



## COMMENT MATRIX

**FSCA RF NOTICE 8 OF 2025**

**EXEMPTION OF RETAIL FUNDS IN RELATION TO AMALGAMATIONS AND TRANSFERS FROM THE REQUIREMENTS OF SECTION 14(1) OF THE PENSION FUNDS ACT, 1956**

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July 2025

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## Table of Contents

SECTION A - LIST OF COMMENTATORS	2
SECTION B - COMMENTS ON THE DRAFT FSRA RF NOTICE [-] OF 2025	2
SECTION C- GENERAL COMMENTS	10

### SECTION A - LIST OF COMMENTATORS

No	Name of Organisation	Acronym
1	Association for Savings & Investment South Africa	ASISA
2	Institute of Retirement Funds Africa NPC	IRFA
3	Old Mutual Wealth Fund Retirement Annuity, Old Mutual Wealth Fund Preservation Pension and Preservation Provident Funds	OMW
4	Prescient Fund Administration (Pty) Ltd	Prescient

### SECTION B - COMMENTS ON THE DRAFT FSRA RF NOTICE [-] OF 2025

No	Commentator	Paragraph number / Definition	Issue / Comment / Recommendation	Authority Response
<b>1. DEFINITIONS</b>				
1.	ASISA	"FSRA Conduct	If the comments below on the proposed paragraph 4 of the exemption is accepted, this definition could be deleted.	Definition deleted. Also see response to comments on paragraph 4 below.

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		Standard 1 of 2019"		
<b>2. APPLICABLE LEGISLATION</b>				
2.	ASISA	2(2)	The reference to section 14(8) of the PFA causes confusion. It is understood that the intention is to provide for an exemption from section 14(1) of the PFA subject to conditions that are similar to the requirements applicable to section 14(8) transfers. It is suggested that this paragraph be deleted from the exemption. Please refer to the comments below on the proposed paragraph 4 of the exemption.	Agreed. The comparison to section 14(8) will be moved to the accompanying communication to be published alongside final exemption. It is not necessary for purposes of the legal notice.
3.	IRFA	2(2)	Delete the comma after "determines that" and add that the exemption is subject to certain requirements being met.  Proposed wording:  Section 14(8) of the PFA determines that section 14(1) does not apply to funds where the affected members were duly informed of a proposed transaction in the case of an amalgamation or transfer contemplated in section 14(8)(a), (aA) or (b), <u>subject to the requirements set out in paragraphs li) to (iv) being met.</u>	Please note that the reference to section 14(8) will be removed from the notice as it is not necessary for purposes of the legal notice. Comparison moved to accompanying communication.
4.	ASISA	2(4)	The reference to section 16 of the FSRA Conduct Standard 1 of 2029 causes confusion as it applies to section 14(8) transfers which is not the subject of this exemption. It is understood that the intention is to provide for an exemption from section 14(1) of the PFA subject to conditions that are similar to the requirements applicable to section 14(8) transfers. It is suggested that this paragraph be deleted from the exemption. Please refer to the comments below on the proposed paragraph 4 of the exemption.	Commentator's understanding is correct. Paragraph deleted.

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5.	IRFA	2(3)	<p>Add the fact that the conditions must be prescribed.</p> <p>Proposed wording:</p> <p>Section 14(9) of the PFA determines that the Authority may exempt a transaction from the provisions of section 14 subject to the <u>prescribed</u> requirements or conditions to be complied with for such exemption to be granted.</p>	Comment accepted but with alternative drafting.
<b>3. EXEMPTION</b>				
6.	ASISA	3	<p>ASISA members understand that the exemption from section 14(1) of the PFA will be available in the following circumstances:</p> <p>1. Most transfers of individual fund members are section 14(8) transfers. If a section 14(8) transfer is not completed within 180 days, funds currently need apply for an extension and if not granted by the FSCA, then they must follow the section 14(1) transfer process after the expiry of the 180 days.</p> <p>The exemption allows funds not to apply for a further extension and not to follow the section 14(1) process but to effectively continue with the section 14(8) process (the conditions of the exemption is similar to the section 14(8) process).</p> <p>2. Transfers of individual members between funds –</p> <p>a) which are not valuation exempt, or</p> <p>b) where funds have applied for valuation exemption and the approval thereof from the FSCA is pending, or</p>	<p>1. This is not correct. The exemption does not allow the funds to apply for a further extension or to follow the section 14(8) process – it simply requires the transfer to be done within 180 days (by it being a condition to the exemption) or else it ‘defaults’ back to the s14(1) process.</p> <p>In other words, the implication of having the condition that the assets and liabilities must be transferred within 180 days of the effective date of transfer is that IF the transfer is not done within 180 days, then they no longer qualify for the exemption – and they will need to follow the s14(1) process.</p>

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			<p>c) where one fund is valuation exempt and the other not, are subject to the section 14(1) process.</p> <p>The exemption allows for these transfers to effectively follow a section 14(8) process (the conditions of the exemption is similar to the section 14(8) process).</p> <p>Confirmation of this understanding will be appreciated.</p>	<p>2. This understanding is correct.</p>
7.	IRFA		<p>Paragraph 3.5 of FSCA Communication 8 of 2025 (RF) states as follows:</p> <p><i>A transfer from an employer fund to a retail fund is preceded by withdrawal from that fund, which is then followed by a recognition of transfer form to be completed by both the funds. <b>The same principle applies to transfers between retail funds.</b></i> (own emphasis)</p> <p>Paragraph 18(b) of FSRA Conduct Standard 1 of 2019 states that :</p> <p><i>[A] transaction entailing a member who, on leaving the service of an employer or upon liquidation of the fund, is entitled to receive a benefit in cash or is entitled to elect to translocate the benefit to another fund, including a preservation fund</i> does not fall within the ambit of section 14. This suggests that the section 14(8)-process does not apply to a transfer from an occupational fund to a preservation fund (and presumably also to a retirement annuity fund). The question then arises why any subsequent transfer would be brought back under the ambit of section 14, albeit section 14(8). If a member for example resigns from his employer and transfers his benefit to a preservation fund, that transfer will not fall under section 14. If the member then transfers from the preservation fund to</p>	<p>We have reviewed paragraph 3.5 of FSCA Communication 8 of 2025 (RF) and agree with the commentator that it is not correct. Not all transfers between RAs are preceded by a withdrawal as suggested in paragraph 3.5. This will be removed from the accompanying communication to be published alongside final exemption.</p> <p>The section 14 process in the example given is expressly excluded by section 13A(5) of the Pension Funds Act. The reason being that, upon leaving employment, the member becomes entitled to a <b>benefit</b> which he or she may choose to translocate to an RA or Preservation Fund by way of an ROT.</p>

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			<p>another preservation fund or a retirement annuity fund, section 14(8) will apply. Is that the intention?</p> <p>If the same principle that applies to a withdrawal from an occupational fund and a subsequent transfer to another fund applies to transfers between retail funds as suggested in paragraph 3.5 of FSCA Communication 8 of 2025 (RF), transfers between retail funds should also not fall within the ambit of section 14 and be included under paragraph 18 of FSRA Conduct Standard 1 of 2019.</p> <p>The introductory paragraph of this section should then be changed to specify that the listed transactions do not fall within the ambit of section 14, and the references to sections 14(8) and (9) in paragraphs 2(2) and (3) should be reconsidered.</p>	On the other hand, the transfer from one RA or Preservation Fund to another falls outside the ambit of section 13A(5) and is not a transfer of a <b>benefit</b> but of a fund asset/business which has not accrued to a member. Therefore, section 14 applies.
8.	OMW	3	<p>We support the proposal for retail funds to be exempt from S14(1) and S14(8) and that the normal withdrawal process for employer funds should apply i.e the member voluntarily completes a withdrawal form and provides their instruction to transfer to another fund. A recognition of transfer form is completed and proper records of the transfer is kept. A report on members transferred will be sent to the Trustees and the fund's Administration Sub committee or relevant committee.</p> <p>We believe the intention of the Notice is to exempt retail funds from the current transfer process in section 14 (1) and that S14(8) is included in this overarching exemption - but that this should be clarified in order to remove an ambiguity that retail funds be exempt from S14(1) and yet S14(8) could still apply. This would then open up the way for the normal withdrawal process for employer funds as described in Section 3 of your Communication 8 of 2025 (RF) to be applicable.</p>	Agreed. Reference to section 14(8) will be removed from the notice as it is not necessary for purposes of the legal notice. Comparison moved to accompanying communication.

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			<p>In order to clarify this section, we recommend the following bolded addition into the proposed wording:</p> <p>“Pursuant to section (14(9) of the PFA, the Authority exempts a retail fund in relation to transactions involving amalgamations or transfers from the requirements of section 14(1) <b>and section 14(8)</b> of the PFA, subject to the conditions specified in paragraph 4, insofar as the transactions relate to the following transfers:</p> <ul style="list-style-type: none"> <li>(1) transfers between retirement annuity funds</li> <li>(2) transfers between preservation funds; or</li> <li>(3) transfers from a preservation fund to a retirement annuity fund.”</li> </ul> <p>If the inclusion of S14(8),as suggested above, is not acceptable, then the Form H should be amended to allow for only the Principal Officer to sign the application as opposed to two Trustees and the Principal Officer. Proper records as proposed in Section 4 of the notice are kept. The rationale for this is as listed in Section 3 of your Communication 8 of 2025 (RF) but also to improve fund efficiencies, reduce processing delays and improve servicing to members.</p> <p>Either process will not abdicate Trustees from their responsibilities but will allow funds to improve the processing of these transfers and provide a better service to members.</p> <p>Our preferred option is the former, where we have interpreted the proposal to include S14(8).</p>	<p>Intention noted, however including reference to section 14(8) in paragraph (3) will have unintended consequence from a legal interpretation perspective (i.e. an exemption cannot exempt an entity from an existing exemption). In alternative, reference to section 14(8) has been removed from the legal notice.</p> <p>Suggestion noted but not agreed. Only allowing for the principal officer to sign the application form would be contrary to the provisions of section 7C of the Pension Funds Act and Regulation 20 of the regulations in terms of Section 36 of the Pension Funds Act.</p> <p>Suggestion noted, however see response directly above.</p>
<b>4. AMENDMENT AND WITHDRAWAL OF EXEMPTION</b>				
9.	ASISA	4	The reference to section 16 of the FSRA Conduct Standard 1 of 2029 causes confusion as it applies to and refers to section 14(8) transfers which is not the subject of this exemption. It is understood	Accepted. Please see revised wording to the conditions.

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			<p>that the intention is to provide for an exemption from section 14(1) of the PFA subject to conditions that are similar to the requirements applicable to section 14(8) transfers. To avoid any confusion, it is suggested that the conditions of the exemptions be rephrased to align with paragraph 16 of the FSRA Conduct Standard 1 of 2019 and not to refer directly thereto.</p> <p><u>Proposed wording:</u>  The exemption referred to in paragraph 3 is subject thereto that:</p> <p>(1) <del>the requirements prescribed in paragraph 16 of FSRA Conduct Standard 1 of 2019 are at all times complied with</del>  <u>a scheme for the proposed transaction does not need to be submitted to the Authority for approval;</u></p> <p>(2) <del>retail funds keep proper records of all such transactions</del> <u>the records of any transaction effected must be maintained by both retail funds and be made available to the Authority if requested;</u></p> <p>(3) <u>the proposed transaction may only be effected in terms of the rules of the relevant funds and the provisions of such rules must be complied with;</u></p> <p>(4) <u>no proposed transaction will be of any force or effect unless the relevant forms, as determined by the Authority, have been completed and certified;</u></p> <p>(5) <u>the following documents are kept on file in respect of the transfer:</u>  (a) <u>proof that the proposed transaction has been communicated and that any objections have been addressed; and</u></p>	<p>Disagree with (1) as not submitting a scheme for the proposed transaction for approval is not a <i>condition</i> to the exemption. The scheme merely does not need to be submitted. Differently put, qualifying for the exemption is not conditional to not submitting a scheme for approval</p> <p>Agreed.</p> <p>Agreed.</p> <p>Agreed, but with alternative drafting.</p> <p>Agreed.</p>



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			<p><u>(b) proof that the Authority is satisfied that the requirements for surplus schemes in terms of section 15B of the Pension Funds Act have been complied with (where applicable);</u></p> <p><del>(3)</del>(6) The assets and liabilities are transferred within 180 days of the effective date of transfer; and</p> <p><del>(4)</del>(7) Any assets transferred must be increased or decreased with fund return from the effective date until the date of final settlement.</p>	
10.	IRFA	4	<p>Refer to the comment under section 3.</p> <p>If transfers between retail funds do not fall within the ambit of section 14, then the provisions of paragraph 16 of FSRA Conduct Standard 1 of 2019 will not apply. Instead, these transfers will be included under paragraph 18 of FSRA Conduct Standard 1 of 2019.</p>	<p>We disagree with the comment. Transfers between retail funds falls outside the ambit of section 13A(5) and is not a transfer of a <b>benefit</b> but of a fund asset/business which has not accrued to a member. Therefore, section 14 applies.</p>
11.	OMW	4(1)	<p>To be amended as per suggestions above in Section 3</p> <p>Paragraph 16 of the FSRA Conduct Standard 1 of 2019 requires S14(8) to be applied at all times. To avoid this, the paragraph should be deleted and replaced with text to refer to the fact that the transfer is a voluntary individual transfer, and that both funds are valuation exempt.</p> <p>The completion of Form H (especially) is time consuming as it requires the signatures of principal officers and two trustees from each fund. This can lead to delays in processing the transfer. Hence our suggestion.</p>	<p>Agreed. The reference to paragraph 16 has been removed.</p> <p>Suggestion noted but not agreed. Only allowing for the principal officer to sign the application form [would be contrary to the provisions of section 7C of the Pension Funds Act and Regulation 20 of the regulations in terms of Section 36 of the Pension Funds Act</p>
12.	OMW	4(2)	<p>Add wording referring to the required Recognition of Transfer form submitted to the Revenue Authority.</p>	<p>Suggestion noted however the submission of the Recognition of Transfer is a requirement of the Revenue Authority, and monitoring such</p>

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				submission is not done by the FSCA. Accordingly, it would not be appropriate to include same as a condition to this exemption.
<b>5. AMENDMENT AN WITHDRAWAL OF EXEMPTION</b>				
			<i>No comments</i>	
<b>6. SHORT TITLE</b>				
			<i>No comments</i>	

## SECTION C- GENERAL COMMENTS

No	Commentator	Comment/Recommendation	Response
13.	ASISA	<p>Section 14(8) transfer process</p> <p>ASISA members welcome the proposed exemption as it removes the administrative challenges for funds and their administrators. Unfortunately, the proposed exemption does not alleviate the transfer process for fund members. Although not the subject of this exemption, it is believed that the process of transferring individuals between retail funds should be simplified. The transfer of an individual from an occupational fund to a retail fund can be completed within a few weeks as the only requirement is that a SARS Recognition of Transfer must be completed. A transfer from one retail fund to another can take months due to the requirements of completing Form H and Form J in addition to a SARS Recognition of Transfer. It is submitted that the process could be simplified to reduce the time for individual transfers between retail funds.</p>	Comments noted. Agreed that it is not the subject of this exemption, and the proposal will therefore not be responded to in detail. Separate consideration may be given to further simplifying the process in future.

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14.	IRFA	<p><b>Introductory and General Comments:</b></p> <ol style="list-style-type: none"> <li>1. We would like thank you for the opportunity to comment on the Draft FSCA Notice [-] of 2025 - <b>EXEMPTION OF RETAIL FUNDS IN RELATION TO AMALGAMATIONS AND TRANSFERS FROM THE REQUIREMENTS OF SECTION 14(1) OF THE PENSION FUNDS ACT, 1956 (ACT NO. 24 OF 1956)</b></li> <li>2. Our understanding from previous discussions is that this Draft FSCA Notice will apply to all Retail Funds (Retirement Annuity and Preservation Funds) and the intention is to exempt these funds from submitting section 14(1) transfer applications for individual members transferring between retail fund in the following circumstances: <ul style="list-style-type: none"> <li>• Where one fund is valuation exempt and the other fund is not valuation exempt,</li> <li>• Where one or both funds have applied for valuation exemption and the valuation exemption application is being considered and pending approval by the Financial Sector Conduct Authority (FSCA),</li> <li>• Where the transfer process has commenced in terms of section 14(8) but has not been completed within the prescribed 180 day period, these transfers will be subject to an application for an extension to the FSCA.</li> </ul> </li> <li>3. The requirements relating to section 14(8) transfers remain unchanged.</li> <li>4. However, the above is not entirely clear from the draft document.</li> <li>5. We have provided additional comments on the actual content of the draft document.</li> </ol>	<p><b>Noted.</b></p> <p>The commentator's understanding is correct.</p> <p>The understanding is correct.</p> <p>The draft Notice has been further refined informed by industry inputs. reference to section 14(8) of the Pension Funds Act and paragraph 16 of the FSRA Conduct Standard No.1 of 2019 have been removed, and the conditions under paragraph 4 further refined.</p> <p>See detailed responses to these comments above.</p>

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15.	Prescient	<p>As these transfers are voluntary, they are not dependent on the Fund trustees choosing assets / portfolios, and are for individuals. Therefore:</p> <ul style="list-style-type: none"> <li>• Ideally, the retail funds should be processed in the same way as a withdrawal (not transfer) from an employer fund and for which only a ROT process is to be completed.</li> </ul> <p>If that was not acceptable then a simplified Form H to be done in the 14(8) process, with just Principal Officer signatures required.</p> <p>Clarity to be given around which process retail funds who are not valuation exempt, are to follow.</p>	<p>The example given it falls under section 13A(5) of the Pension Funds Act. The reason being that, upon leaving employment, the member becomes entitled to a <b>benefit</b> which he or she may choose to translocate to an RA or Preservation Fund by way of an ROT.</p> <p>The transfer from one RA or Preservation Fund to another falls outside the ambit of section 13A(5) and is not a transfer of a <b>benefit</b> but of a fund asset/business which has not accrued to a member. Therefore, section 14 applies.</p> <p>Only allowing for the principal officer to sign the application form [would be contrary to the provisions of section 7C of the Pension Funds Act and Regulation 20 of the regulations in terms of Section 36 of the Pension Funds Act.</p> <p>Retail funds that are not valuation exempt will need to comply with the conditions as set out in paragraph 4 of this exemption in order to qualify.</p>