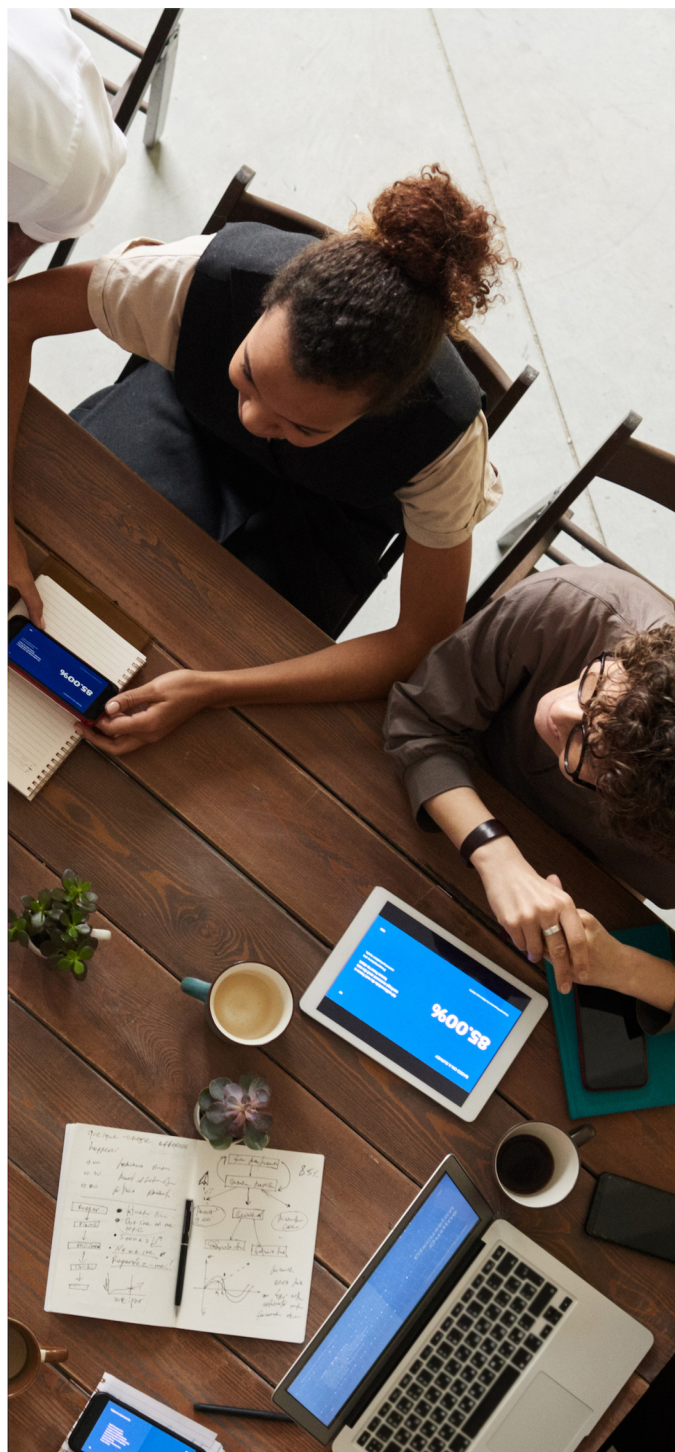
The Tribunal referred to Section 7A(2) of the Act which requires that the Rules of the Fund make provision for the *constitution* of the board and thus the specific number of board members must be provided for as the number of board members plainly *constitute* the board.

The second difficulty the Tribunal had with the Fund’s argument was with the number and/or formula of additional trustees for appointment to the board of trustees which is decided outside the Rules and determined by extrinsic factors, an external decision-making process. According to the Tribunal, this violates the provisions of section 7A(2) of the Act as the Rules of the Fund must provide for a full composition of the board and a defined number of trustees must be provided for.

Thirdly, the Tribunal upheld the Authority’s contention that the proposed rule amendment would lead to difficulties in determining vacancies on the board which, in turn, would impact the quorum requirement if the total number of trustees are not stated in the Rules.

“The Tribunal further stated that the fund's discretion to determine the number of trustees on its board is ultimately subject to and constrained by the provisions of the Act. The Tribunal continued to say that “it is implicit that a fund must stipulate the number of trustees on the board, and in the absence of this, there can be no proper determination of the vacancies on the board, full complement of the board, as well as the *quorum* of the board”. According to the Tribunal, it would also be difficult to determine - and indeed may lead to a dispute - as to the voting rights of members and the breaking of deadlocks, as provided for in section 7A(2) of the Act.

The Tribunal came to the conclusion that section 7A(2) read together with section 26(2) of the Act, makes provision for the exact number of board members or a formula by which the number of such board members will be determined to be stipulated in the rules of the fund. Accordingly, the Tribunal dismissed the fund's referral for reconsideration.



The Africa Pension Supervisors' Association

By Zareena Camroodien

(Fund Governance and Trustee Conduct Department)

The Financial Sector Conduct Authority (FSCA) is an executive member of the Africa Pension Supervisors' Association (APSA/the association) having recently had the honour of being elected as chairperson at its Annual General Meeting on 26 November 2023 in Kampala, Uganda.

About APSA

APSA is an organisation which brings together pension regulators and supervisors across the African continent to canvass issues of common interest. The goal of this association is to provide a platform for collaboration, co-operation and the exchange of information and ideas to better supervise, regulate and grow the pension sector on the continent. Pensions as we all know play an important role in ensuring that workers retire with dignity and mitigates against poverty.

The idea of forming an association was mooted by African pension regulators/supervisors who are members of the International Organization of Pension Supervisors (IOPS) during a side meeting at an IOPS forum in Berlin, Germany in 2016. African pension fund regulators/supervisors noted the limited time available at IOPS meetings for discussing issues pertaining to African member countries. Moreover, challenges on the continent are not largely experienced in other jurisdictions. The foregoing scenario ignited the idea that the continent needed a forum to discuss such issues and learn from their different experiences and perspectives with an aim to address the particular challenges faced on the African continent.

The founding members of APSA comprised six countries namely, Kenya, Nigeria, Rwanda, South Africa, Uganda, and Zambia. Other countries that have joined APSA are Botswana, Egypt, Mauritius, Ghana, Morocco, Malawi, Burundi, Tanzania, Namibia and Sierra Leone. APSA seeks to expand its membership to foster collaboration among member countries to enable its citizens and residents to retire comfortably and with dignity.

The collaboration also provides the impetus needed to unlock the potential of the pension funds sector on the continent. Through the association, countries would be better placed to tackle common problems and find solutions to challenges unique to Africa. Some of the notable challenges include lower investment returns, Africa's labour structure which comprises a significant portion of the labour force being in the informal sector with no or limited access to retirement funds or retirement products, which may service their needs during retirement. The association is poised to accelerate the pace of reforms in the pension space for greater economic impact in Africa. This includes harnessing the opportunities available through fintech. One of the many notable opportunities in the pensions context in Africa is that it has the largest young population in the world, solutions (policies and systems) must accordingly speak to this demographic.

APSA holds a conference annually, bringing together pension supervisory bodies, professionals, and the pension fund sector practitioners from across the continent.

APSA is also expected to run planned initiatives on pension coverage expansion in some member countries during the course of this year. The association will further facilitate and coordinate regional research, knowledge management and capacity building initiatives. Other programmes include:

- Policy and Regulatory Support: through undertaking policy dialogues, peer to peer learning, and development and issuance of principles and guidelines for better supervision and regulation of the pension funds sector.
- Research and Advocacy: through targeted research on topical areas relevant to the pension funds industry and advocacy on pension inclusion and increased uptake of alternative investment instruments (in certain jurisdictions).

- Capacity Building: through targeted capacity building conferences, workshops, and forums for relevant pension industry stakeholders for purposes of sharing knowledge and best practices
- Knowledge Management and Information Sharing: through annual conferences, development of a centralised data repository and dissemination of research, publications, and other materials.

The Conference

South Africa attended APSA's fourth annual conference themed "Sustainable Pension Inclusion in Africa" held in Kampala, Uganda, on 27 and 28 November 2023 hosted by the Uganda Retirement Benefits Regulatory Authority (URBRA). The objective of the conference was to provide a platform for pension regulators, practitioners, policy makers and industry players to engage in policy dialogue on sustainable pension inclusion in the continent. The conference brought together pension supervisory bodies from across the African continent to discuss pension inclusion as well as the challenges and experiences in the supervision and regulation of the pension funds industry in Africa, with insights from the continent and beyond. The conference had renowned speakers, professionals, and pension sector practitioners who shared global knowledge and expertise on pensions.

The conference addressed the need for sustainable pension inclusion as Africa is projected to have an estimated 226 million pensioners by 2050. There was therefore an urgent need for governments, regulators and the private sector to collaborate and develop solutions to mitigate the risk of poverty in old age over the next two to three decades. Africa has a population of 600 million people, the majority of whom are young people, without any retirement savings. This is both a challenge and an opportunity for sustainable pension inclusion solutions. It further recognized the importance of retirement funds in serving the wider economy and not merely the pensioner. It noted that the majority of retirement benefits and pension systems in Africa are designed for formal sector workers, excluding the informal sector where a significant proportion of people work. It recognised the need for the unsalaried and self-employed (including the youth) to be brought into the pension systems. If pensions are to be sustainable and inclusive, it means that nobody should be left behind.

This requires reforming the pension sector to cater for the working population in totality. Various speakers mooted the idea that micro-pension systems have worked in certain jurisdictions and advanced financial/pension inclusion. Best practices, lessons learnt and recommendations for sustainable pension inclusion were made for the continent.

Leveraging digital technology infrastructure: Speakers opined that technology was key in driving inclusion, as digital platforms could enable fund managers reach millions of people within a short period of time. This enables people to register and open pension accounts, and to get regular updates on their savings. Africa's high mobile phone penetration rates could be the catalyst for an inclusive sustainable pension sector for the continent.

Adaptation of micro-pension systems: Whilst Africa is not homogenous as the continent's 54 countries may indicate. Countries are at different levels of development with various pension systems, populations, and governance levels among others. This means that there is not a one-size-fits-all template that can be used for the entire continent. However, there are micro-pension systems that may be adopted across the continent so that every country does not have to start from scratch.

In this regard, the book 'Templatizing Micro-Pensions for Africa' was authored as a collaborative effort by 25 policymakers including, regulators, aid agencies, pension sector experts, and digital financial ecosystem stakeholders. It covers policy outlook and country experiences on expanding pension coverage to the informal sector; demand-side considerations of designing targeted micro-pension solutions and leveraging the digital financial services infrastructure for micro-pensions. South Africa was also a contributor to this book; our very own Mr Olano Makhubela and Ms Alvinah Thela of National Treasury authored a chapter in the book.

The conference also delved into the inter-linkages between pension funds and Environmental, Social and Governance (ESG) principles and practices and how it has become increasingly crucial for the pension funds sector in Africa.

Innovative Climate Finance was also canvassed in the context of the importance of environmental considerations in sustainable pension inclusion, the new developments in ESG reporting, investment options for fund managers beyond government securities with climate/environmental action forming a key part of creating a safety net for the future.

The conference was brilliant in respect of content, providing practical solutions, organisation and venue thanks to URBRA.

The upcoming APSA Conference will be held in Livingstone, Zambia on 27 and 28 July 2024.



International Organisation of Pension Supervisors

By Sanchia Petrie

(Fund Governance and Trustee Conduct Department)

The Financial Sector Conduct Authority (FSCA) is a governing member of the International Organisation of Pension Supervisors (IOPS) and took part in the 2024 International Conference on Private Pensions, which was jointly organised by the Organisation for Economic Co-operation and Development (OECD), IOPS and the National Commission of the Retirement Savings System (CONSAR) of Mexico.

IOPS is an independent global organisation that represents institutions overseeing private pension arrangements. It was established in July 2004, prompted by the OECD and the International Network of Pension Regulators and Supervisors (INPRS). IOPS aims to enhance the quality and effectiveness of private pension system supervision worldwide, improving their development and operational efficiency to provide a secure source of retirement income in as many jurisdictions as possible. The organisation closely collaborates with other international bodies involved in pension supervision policy development and dialogue, such as the OECD, World Bank, International Social Security Association (ISSA), International Association of Insurance Supervisors (IAIS) and International Monetary Fund (IMF).

The IOPS/CONSAR/OECD Conference, held on 14 February 2024 at the Nacional Financiera Auditorium in México, gathered high-level representatives from regulatory and supervisory authorities, leading experts from the retirement fund industry and research institutes and important personalities who have had a favourable impact on the international retirement landscape. This event was held back-to-back with the IOPS Committee Meetings which took place on 13 February 2024 at Hotel Krystal Grand Suites Insurgentes in México.

Highlights from IOPS Committee Meetings (13 February 2024)

India: The Pension Fund Regulatory and Development Authority (PFRDA) was established by the Government of India in 2003 to develop and regulate the pension sector in India. The National Pension System (NPS) is a voluntary defined contribution retirement savings scheme introduced in 2004 with the objective of providing adequate retirement income to every citizen of India. PFRDA regulates and administers NPS under the PFRDA Act, 2013. NPS is simple, portable and tax efficient, provides investment choice, is accessible online and is considered one of the world's lowest cost retirement schemes. It is structured into two tiers; Tier I is a non-withdrawable account meant for savings for retirement and Tier II is a voluntary savings facility with unrestricted withdrawals and no tax benefit. The Atal Pension Yojana (APY) is a retirement scheme introduced in 2015 with a focus on the informal sector of the country.

Hong-Kong: The Mandatory Provident Fund Schemes Authority (MPFA) is a statutory body established under the Mandatory Provident Fund Schemes Ordinance in Hong Kong, China with the aim to regulate and supervise privately managed provident fund schemes, educate the working population about saving for retirement and the role of the MPF System and lead improvements to provident fund schemes by making them more efficient and user friendly, and ensuring that they meet the needs of the working population. The MPFA has an effective risk management framework to maintain resilience in times of shocks or critical incidents which includes proactively identifying risks and putting in place a robust risk governance structure to mitigate those risks, readying appropriate business continuity and communication plans, and putting measures in place to strengthen resilience of MPF industry against shocks. The risk governance structure of MPFA is a multi-layered structure with the objective to facilitate effective governance and risk monitoring based on the three lines of defence model and ensure ownership and appropriate level of check and balance. The three lines of defence model is as follows:

1st line of defence - Operational Management and Internal Controls (All divisions/departments act as risk owners to conduct risk and control assessments, assess the adequacy and effectiveness of controls and implement risk treatment

plans and report them in divisional/departmental level risk registers for ongoing monitoring).

2nd line of defence - Risk Management and Oversight (Specific functions/subject matter experts to ensure effective risk management and functioning of the first line.

3rd line of defence - Internal Audit Assurance (The Risk Management Unit, provides independent assurance on the effectiveness of governance, risk management and internal controls of MPFA).

Mauritius: The Financial Services Commission (FSC) Mauritius published Guidelines for the Issue of Corporate and Green Bonds in Mauritius in December 2021 and it was further amended in April 2022. On 23 October 2023, the FSC Mauritius issued the ESG Guidelines for Investment Funds for public consultation and following the comments received, submitted the Guidelines to the Ministry of Financial Services and Good Governance on 15 December 2023 for consideration. The IOPS Guidelines are being used as a benchmark for drafting an ESG framework for private pension funds in Mauritius which is expected to be finalised by August 2024.

Highlights from the IOPS/OECD/CONSAR International Conference (14 February 2024)

Discussions at the 2024 International Conference on Private Pensions focused on:

- Pension reform in Mexico, trends in the labour market and new social security policies.
- Trends in the labour market, pension coverage and new social security policies in Latin America.
- Digitalisation and inclusion in pension systems .
- Disclosure of ESG factors in the investment of retirement funds.
- Implementation of ESG factors in the investment management of retirement funds in Latin America.

Brazil: Brazil is implementing regulations for remote and app-based work, establishing standards for work hours, expenses, and social security contributions, aiming to protect labour rights and adapt to new work modalities.

Kenya: The Government established the Financial Inclusion Fund (Hustler Fund) assists in mitigating financial shocks in the informal sector which accounts for more than 80% of the workforce and contributes to over 33% of the GDP. The Hustler Fund provides affordable credit, competitive savings and pension products, comprehensive insurance solutions, access to affordable housing and market linkages. There is a mandatory savings component of 5% for all cash borrowed; 30% can be accessed after a year (short-term) and 70% can be accessed upon retirement (long-term).

PRI: The Principles for Responsible Investment (PRI) works with its international network of signatories to put the six Principles for Responsible Investment into practice. Its goals are to understand the investment implications of environmental, social and governance issues and to support signatories in integrating these issues into investment and ownership decisions. A Legal Framework for Impact (joint project by the PRI, UNEP FI and the Generation Foundation Generation Foundation, with legal analysis by Freshfields Bruckhaus Deringer) is a groundbreaking legal study on whether the law in 11 jurisdictions around the world (Canada, United States, United Kingdom, Brazil, France, South Africa, Netherlands, China, EU, Japan and Australia) permits or even requires investors to tackle some of the world's most urgent sustainability challenges, by setting and pursuing sustainability impact goals.

Mexico: The reform of the Mexican pension system was approved in December 2020 and came into effect in January 2021 with the aim to gradually increase contribution rates, reduce weeks of contributions required, increase guaranteed minimum pension and establish a ceiling on fees charged. The increase in mandatory contributions combined with the reduction in fees will result in higher balances at retirement, higher pensions and better replacement rates. By 2030, a total of 9.4 billion dollars will remain in workers' accounts thanks to the reduction in fees.



The Two-Pot system

*By Sanchia Petrie and Mohomotsi Monyela
(Fund Governance and Trustee Conduct Department)*

The Two-Pot system (renamed the Two-Component system but for the sake of convenience will be referred to as the Two-Pot system) is a much-anticipated retirement reform which aims to address two challenges in the South African retirement funds landscape:

- lack of preservation (pre-retirement leakage); and
- lack of access to retirement fund savings by members during financial difficulties.

The Covid 19 Pandemic laid bare these socio-economic challenges which led to COSATU calling for early access to retirement fund savings for members who are in financial distress. During the February 2021 Budget Speech and November 2021 Medium Term Budget Policy Statement Speech, the Minister made an announcement of this intended retirement reform. These announcements were followed by a discussion document published by National Treasury on 15 December 2021, titled 'Encouraging South African households to save more for retirement' for public comment.

After an intensive consultation process between National Treasury, Business and organised labour where various risks, challenges and consequences were discussed, the culmination of this policy was reflected in the Revenue Laws Amendment Bill (RLAB) and the Pension Funds Amendment Bill (PFAB) which would, once enacted, give effect to the Two-Pot system:



SAVINGS POT

Effective date 1 September 2024.

One-third (1/3rd) of all contributions is to be allocated to this pot of the retirement fund.

Accessible once a year (in case of emergencies).

Minimum withdrawal of R2 000.

Subject to normal marginal tax rates.

RETIREMENT POT

Effective date 1 September 2024.

Two-thirds (2/3rd) of all contributions is to be allocated to this pot of the retirement fund.

Accessible upon retirement to purchase an annuity (compulsory preservation).

Subject to a *de minimis* of R165 000. The annuity will be taxed as and when it is paid to the pensioner.

VESTED POT

Pre – 1 September 2024 balances.

Comprise vested rights/fund values.

Seeding capital amount of maximum 10% of fund credit capped at R30 000 to be transferred to SAVINGS POT.

Regime in effect before 1 September 2024 will apply.

No further contributions may be made.

Effective 1 September 2024, all contributions paid to retirement funds (pension funds, provident funds, preservation funds or retirement annuity funds) must be allocated to two different pots namely, a savings pot (1/3rd) and a retirement pot (2/3rds).

Provident Fund members who were 55 years or older on 1 March 2021 and who remained members of that fund until 1 September 2024 can choose to participate in the Two-Pot system or remain contributing members according to the pre - 1 March 2021 regime.

The Two-Pot system will apply to all retirement funds, including defined benefit and public sector funds. Legacy Retirement Annuity Funds may, however, be exempted upon application and approval by the Financial Sector Conduct Authority (FSCA).

Fund rules must be amended and registered accordingly, and members must be able to access their benefits based on the amended registered rules. The FSCA will be accepting Two-Pot rule amendment applications (exclusively) from 1 May 2024 to allow sufficient time for the processing and registration of rule amendments. The FSCA has issued Communication 3 of 2023 to industry as to what the rules in principle should contain. Given various queries received and proposed amendments to PFAB, another Communication will be issued to industry to further clarify what rules ought to contain and for purposes of enabling the smooth implementation of the Two-Pot system with effect from 1 September 2024.

Transfers between savings pots or retirement pots are permissible across funds, however, if the savings pot is transferred to a new fund, the retirement pot is to be transferred together with the savings pot. Provision must be made for transfers from the savings pot to the retirement pot, but no transfers can be made into the savings pot save for the seeding capital amount. Transfers from vested pots are subject to rules in effect before 1 September 2024.

Section 37D deductions as per RLAB once enacted, is to be made across all three pots. RLAB has been approved by the National Assembly and is currently before the National Council of Provinces for approval before being assented to. PFAB is following the same process for purposes of enactment and is currently before the Standing Committee on Finance.

The importance of communication to members cannot be over-emphasised. These legislative changes and their impact on the value of members' benefits must be communicated to members in a simple, clear and comprehensive manner and must be timely and on-going.



Non-payment of contributions by employers participating in retirement funds

By Keabetswe Tsuene

(Retirement Fund Conduct Supervision)

Arrear contributions have been a long-standing issue in the retirement fund sector that has been exacerbated by the economic difficulties faced by our country. Challenges faced by retirement funds in respect of the recovery of outstanding contributions have been well ventilated in various platforms and are well documented.

Although it remains the responsibility of the board of a fund to institute legal action to recover outstanding contributions, a combined effort will be required to address the problem. In addition, a pragmatic approach will need to be adopted with employers who are not able to meet their contractual obligations with employees. In the case of municipalities, the growing arrear contributions potentially creates a contingent liability for the State. A project plan has been approved to deal with section 13A matters and the interaction with the relevant stakeholders to find solutions to mitigate this risk.

As part of the project plan for section 13A matters, the Financial Sector Conduct Authority (“FSCA”) has started publishing the names of employers who have contravened section 13A of the Pension Funds Act 1956 (“PFA”). The publication of the names of defaulting employers is intended to warn members of retirement funds that contributions have not been made to their respective retirement funds by their employers; to protect the public interest; to alert members to the conduct of the employers which constitutes a risk to the members; and importantly to deter, prevent, detect, report and remedy fraud or other criminal activity in relation to retirement funds.

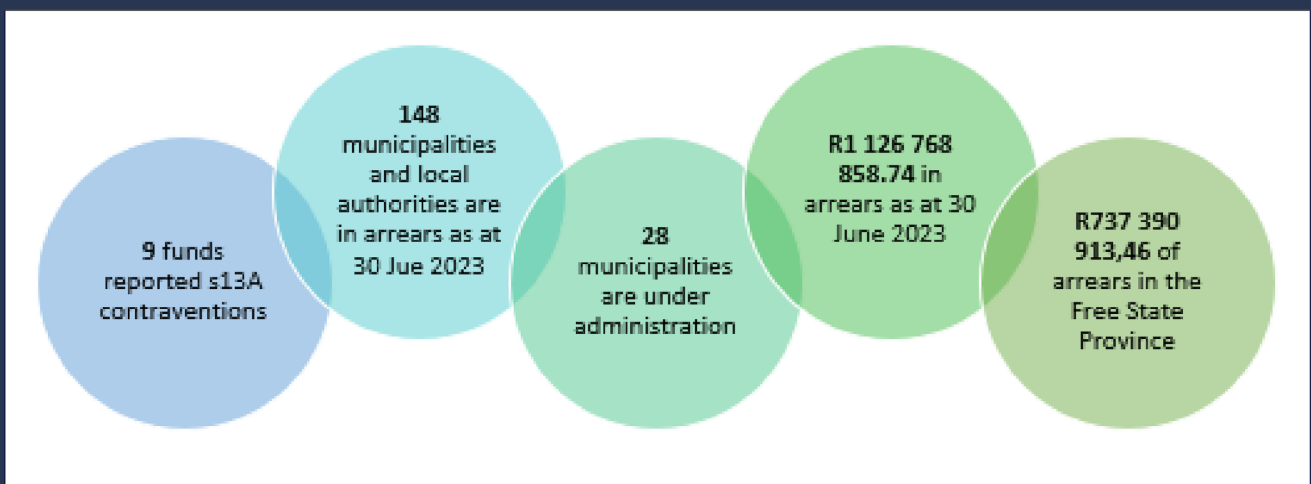
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The first publication was published on the FSCA website on 1 September 2023 titled “FSCA Communication 21 of 2023 (RF) - Publication of names of retirement funds and employers with arrear contributions”. For the purposes of the publication, a contravention occurs where contributions are not paid to the fund by the 7th day of the month following the month in respect of which contributions were payable. Or where contributions, have been paid but after the 7th day and late payment interest that was levied has not been paid to the retirement fund.

The first publication covered 20 funds across various sectors and industries in which 3262 defaulting employers participate and had contravened section 13A of the PFA. It is worth noting that the employers participating in the Private Security Sector Provident Fund accounted for 77% of the published employers which is of great concern to the FSCA. As a result, a task team has been created to assist the retirement funds and retirement fund administrators to deal with section 13A contraventions more effectively.

Following the first publication, the FSCA embarked on an exercise to do a deep dive of arrear contributions as at 30 June 2023 in funds that operate in the local government sector. We received responses from 15 funds, with 6 reporting that there were no contraventions to report. A summary is provided below:



ESG, infrastructure assets and sustainable finance matters

*By Wilma Mokupo and Kgame Kgaka
(Retirement Fund Prudential Supervision)*

Regulation 28

Regulation 28 (2)(b) of the regulations to the Pension Funds Act (“the Act”) requires all pension funds to have an investment policy statement (“the IPS”) and Regulation 28(2)(c)(ix) requires boards of funds to consider ESG factors before investing in an asset.

Guidance Notice 1 of 2019

Guidance Notice 1 of 2019 (“the GN”) was issued for the purpose of providing guidance to the boards of funds on how the board must comply with Regulation 28(2)(b) read with Regulation 28(2)(c) (ix) and in particular how its investment philosophy and objectives, as reflected in the IPS seeks to ensure sustainability of its investments and assets and to set out the Authority’s expectations regarding disclosure and reporting on issues of sustainability.

Reporting in the financial statements

A fund is encouraged, in the interest of transparency, accountability and fair treatment to its members,

to adopt sustainable reporting practices and to include details of:

- how its investment philosophy seeks to ensure sustainability of assets; and
- Any significant changes in the IPS during the reporting period, specifically including any changes relating to matters addressed in the GN.

The following information should, where possible, be included in Schedule E of the financial statements as contained in Annexure B of the draft Prudential Standard:

- Any significant changes in the IPS during the reporting period, specifically including any changes relating to matters addressed in the GN;
- Confirmation of whether every member who has requested a copy of the IPS has been provided with such a copy;
- Confirmation of any changes to the IPS from the previous year, including specifically any changes relating to matters set out in the GN;

- Assets held in compliance with the GN and the class of the asset as per Annexure B to Schedule I of the prescribed AFS; and
- Value of assets held in compliance with the GN.

Schedule IA of the financial statements also has a note on which a questionnaire indicating the below should be completed:

- Does the fund have an IPS that includes ESG integration?
- Does the fund's IPS include details on how the fund intends to monitor, evaluate, and make strategic decisions about the ongoing ESG sustainability of the assets which it owns or which it is intending to acquire?
- Does the fund's IPS include an Active Ownership policy?
- Does the fund have a specific policy that supports green/climate investment?
- Is the fund exposed to coal mining, coal logistics and/or coal fired power plants
- Does the fund have investment in green, social, or sustainability themed bonds?
- Would the fund be willing to commit to reduced exposure to coal?

- Would the fund be willing to commit to increasing allocation to green and climate-focused investments?
- Would the fund be willing to commit to increasing allocation to investment with positive social impact?
- Did the fund align with Sustainable Development Goals (SDGs) in some way?
- Can it be said that the fund's annual reports currently address the elements contained in the Authority's Guidance Notice relating to sustainability of investments and assets in the context of a retirement fund's IPS?

Also, from the information provided on the questionnaire a fund is required to indicate:

- The Top 3 categories of green/climate assets cited by the fund;
- The green asset allocation that applies to the fund;
- The amount of the fund's exposure to coal (including indirect exposure); and
- The amount of the fund's exposure to green, social or sustainability themed bonds.

IFRS Sustainability Disclosure Standards

The International Sustainability Standards Board issued two sustainability reporting standards on 26 June 2023 which are being adopted into the draft Prudential Standard for the purpose of sustainability disclosure for pension funds. The standards are as follows:

IFRS S1 General Requirements for Disclosure of Sustainability-related Financial Information.

- The objective of IFRS S1 is to require an entity (that would be a pension fund for our purposes) to disclose information about its sustainability-related risks and opportunities that is useful to users of general purpose financial reports in making decisions relating to providing resources to the entity.
- It requires an entity to disclose information about all sustainability-related risks and opportunities that could reasonably be expected to affect the entity's cash flows, its access to finance or cost of capital over the short, medium or long term (collectively referred to as 'sustainability-related risks and

opportunities that could reasonably be expected to affect the entity's prospects).

- It prescribes how an entity prepares and reports its sustainability-related financial disclosures. It sets out general requirements for the content and presentation of those disclosures so that the information disclosed is useful to users in making decisions relating to providing resources to the entity.
- It sets out the requirements for disclosing information about an entity's sustainability-related risks and opportunities.

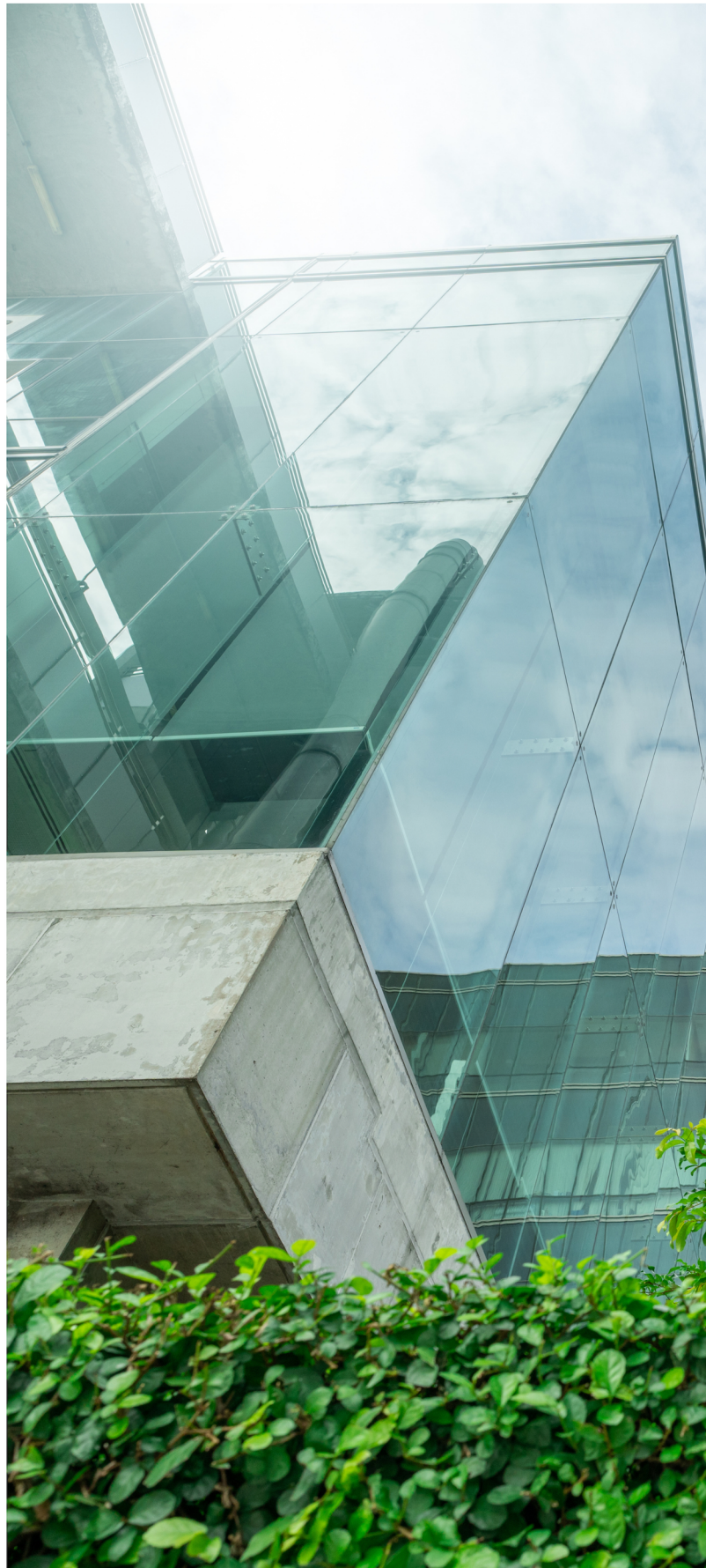
IFRS S2 Climate-related Disclosures

- The objective of IFRS S2 is to require an entity (and that would be a pension fund for our purposes) to disclose information about its climate-related risks and opportunities that is useful to users of general purpose financial reports in making decisions relating to providing resources to the entity.
- It requires an entity to disclose information about climate-related risks and opportunities that could reasonably be expected to affect the entity's cash flows, its access to finance or cost of capital over the

short, medium or long term (collectively referred to as 'climate-related risks and opportunities that could reasonably be expected to affect the entity's prospects).

- It sets out the requirements for disclosing information about an entity's climate-related risks and opportunities.

The FSCA will continue to monitor compliance with Regulation 28 using various regulatory tools. Where necessary, the FSCA will share emerging trends with stakeholders in the area of ESG and related areas in the context of Regulation 28, from information obtained. Also note the FSCA annual report and publications on sustainable finance from time to time on various FSCA initiatives: www.fsc.co.za



The Revamped Trustee Training Toolkit

By Sanchia Petrie

(Fund Governance and Trustee Conduct Department)



The Trustee Training Toolkit (TTK) is a free online education programme which was launched in August 2011 to provide board members of retirement funds with a better understanding of their roles and assist them in performing their fiduciary duties more effectively and efficiently. Section 7A(3) of the Pension Funds Act of 1956 requires board members of retirement funds to attain prescribed levels of skills and training within 6 months after being appointed or elected, and maintain such prescribed levels throughout their term of appointment. FSCA Conduct Standard 4 of 2020 mandates the Trustee Training Toolkit as the minimum skills and training requirements for all retirement fund trustees in South Africa. Consequently, board members of retirement funds must obtain certification from the Trustee Training Toolkit within six months from the effective date of Conduct Standard 4 or within six months from their appointment or election to the board. This effectively meant that board members had to complete the Toolkit by 1 January 2021 or within six months of their appointment or election to the board.

The Financial Sector Conduct Authority (FSCA) embarked on a project to completely re-develop the training and assessment content of the TTK, a critical step to ensuring its accuracy and credibility. Given the numerous legislative changes in the retirement funds industry since the TTK's launch in August 2011, an update proved essential in providing trustees with comprehensive and updated information. The development project involved multiple processes, including consultations with industry experts, to maintain the content's integrity and credibility. Phase II of the trustee training development project focuses on the more advanced and comprehensive redevelopment of the training and assessment content and aims to better equip board members with the necessary updated knowledge and skills to effectively fulfil their fiduciary duties. Phase II comprises 22 modules covering crucial topics such as governance, investments, ESG, death benefits, and contributions.

The FSCA launched the first 11 Modules on 26 September 2023 and issued FSCA RF Notice 21 of 2023 on 27 September 2023.

FSCA RF Notice 21 of 2023 provides that board members of retirement funds who were appointed or elected on or before 26 September 2023, must

complete the first 11 modules of the revamped TTK within six months from the date of publication of the notice i.e. by 27 March 2024. It also provides that new board members of retirement funds appointed or elected after 26 September 2023 must complete the first 11 modules of the revamped Trustee Training Toolkit within six months from the date of appointment or election. Given the teething technical (ICT) challenges experienced by trustees, a general extension for the completion of the first 11 modules (Modules 1-11) of the TTK has been granted until 30 September 2024. The FSCA is set to launch the second set of 11 Modules on 28 March 2024 and the deadline for completion of the additional 11 modules is 30 September 2024.

The re-developed TTK aims to offer trustees a more interactive and user-friendly experience. Trustees will be guided through the e-learning content by e-learning characters and presented with checkpoint quizzes and games to test their knowledge. Importantly, each module will conclude with a summative assessment, consisting of multiple-choice questions, to test the trustees' understanding. There is no time limit for completing these assessments and trustees will receive a certificate upon completion of the TTK.

The TTK Platform enables the FSCA to monitor trustees who have completed the TTK. Thus far 3 388 trustees have completed the first eleven modules of the new TTK, whilst 4 567 trustees have registered on the TTK Platform. Should trustees not complete the TTK within the period of extension granted, the FSCA will take regulatory action against such trustees, which may lead to the removal of such recalcitrant trustees after affording them due process. The FSCA trusts that this will not be necessary as it desires co-operation from trustees in completing the TTK in order to better serve members.

Figure 1: Number of Trustees who have completed the TTK according to gender

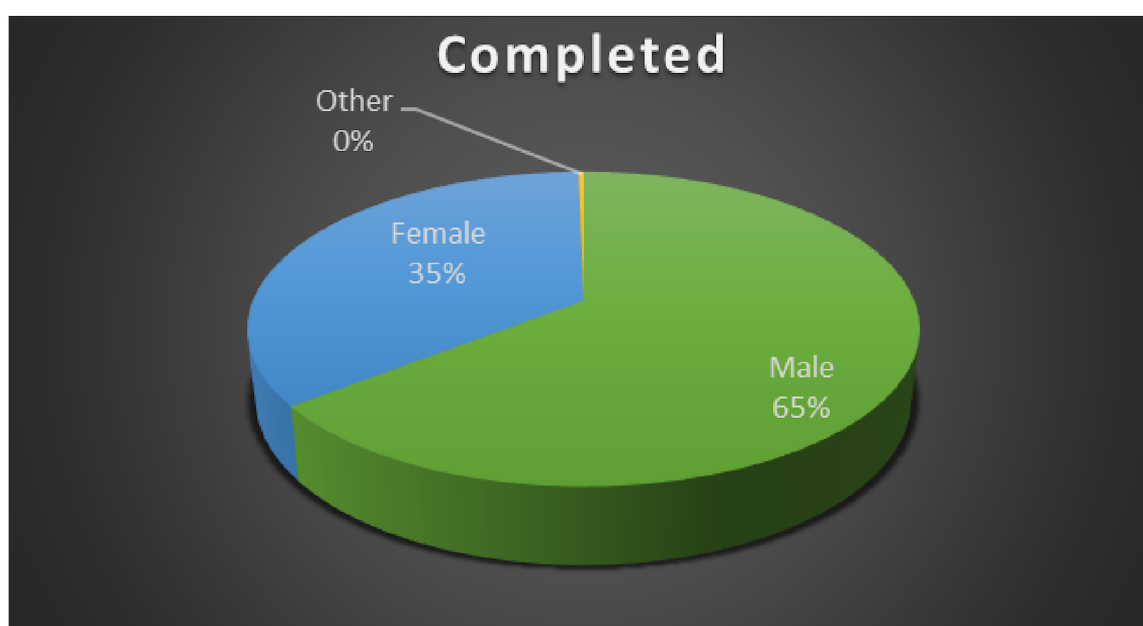
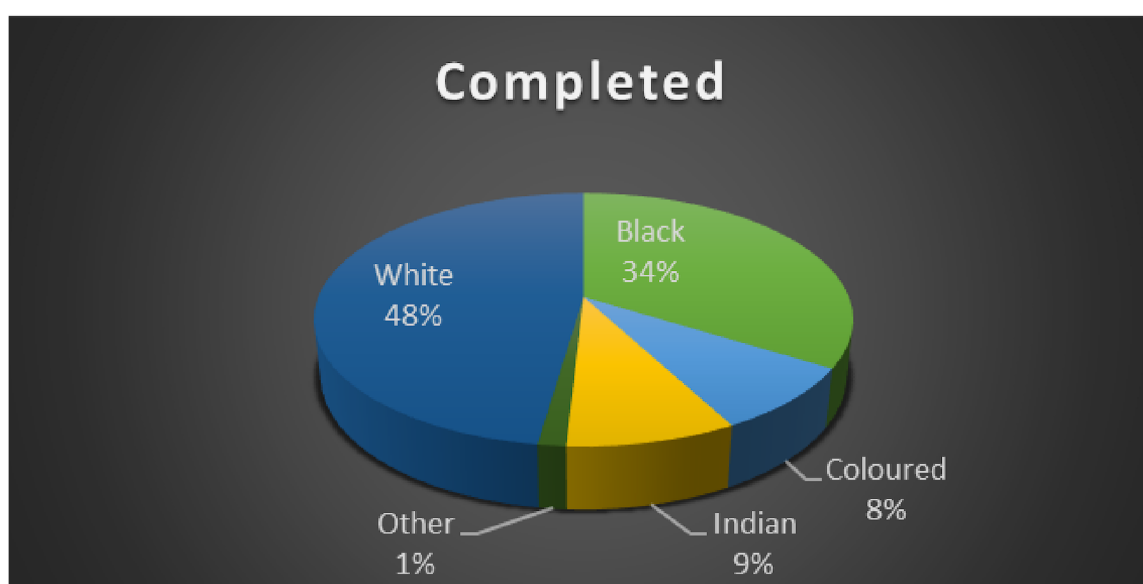


Figure 2: Number of Trustees who have completed TTK according to race



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RF TALKS

Contact

www.fsca.co.za

012 428 8000

Riverwalk Office Park, Block B

41 Matroosberg Road, Ashlea Gardens, 0081