Financial Sector
Conduct Authority

FSCA INFORMATION REQUEST 3 OF 2024 (RF)

FINANCIAL SECTOR REGULATION ACT, 2017 (ACT NO. 9 OF 2017)

REQUEST FOR INFORMATION IN RESPECT OF BOARD MEMBERS OF RETIREMENT FUNDS

1. DEFINITIONS

In this Information Request "the PFA" means the Pension Funds Act, 1956 (Act No. 24 of 1956) and "the FSR Act" means the Financial Sector Regulation Act, 2017 (Act No. 9 of 2017), and any word or expression to which a meaning has been assigned in the PFA or the FSR Act bears the meaning so assigned to it, unless the context otherwise indicates, and –

"**Authority**" means the Financial Sector Conduct Authority;

"**Regulations**" means the Regulations made in terms of Section 36 of the PFA; and

"**Trustee**" means a board member as defined in the PFA.

2. BACKGROUND

2.1 On 26 September 2023, the Authority launched the first 11 modules of the newly revamped FSCA Trustee Training Toolkit (TTK) on its e-learning platform and issued FSCA RF Notice 21 of 2023 pursuant to Conduct Standard 4 of 2020 (RF) read with section 7A(3) of the PFA. This notice required that all board members of retirement funds who were appointed or elected on or before 26 September 2023, complete the first 11 modules within six months from the date of publication. It also provided that new board members of retirement funds appointed or elected after 26 September 2023 must complete the first 11 modules within six months from the date of appointment or election.

2.2 The Authority completed the TTK Development Project on 28 March 2024 with the release of the final phase of modules on its e-learning platform. This phase introduced the remaining 11 modules, bringing the total to 22 modules aimed at enhancing the skills and knowledge of trustees to better fulfil their fiduciary duties.

2.3 Due to technical challenges experienced by trustees, the Authority issued FSCA Communication 11 of 2024 (RF) on 28 March 2024, announcing the extension of the deadline for completing the first set of 11 modules by way of FSCA RF Notice 5 of 2024, and determining the dates by which board members were required to complete the second

set of 11 modules by way of FSCA RF Notice 6 of 2024. Both sets were to be completed by 30 September 2024.

2.4 The Authority emphasised that non-compliance will result in regulatory action being taken against recalcitrant trustees, including the potential regulatory action in terms of section 26(2) and (4) of the PFA.

2.5 To evaluate whether there has been non-compliance with the aforesaid Notices, and whether or not to proceed with regulatory action in instances of such non-compliance, the Authority requires up-to-date regulatory information on board members of retirement funds.

3. PURPOSE

3.1 The purpose of this Information Request is to obtain the necessary and up-to-date regulatory information relating to trustees of retirement funds. This information will enable the Authority to take appropriate regulatory action against non-compliant trustees. It is the Authority's intention to publish a list of non-compliant trustees' names following receipt of the requested information as a first step.

4. REQUEST FOR INFORMATION

4.1 The Authority, in terms of sections 2(4)(b), 13B(5)(g) of the PFA and section 131 of the FSR Act, hereby requests the Principal Officers of all Funds or their Administrators (as the case may be) to submit up-to-date regulatory information of trustees, by completing Annexure A attached to this information request on or before **6 November 2024**.

5. FORMAT OF INFORMATION

5.1 All Principal Officers or Administrators (as the case may be) must submit the required information relating to regulatory information of trustees in Annexure A by email no later than **6 November 2024.** Submissions should be sent to the following email address: Jodine.Scholtz@fsca.co.za

6. FAILURE TO COMPLY WITH INFORMATION REQUEST

6.1 In terms of section 37 of the PFA, any person who contravenes or fails to comply with section or 13B is guilty of an offence and liable on conviction to a fine not exceeding R10 million or imprisonment for a period not exceeding 10 years, or both such fine and imprisonment.

6.2 In terms of section 267(1) of the FSR Act, a supervised entity that fails to comply with the requirements contained in a notice under section 131(1) commits an offence and is liable on conviction to a fine not exceeding R1000 for each day during which the offence continues.

6.3 Accordingly, a failure to provide the specified information by or within the timeframe specified constitutes an offence under section 37 of the PFA and section 267 of the FSR Act.

7. ENQUIRIES

7.1 This Information Request is available on the FSCA's website (www.fsca.co.za) under Regulatory Frameworks < Notices < Retirement Funds < 2024.

7.2 For further information regarding this Information Request and the contents hereof please contact the FSCA by emailing Zareena Camroodien at: Zareena.Camroodien@fsca.co.za.

A LUDIN
DEPUTY COMMISSIONER

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