



Financial Sector
Conduct Authority

**NOTICE REGARDING THE PUBLICATION OF DRAFT NOTICE OF
AMENDMENT OF FSRA CONDUCT STANDARD 1 OF 2019 (PFA) – CONDITIONS
FOR AMALGAMATIONS AND TRANSFERS IN TERMS OF SECTION 14 OF THE
PENSION FUNDS ACT**

FINANCIAL SECTOR REGULATION ACT, 2017

PENSION FUNDS ACT, 1956

The Financial Sector Conduct Authority (Authority) hereby, in accordance with section 98(1)(a)(iv) of the Financial Sector Regulation Act, 2017 (Act No. 9 of 2017) ("FSR Act), invites submissions on the draft Amendments to FSRA Conduct Standard 1 of 2019 (PFA) – Conditions for amalgamations and transfers in terms of section 14 of the Pension Funds Act, published on 5 August, as set out in the Schedule hereto.

The draft Amendment Notice, together with a statement supporting the draft Amendment, is available on the Authority's website at <https://www.fsc.co.za>.

Submissions on the draft Amendment Notice must, using the using the submission template available on the Authority's website, be submitted in writing on or before **19 June 2024** to the Authority at FSCA.RFDStandards@fsc.co.za.

A handwritten signature in black ink, appearing to read 'Unathi Kamlana', is written over a large, light grey 'DRAFT' watermark.

**UNATHI KAMLANA
COMMISSIONER
FINANCIAL SECTOR CONDUCT AUTHORITY**

Date of publication: 8 May 2024

SCHEDULE

1. Interpretation

In this Schedule, “**Section 14 Conduct Standard**” means FSRA Conduct Standard 1 of 2019 (PFA) – Conditions for amalgamations and transfers in terms of section 14 of the Pension Funds Act, published on the Authority’s website on 5 August 2019.

2. Amendments to Section 14 Conduct Standard

(1) Paragraph 3 of the Section 14 Conduct Standard is hereby amended by the –

(a) substitution of item (b) of subparagraph (1) of the following item:

“(b) the relevant applicable forms referred to in this Conduct Standard and as determined by the Authority, duly completed, **[as set out in the Appendices to this Conduct Standard]**; and”;

(b) substitution of item (c) of subparagraph (1) of the following item:

“(c) any other documentation to substantiate the application for the amalgamation or transfer contemplated in terms of section 14(1) as may be determined by the Authority.”; and

(c) deletion of subparagraph (2).

(2) Paragraph 4 of the Section 14 Conduct Standard is hereby amended by the substitution of subparagraph (3) of the following subparagraph:

“(3) **[The attached forms as set out in the Appendices require the applicants to]** A pension fund seeking approval under section 14 must, in its application, indicate the impact of any unapportioned actuarial surplus included or excluded from the transaction.”.

(3) Paragraph 8.1 of the Section 14 Conduct Standard is hereby amended by the substitution of subparagraph 2 of the following subparagraph:

“(2) For a retrospective application, **[the A Forms in Appendix 1 must be completed]** a pension fund must complete the relevant forms for such transfer as determined by the Authority.”.

(4) Paragraph 8.2 of the Section 14 Conduct Standard is hereby amended by the –

(a) substitution of subparagraph (4) of the following subparagraph:

“(4) For a prospective transfer, **[the B Forms in Appendix 2 must be completed]** a pension fund must submit the relevant forms for such transfer as determined by the Authority.”; and

(b) substitution of subparagraph (5) of the following subparagraph:

“(5) In the case of a prospective transfer, it is imperative that the transferor fund complete **[Form B3]** the relevant form, as determined by the Authority, pertaining to members transferred between the two funds as prospectively approved by the Authority, and submit it to the Authority within two months of the earlier of the effective

date of the particular transfer and in the case of a blanket transfer, the expiry of the prospective period as approved.”.

- (5) Paragraph 8.3 of the Section 14 Conduct Standard is hereby amended by the –
- (a) substitution of subparagraph (1) of the following subparagraph:
“(1) For applications in respect of groups of pensions for whom annuities are to be purchased from a long-term insurer or whose annuity policies are to be transferred to their names, **[the C Forms in Appendix 3 must be completed]** a pension fund must complete the relevant application form for such transfer as determined by the Authority.”; and
 - (b) substitution of subparagraph (2) of the following subparagraph:
“(2) In the case of a prospective transfer, the transferor fund must complete **[Form C2]** the relevant forms, as determined by the Authority, pertaining to the purchase of annuity policies in the name of the pensions as was prospectively granted by the Authority, and submit it to the Authority within two months of the particular date or the expiry of the prospective period as approved.”.
- (6) Paragraph 8.5 of the Section 14 Conduct Standard is hereby amended by the substitution of subparagraph (4) of the following subparagraph:
- “(4) For an application for the transfer of an ‘agterskot’, **[Form E in Appendix 4 must be completed]** a pension fund must complete the relevant forms for such a transfer as determined by the Authority.”.
- (7) Paragraph 9 of the Section 14 Conduct Standard is hereby amended by the substitution of subparagraph (1) of the following subparagraph:
- “(1) When considering transfers to or from an entity not registered by the Authority, **[Forms A or C in the Appendices in this Conduct Standard, with the necessary changes, must also be used]** a pension fund must submit the relevant forms for such transfer as determined by the Authority.”.
- (8) Paragraph 13 of the Section 14 Conduct Standard is hereby amended by the –
- (a) substitution of item (a) of subparagraph (3) of the following item:
“(a) Any payments made from the assets to be transferred, must be reconciled by the transferor fund as set out in **[Form G]** the form determined by the Authority, certified by duly authorised officials of both the transferor and transferee funds.”; and
 - (b) substitution of item (c) of subparagraph (3) of the following item:
“(c) **[Form G]** The form referred to in item (a) must be finalised within 60 days of the date of the approval certificate being issued.”.
- (9) Paragraph 16 of the Section 14 Conduct Standard is hereby amended by the –
- (a) substitution of subparagraph (3) of the following subparagraph:

“(3) No proposed transaction in terms of section 14(8) will be of any force or effect unless **[Forms H and J in Appendix 5]** the relevant forms, as determined by the Authority, have been completed and certified and the requirements set out in section 14(8) of the Pension Funds Act have been complied with.”; and

(b) substitution of subparagraph (4) of the following subparagraph:

“(4) In addition **[to signed copies of Forms H and J]**, the following documents must be kept on file in respect of the transfer:

- (a) Proof that the proposed transaction has been communicated and that any objections have been addressed;
- (b) proof of valuation exemption; and
- (c) 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).”.

(10) The insertion after paragraph 19 of the following paragraph:

“19A. Determinations

(1) For purposes of determining an application form or any other matter that can be determined for purposes of this Conduct Standard, the Authority may determine –

- (a) the manner of submission;
- (b) the format and content of the application form or other relevant document; and
- (c) who must sign off on the respective application forms or other relevant document.

(2) Any determination made by the Authority in terms of this Conduct Standard must be published on the website of the Authority.”.

3. Short title and commencement

This regulatory instrument is called the Amendments to FSRA Conduct Standard 1 of 2019 (PFA), 2024 and comes into effect on the date of publication.