FSCA

Financial Sector
Conduct Authority

FSCA COMMUNICATION 18 OF 2025 (RF)

Publication of the names of pension funds and employers with arrear contributions

1. PURPOSE

The purpose of this Communication is to inform members of pension funds and relevant stakeholders of the names of pension funds and employers with arrear contributions in direct contravention of section 13A(3)(a) of the Pension Funds Act, 1956 (PFA).

2. BACKGROUND AND CONTEXT

2.1 The issue of arrear contributions has a long history within the industry and leads to prejudice and unfair outcomes for pension fund members. In the circumstances, on 9 June 2022 the Financial Sector Conduct Authority (Authority), through FSCA Communication 17 of 2022 (RF) (Communication), informed the industry of its intention to publish the names of pension funds and employers with arrear contributions.

2.2 In the Communication the Authority requested, amongst other things, that the boards of pension funds share the Communication with their participating employers.

2.3 On 19 August 2022, the Authority published the Conduct Standard 1 of 2022: *Requirements related to the payment of pension fund contributions* (Conduct Standard). On 19 February 2023, the Conduct Standard became effective. The Conduct Standard, amongst others, places notification and reporting obligations on the board of a fund, principal officer or other authorised person, where there is a contravention of or non-compliance with sections 13A(2)(b) or 13A(3)(a) of the PFA by an employer.

2.4 The Authority published a list of defaulting employers as at 31 December 2023 as per Communication 41 of 2024 on 21 November 2024.

3. APPLICABLE LEGAL PROVISIONS

3.1 Section 13A (1) of the PFA requires that the employer of any member of a pension fund must pay any contribution which in terms of the rules of the pension fund, is to be deducted from the member's remuneration; and any contribution for which the employer is liable in terms of the rules of the pension funds.

3.2 Section 13A(3)(a) of the PFA determines that any contribution to a fund in terms of its rules, whether it be a contribution in section 13A(1) of the PFA, a contribution for the payment of which a member of the pension fund is responsible personally, or a contribution to be paid on a member's behalf shall be transmitted directly into the bank account not later than seven days after the end of the month for which such a contribution is payable; or directly to the pension fund in such a manner as to have the pension fund receive the contribution not later than seven days after the end of that month; or in the case of an underwritten pension fund shall be forwarded to the insurer concerned in such as manner as to have the insurer receive the contribution not later than seven days after the end of that month.

3.3 Section 37(1)(a) of the PFA states that any person who contravenes or fails to comply with section 13A of the PFA is guilty of an offence and liable on conviction to a fine not exceeding R10 million

or to imprisonment for a period not exceeding 10 years or to both such fine and such imprisonment.

3.4 Paragraph 4(1)(a) of the Conduct Standard provides that the person responsible for receiving contributions in terms of section 13A(3)(a)(ii) of the PFA, must report no later than the stipulated period if any contributions payable in terms of section 13A(1) have not been received as provided in section 13A(3)(a) of the PFA.

3.5 Section 251(2)(a) of the Financial Sector Regulation Act No. 9, 2017 ("FSR Act") provides that a financial sector regulator must disclose information gathered in terms of section 251(1)(a) of the FSR Act if the financial sector regulator determines it is necessary to comply with its obligations –

- to perform functions in terms of, or as enabled by, a financial sector law;
- to warn financial customers against conducting business with a financial institution or other person conducting activities in contravention of a financial sector law;
- to alert financial customers to activities carried out by a financial institution that a financial sector regulator believes to constitute a risk to financial customers;
- to protect the public interest; and
- to deter, prevent, detect, report and remedy fraud or other criminal activity in relation to financial products or financial services.

4. EMPLOYERS IN CONTRAVENTION OF SECTION 13A(3 (a) OF THE PFA

4.1 Pursuant to the Authority's obligations under section 251(2)(a) of the FSR Act, as outlined in paragraph 3.5 above, the names of the employers listed in **the Annexures** are disclosed for contravening section 13A(3)(a) of the PFA as at 31 March 2025.

4.2 The information in the **Annexures** was provided to the Authority by various pension funds in which the respective non-compliant employers participate.

4.3 The Authority intends to publish on a regular basis a list of non-compliant employers in a similar manner to the **Annexures**.

4.4 Pension funds must ensure that proper records of the reports relating to arrear contributions are kept as required in terms of the PFA, and that reports to the Authority in this regard are accurate and submitted in a timely manner.

4.5 The Authority, however, cautions that at the time of publication, there might be instances where the respective employers have paid over the outstanding contributions as there is delay between the reporting date and date of publication.

5. ENQUIRIES

For more information regarding this Communication, please contact the Retirement Funds Supervision Department of the Authority by emailing Ms Keabetswe Tsuene at Keabetswe.Tsuene@fsca.co.za or FSCAQueries13Anotices@fsca.co.za.



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