



**NOTICE REGARDING THE PUBLICATION OF DRAFT CONDUCT STANDARD
[] OF 2021 (RF) - CONDITIONS PRESCRIBED IN RESPECT OF PENSION FUND BENEFIT
ADMINISTRATORS**

PENSION FUNDS ACT, NO. 24 OF 1956

FINANCIAL SECTOR REGULATION ACT, 2017

The Financial Sector Conduct Authority (Authority) hereby invites, in accordance with section 98(1)(a)(iv) of the Financial Sector Regulation Act, 2017 (Act No. 9 of 2017) (FSR Act), submissions on the draft Conduct Standard [] of 2021 (RF) – Conditions prescribed in respect of Pension Fund Benefit Administrators, to be made in terms of sections 13B(1) of the Pension Fund Act, No. 24 of 1956 and 106(1)(a) of the FSR Act, as set out in the Schedule.

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

Submissions on the draft Conduct Standard must, using the submission template available on the Authority's website, be submitted in writing on or before **13 September 2021** to the Authority at FSCA.RFDStandards@fsca.co.za.

**UNATHI KAMLANA
COMMISSIONER
FINANCIAL SECTOR CONDUCT AUTHORITY**

Date of publication: 29 July 2021

SCHEDULE

PART I

INTERPRETATION AND APPLICATION OF CONDUCT STANDARD

1. Definitions and application

- (1) In this schedule **“the Act”** means the Pension Funds Act, 1956 (Act No. 24 of 1956) and any word or expression to which a meaning has been assigned in the Act shall bear the meaning so assigned to it, and, unless the context otherwise indicates -

“annual expenditure” means the expenditure set out in the latest set of financial statements of a benefit administrator, or in the case of a benefit administrator commencing business, the budgeted expenditure as expressed in the budget or financial accounts;

“administration functions” and **“administration services”** means the functions or service referred to in section 13B(1) of the Act;

“associate” in relation to a juristic person –

- (a) which is a company, means any subsidiary or holding company of that company, any other subsidiary of that holding company and any other company of which that holding company is a subsidiary,
- (b) which is a close corporation registered under the Close Corporations Act, 1984 (Act No. 69 of 1984), means any member thereof as defined in section 1 of that Act;
- (c) which is not a company or a close corporation as referred to in subparagraphs (a) or (b), another juristic person which would have been a subsidiary or holding company of the first-mentioned juristic person -
 - (i) had such first-mentioned juristic person been a company; or
 - (ii) in the case where that other juristic person, too, is not a company, had both the first-mentioned juristic person and that other juristic person been a company;
- (d) means any person in accordance with whose directions or instructions the governing body is accustomed to act; and
- (e) means any trust controlled or administered by a person referred to in items (a) to (d);

“benefit administrator”, in relation to a pension fund, means any juristic person, who has been approved by the Authority in terms of section 13B(1) of the Act, to administer the receipt of contributions and/or the disposition of benefits provided for in the rules of a fund;

“compensation payment” means a payment, whether in monetary form or in the form of a benefit or service, by or on behalf of a benefit administrator to a complainant to compensate the complainant for a proven or estimated financial loss incurred as a result of the benefit administrator’s contravention, non-compliance, action, failure to

act, or unfair treatment forming the basis of the complaint, where the benefit administrator accepts liability for having caused the loss concerned, but excludes any -

- (a) goodwill payment;
 - (b) payment contractually due to the complainant in terms of the financial product or financial service concerned; or
 - (c) refund of an amount paid by or on behalf of the complainant to the benefit administrator where such payment was not contractually due;
- and includes any interest on late payment of any amount referred to in items (b) or (c);

"complainant" means a person who has submitted a specific complaint to a benefit administrator and includes a person who -

- (a) is a customer or a potential customer of the benefit administrator concerned and has a direct interest in the matter to which the complaint relates; or
- (b) has submitted a complaint on behalf of a person referred to in item (a);

"complaint" means an expression of dissatisfaction by a person to a benefit administrator relating to the functions performed by that benefit administrator which indicates or alleges, regardless of whether such an expression of dissatisfaction is submitted together with or in relation to a customer query, that the -

- (a) benefit administrator has contravened or failed to comply with an agreement, a law, a rule, a code of conduct or a conduct standard which is binding on the benefit administrator or to which it subscribes;
- (b) benefit administrator's maladministration or wilful or negligent action or failure to act, has caused the person harm, prejudice, distress or substantial inconvenience; or
- (c) the benefit administrator has treated the person unfairly;

"current assets", means assets which are capable of being realised or recovered within a period not exceeding 12 months, and does not include any fixed assets;

"customer", in relation to a benefit administrator, refers to a pension fund which has contracted with a benefit administrator to perform administration services on its behalf, as well as its members;

"customer query" means a request to the benefit administrator by the fund or one of its members, for information regarding the benefit administrator's functions, or to carry out a transaction or action in relation to any such function;

"director" means a person referred to in paragraph (a) of the definition of key person;

"Financial Sector Regulation Act" means the Financial Sector Regulation Act, 2017 (Act No. 9 of 2017);

"fit and proper requirements" means requirements as prescribed in Part V that apply in respect of –

- (a) qualities of honesty, integrity and good standing; and
- (b) competence;

“goodwill payment” means a payment, whether in monetary form or in the form of a benefit or service, by or on behalf of a benefit administrator to a complainant as an expression of goodwill aimed at resolving a complaint, where the benefit administrator does not accept liability for any financial loss to the complainant as a result of the complaint;

“governing body” has the meaning assigned to it in terms of section 1 of the Financial Sector Regulation Act;

“head of control function” has the meaning assigned to it in terms of section 1 of the Financial Sector Regulation Act;

“holding company” has the meaning assigned to it in terms of section 1 of the Companies Act, 2008 (Act No. 71 of 2008);

“key person” has the meaning assigned to it in terms of section 1 of the Financial Sector Regulation Act;

“liquid assets” means current assets including deposits with and cash balances in accounts with banks and mutual banks in the Republic of South Africa;

“outsourcing arrangement” has the meaning assigned to such term in section 1 of the Financial Sector Regulation Act, and **“outsourcing”** or any derivative of such term has a corresponding meaning;

“outsourcing contract” means a documented contract between a benefit administrator and a service provider that gives effect to an outsourcing arrangement;

“ownership interest” means any equity or proprietary interest, for which fair value was paid by the owner at the time of acquisition, other than equity or a proprietary interest held as an approved nominee on behalf of another person, and includes any dividend, profit share or similar benefit derived from that equity or interest;

“plain language” means communication that –

- (a) is clear and easy to understand;
 - (b) avoids uncertainty or confusion; and
 - (c) is adequate and appropriate in the circumstances,
- taking into account the factually established or reasonable assumed level of knowledge of the person or average persons at whom the communication is targeted;

“potential customer” means a fund which has approached the benefit administrator in relation to becoming a customer of the benefit administrator, or a fund which has been solicited by the benefit administrator to become a customer, or has received advertising material in relation to the business of the benefit administrator;

“Regulations” means the Regulations made under section 36 of the Act, published under Government Notice R98 in *Government Gazette* 162 of 26 January 1962, as amended;

"rejected", in relation to a complaint, means that a complaint has not been upheld and the benefit administrator regards the complaint as finalised after advising the complainant that it does not intend to take any further action to resolve the complaint, and includes complaints regarded by the benefit administrator as unjustified or invalid, or where the complainant does not accept or respond to the benefit administrator 's proposals to resolve the complaint;

"responsible key person" means a person appointed in terms of paragraph 7(1);

"senior manager" means a person referred to in paragraphs (b) or (c) of the definition of key person;

"subsidiary" has the meaning assigned to it in section 1(3) of the Companies Act, 2008 (Act No. 71 of 2008);

"suspense account" means a bank account which has the purpose of temporarily housing doubtful or unclassified payments until they are confirmed and allocated to the correct account;

"underwritten fund" means a fund referred to in regulation 1 of the Regulations; and

"upheld" means that a complaint has been finalised wholly or partially in favour of the complainant and that -

- (a) the complainant has explicitly accepted that the matter is fully resolved; or
 - (b) it is reasonable for the benefit administrator to assume that the complainant has so accepted; and
 - (c) all undertakings made by the benefit administrator to resolve the complaint have been met or the complainant has explicitly indicated its satisfaction with any arrangements to ensure such undertakings will be met by the benefit administrator within a time acceptable to the complainant.
- (2) This Conduct Standard is applicable to all benefit administrators performing administrative functions on behalf of pension funds.

PART II

BUSINESS PRINCIPLES, CULTURE AND GOVERNANCE

2. Business principles

- (1) A benefit administrator must –
- (a) conduct its business in a manner that promotes fair treatment of customers;
 - (b) conduct its business with integrity; honestly, fairly, and with due skill, care and diligence;
 - (c) identify and promote a culture that supports ethical behaviour and aims to ensure that the matter referred to in items (a) and (b) are central to the values of the financial institution;
 - (d) organise and control its affairs responsibly and effectively;

- (e) deal with the Authority in an open, accountable and cooperative manner; and
 - (f) perform its activity or activities transparently.
- (2) The fair treatment of customers by a benefit administrator referred to in subparagraph (1) encompasses achieving, *inter alia*, the following outcomes:
- (a) the fair treatment of customers is central to the benefit administrator's culture;
 - (b) services provided by the benefit administrator are suitably designed to meet the needs of its customers;
 - (c) the benefit administrator's customers are given clear, timely and appropriate information, and are kept appropriately informed, at all relevant times;
 - (d) services provided to its customers is both of an acceptable standard and in line with expectations created by the benefit administrator; and
 - (e) customers do not face unreasonable post-contractual barriers imposed by the benefit administrator, including barriers relating to changing products, switching benefit administrators and submitting complaints.

3. Obligations of governing body

- (1) The governing body of a benefit administrator is accountable for compliance with the requirements of this Conduct Standard.
- (2) The governing body of a benefit administrator –
- (a) is responsible for the culture within the benefit administrator as referred to in subparagraph 2(1)(c);
 - (b) is responsible for the establishment, implementation, subsequent reviews of, and continued compliance with governance arrangements within the benefit administrator; and
 - (c) must ensure that the culture referred to in subparagraph 2(1)(c) and governance arrangements are appropriately embedded in the benefit administrator.

4. Governance arrangements

- (1) A benefit administrator must adopt, document and implement governance arrangements that provide for the prudent management and oversight of its business and supports the achievement of paragraph 2.
- (2) The governance arrangements referred to in subparagraph (1) must –
- (a) be proportionate to the nature, scale and complexity of the business of the benefit administrator and the activities which it performs, having due regard to the inherent risks associated with such business and activities;
 - (b) be approved by and be subject to the oversight of the governing body of the benefit administrator;
 - (c) ensure the benefit administrator develops an appropriate business plan setting out the aims and scope of the business, the business strategies and related matters;
 - (d) promote accountability and roles, responsibilities and duties of the governing body, directors, senior management and heads of control functions (where relevant);

- (e) aim to ensure that directors, senior management and heads of control functions (where relevant) possess the necessary skills, knowledge and expertise, and have appropriate resources, to fulfil their functions, and perform those functions fairly, and with integrity, honesty, and due skill, care and diligence;
 - (f) provide for appropriate segregation of key duties and functions, particularly those duties and functions which, when performed by the same individual, may result in undetected errors or may be susceptible to abuses which expose the benefit administrator or the funds to inappropriate risks;
 - (g) provide for mechanisms to identify and, where appropriate, remove persons whose conduct materially increases the risk of the benefit administrator to not achieve the requirements of this Conduct Standard;
 - (h) demonstrate how the benefit administrator and its personnel will comply with this Conduct Standard;
 - (i) provide for effective procedures and systems to ensure compliance with decisions and decision-making procedures at all levels within the benefit administrator;
 - (j) include effective risk- and compliance management processes, procedures and internal controls which, among other things, identify the risks relating to the benefit administrator's functions, processes and systems, and where appropriate, set the level of risk tolerated by the benefit administrator;
 - (k) provide for appropriate mechanisms to take corrective action in respect of non-compliance, weak oversight, failure of controls, lack of sufficient management, poor outcomes for customers and the like;
 - (l) provide for accounting policies and procedures to enable the benefit administrator to comply with Part XI; and
 - (m) provide for sound and sustainable remuneration policies and practices which promote the alignment of interests of the benefit administrator with those of its customers and which avoid excessive risk taking and unfair treatment of customers.
- (3) The matters contemplated in subparagraph (2) may be addressed in one or more separate policies or procedures forming part of the overall governance arrangements of a benefit administrator.
- (4) A benefit administrator must regularly review the effectiveness of its governance arrangements, including regular, risk-based monitoring and evaluation of the adequacy and effectiveness of its systems, processes, procedures and internal control mechanisms and measures to address any deficiencies, and document any changes thereto.
- (5) The monitoring and evaluation contemplated in subparagraph (4) must specifically also consider the effectiveness of the systems, processes, procedures and internal control mechanisms in place in ensuring –
- (a) effective risk detection and compliance with this Conduct Standard and other applicable legislation; and
 - (b) the integrity of the benefit administrator's practices, including the effectiveness of its practices in relation to ensuring fair outcomes for customers.

PART III

NOTIFICATIONS REGARDING CHANGES IN INFORMATION

5. Change of certain business information of a benefit administrator

- (1) A benefit administrator must notify the Authority of any change in the following details within 30 days of such change occurring:
 - (a) Business or trading name;
 - (b) registered address;
 - (c) postal address; and
 - (d) contact details
- (2) A notification to the Authority relating to a change of business or trade name as referred to in subparagraph (1)(a) must include the following information:
 - (a) In the case of the benefit administrator being a company or close corporation, proof that the name of the company or close corporation has been approved as required in terms of the Companies Act, No. 71 of 2008 or the Closed Corporation Act, No. 69 of 1984;
 - (b) in the case of an entity regulated by a specific authority or regulator, such as a bargaining council, confirmation of the relevant approval of change of name by that authority or regulator;
 - (c) in the case of any other entity, an affidavit by the persons in charge of the benefit administrator declaring that the name has changed and reasons for the change in name;
 - (d) proof that there has not been a change in ownership and/or management of the benefit administrator; and
 - (e) a declaration by the responsible key person that all funds being administered by the benefit administrator have been duly informed about the relevant changes.

6. Change in directors, senior managers, head of control function and shareholders

A benefit administrator must notify the Authority, in the format determined by the Authority on the website of the Authority, of any change in its directors, senior managers, head of a control function (where applicable) and shareholders, within 30 days of such change occurring, and must include details of the new director, senior manager, head of a control function (where applicable) and shareholders (as the case may be) in the notification.

PART IV

RESPONSIBLE KEY PERSON

7. Appointment of responsible key person

- (1) A benefit administrator must appoint a person to manage and oversee the performance of administration functions by the benefit administrator.
- (2) The responsible key person appointed in terms of subparagraph (1) must be a senior manager of the benefit administrator.

- (3) A benefit administrator must, within 30 days of the appointment of the responsible key person, inform the Authority of the appointment in the form and manner determined by the Authority by notice on the website of the Authority.
- (4) A notification referred to in subparagraph (3) must include a certificate duly completed and signed by the responsible key person in the form and manner determined by the Authority by notice on the website of the Authority.
- (5) The Authority may at any time, by notice to the benefit administrator, object to the appointment of a responsible key person and instruct the benefit administrator to terminate the appointment of such responsible key person, if satisfied, on the basis of available facts and information, that the –
 - (a) responsible key person has contravened or failed to comply with any provision of the Act;
 - (b) responsible key person does not meet or no longer meets the fit and proper requirements; or
 - (c) appointment of the responsible key person is contrary to public interest.
- (6) A benefit administrator must terminate the appointment of a responsible key person within 30 days of an instruction being received from the Authority in terms of subparagraph (5).

8. Reporting by responsible key person

- (1) The responsible key person of a benefit administrator must in writing report to the Authority any matter relating to the affairs of a member of the administration of a fund which, in the opinion of the responsible key person, may unduly prejudice a customer or impede fair outcomes to customers of the benefit administrator.
- (2) A report referred to in subparagraph (1) must be submitted to the Authority by the responsible key person as soon as reasonably possibly after becoming aware of a matter referred to in that subparagraph.

9. Termination of responsible key person

- (1) A benefit administrator must in writing and in the form and manner determined by the Authority by notice on the website of the Authority, notify the Authority if the appointment of its responsible key person is terminated, or if the responsible key person resigns, within 30 days from the date of such termination or resignation
- (2) A notice of termination or resignation referred to in subparagraph (1) must include reasons for the termination or resignation, and a notification relating to the appointment of a new responsible key person in accordance with paragraph 7(3).
- (3) Upon termination or resignation of the appointment of a responsible key person as referred to in subparagraph (1), such responsible key person must within 21 days from the date of termination or resignation, submit in writing to the Authority –
 - (a) a report, in the form and manner to be determined by the Authority by notice on the website of the Authority, detailing what the responsible key person believes

to be the reasons for the termination or resignation; and

- (b) if relevant, –
 - (i) a report contemplated in paragraph 8; and/or
 - (ii) details of any matter relating to the affairs of the relevant benefit administrator of which the responsible key person became aware of in the performance of his or her duties and which may prejudice the benefit administrator's ability to comply with the Act.

PART V FIT AND PROPER REQUIREMENTS

10. Fit and proper requirements

- (1) A benefit administrator, its directors, senior managers (including the responsible key person) and head of a control function (where applicable) must, at all times, comply with the fit and proper requirements.
- (2) A benefit administrator, its directors, senior managers and head of a control function (where applicable) must disclose to the Authority, promptly and on own initiative, fully and accurately, all information, not limited to information in relation to matters referred to herein, which may be relevant in determining whether that person complies or continues to comply with the fit and proper requirements.

11. Honesty, integrity and good standing

- (1) A person referred to in paragraph 10(1) must be a person who is –
 - (a) honest and has integrity; and
 - (b) of good standing.
- (2) In determining whether a person complies with the requirements contemplated in subparagraph (1), the Authority may refer to any information in its possession or brought to its attention.
- (3) Without limiting the generality of subparagraph (1), any of the following constitutes *prima facie* evidence that a person does not meet the requirements contemplated in subparagraph (1): The person -
 - (a) has been found guilty (and that conviction has not been expunged) in any criminal proceedings or liable in any civil proceedings by a court under any law in any jurisdiction of -
 - (i) an offence under a law relating to the regulation or supervision of a financial institution as defined in the Financial Institutions (Protection of Funds) Act, 2001 (Act No. 28 of 2001) or a corresponding offence under the law of a foreign country;
 - (ii) theft, fraud, forgery, uttering a forged document, perjury or an offence involving dishonesty, breach of fiduciary duty, dishonourable or unprofessional conduct; or
 - (iii) an offence under the Prevention of Corruption Act, 1958 (Act No. 6 of

1958), the Corruption Act, 1992 (Act No. 94 of 1992) or the Parts 1 to 4, or section 17, 20 or 21, of the Prevention and Combating of Corrupt Activities Act, 2004 (Act No. 12 of 2004), or a corresponding offence under the law of a foreign country;

- (b) has been convicted (and that conviction has not been expunged) of any other offence committed after the Constitution of the Republic of South Africa, 1996, took effect, where the penalty imposed for the offence was or may be imprisonment without the option of a fine, or a significant fine;
- (c) has accepted civil liability for, or has been the subject of a civil judgment in respect of, theft, fraud, forgery, uttering a forged document, perjury or any conduct involving dishonesty, breach of fiduciary duty, misrepresentation, or negligent, dishonourable and unprofessional conduct;
- (d) has been the subject of frequent or material preventative, remedial or enforcement actions by the Authority or a regulatory authority;
- (e) has been removed from an office of trust for theft, fraud, forgery, uttering a forged document, misrepresentation, dishonesty, breach of fiduciary duty or business conduct;
- (f) has breached a fiduciary duty;
- (g) has been suspended, dismissed or disqualified from acting as a director, managing executive, public officer, auditor or statutory actuary (or his or her alternate) under any law or any action to achieve one of the aforementioned outcomes has been instituted against the person;
- (h) has been refused a registration, approval, authorisation or a licence to carry out a trade, business or profession, or has had that registration, approval, authorisation or licence suspended, revoked, withdrawn or terminated by a regulatory authority;
- (i) has been denied registration or membership of any professional body or has had that registration or membership revoked, withdrawn or terminated by a professional body because of matters relating to honesty, integrity, or business conduct;
- (j) has been disciplined, reprimanded, disqualified, or removed in relation to matters relating to dishonesty, integrity, incompetence or business conduct by a -
 - (i) professional body; or
 - (ii) regulatory authority,
 or any action to achieve one of the aforementioned outcomes has been instituted against the person;
- (k) has been found guilty at a disciplinary hearing by a current or previous employer in relation to matters of fraud, dishonesty, integrity or business conduct;
- (l) has knowingly been untruthful or provided false or misleading information to, or been uncooperative in any dealings with, the Authority or a regulatory authority;
- (m) has demonstrated a lack of readiness and willingness to comply with legal, regulatory or professional requirements and standards;
- (n) has been found to be not fit and proper by the Authority or any regulatory authority in any previous assessments of fitness and propriety and the reasons for being found not fit and proper have not been remedied;
- (o) has been involved or is involved as a director, trustee, member, partner, controlling shareholder or managing executive, or is concerned in the management of a business that has been -
 - (i) the subject of any matter referred to in items (a), (b), (c), (d), (f), (h), (j)(ii),

- (l), (m), (n), or (p); or
 - (ii) placed in liquidation, curatorship or business rescue; while that person has been connected with that organisation or within one year of that connection; or
 - (p) has failed to disclose information required to be disclosed in terms of the Act, Financial Sector Regulation Act or this Conduct Standard.
- (3) Without limiting subparagraph (2), compliance with subparagraph (1) by a person that is not a natural person must be demonstrated through its corporate behaviour or conduct and through the personal behaviour or conduct of the persons who control or govern that first mentioned person or who is a member of a body or group of persons which control or govern that person, including directors, members, trustees, partners or key persons of that person.
- (4) Notwithstanding subparagraph (2), the Authority must, in assessing whether a person meets the requirements in subparagraph (1), have due regard to -
- (a) the seriousness of a person's conduct, whether by commission or omission, or behaviour, and surrounding circumstances to that conduct or behaviour that has or could potentially have a negative impact on a person's compliance with subparagraph (1);
 - (b) the relevance of such conduct or behaviour that has or could potentially have a negative impact on the persons' compliance with subparagraph (1), to the duties that are or are to be performed and the responsibilities that are or are to be assumed by that person; and
 - (c) the passage of time since the occurrence of the conduct or behaviour that had a negative impact on the person's compliance with subparagraph (1).

12. Competence requirements

- (1) Senior managers (including the responsible key person) and head of a control function (where relevant) of a benefit administrator must at all times have -
 - (a) adequate, appropriate and relevant skills, knowledge and expertise in respect of the function that, that person performs; and
 - (b) relevant educational qualifications and experience in respect of the function that, that person performs.
- (2) Where a senior manager (including the responsible key person) or head of a control function (where relevant) of a benefit administrator does not comply subparagraph (1), the Authority may direct the benefit administrator to make arrangements, to the satisfaction of the Authority, to address the non-compliance, which arrangements may include -
 - (a) providing the relevant education or training that is required to that person over a certain period of time;
 - (b) utilising external resources to support that key person;
 - (c) outsourcing the functions and duties of that key person; or
 - (d) suspending or removing a person from the appointment as a key person.

PART VI

AGREEMENTS IN RESPECT OF ADMINISTRATION

13. Administration and service level agreement

- (1) A benefit administrator must enter into a written administration agreement and service level agreement with a fund prior to rendering any administrative functions for such fund.
- (2) An administration agreement referred to in subparagraph (1) must at least provide for the following:
 - (a) Details of the administration services that the benefit administrator will perform for the fund;
 - (b) the particular responsibilities of the board concerned to be delegated to the benefit administrator;
 - (c) the specific duties and responsibilities which the benefit administrator must perform on behalf of the fund;
 - (d) the benefit administrator's duties and responsibilities in relation to communicating with members of the fund, including the information¹ and circumstances in which the benefit administrator must communicate to the members of the fund and the level of expected standards when communicating to members;
 - (e) the remuneration to which a benefit administrator will be entitled to² and the basis on which the administration fee and other remuneration or income will be calculated;
 - (f) the specific conditions relating to the take-on procedures as well as the responsibilities of the relevant parties concerned, including the -
 - (i) duties and responsibilities of the board;
 - (ii) duties and responsibilities of the relevant employers;
 - (iii) duties and responsibilities of the benefit administrator;
 - (iv) financial implications during the transitional period;
 - (v) any additional fees payable for services rendered after the termination date;
 - (vi) timing, process, method and format of data, records and documents, the assets register, minute books, members' records pertaining to a fund as provided by the board or the previous benefit administrators;
 - (vii) reports and content thereof, as well as the frequency of information or reporting required;
 - (viii) on notice of termination of the administration agreement, the party responsible for the preparation and submission of all regulatory returns prior to the termination date of the administration agreement;

¹ Such information must include information regarding the benefit administrator's complaints management processes and procedures.

² Including any income, directly or indirectly, earned by –

- (i) the benefit administrator from providing other services to a fund; or
- (ii) other divisions, subsidiaries or associates of the benefit administrator from performing certain administration or other functions for the fund.

- (ix) details of the party responsible for the preparation and submission of all regulatory returns, maintenance of the data and records, including contributions and/or benefit payments upon termination of the administration agreement;
- (g) that all records pertaining to the administration of the fund remains the sole property of the fund and must be available timeously upon request of the fund, but not later than 7 days from the date of request;
- (h) the benefit administrator's responsibility to provide information and reports to the fund to ensure that the fund can be properly managed and comply with regulatory reporting requirements;
- (i) requirements relating to indemnity and fidelity guarantee policies that must be maintained by the benefit administrator;
- (j) the procedure that must be followed to remedy a breach of any of the conditions contained in the administration agreement;
- (k) where trust accounts will be utilised, a provision that such trust accounts will be operated in compliance with this standard;
- (l) where suspense accounts will be utilised, a provision that such suspense accounts will be operated in compliance with this standard;
- (m) requirements in respect of the outsourcing of administration duties to another benefit administrator, including that such other benefit administrator must be approved in terms of section 13B of the Act to perform such administration services;
- (n) conditions for the termination of the administration agreement, including a provision that empowers each party to the agreement to terminate the agreement after notice in writing by one party to the other of a period of not more than –
 - (i) 90 days, where the agreement was entered into prior to the effective date of this Conduct Standard; or
 - (ii) 3 calendar months, where the agreement was entered into after the effective date of this Conduct Standard;
- (o) that any amendment to the administration agreement shall be in writing and shall be affected by way of an addendum or a new agreement between the benefit administrator and the fund;
- (p) details of whether the administrator employs a head of the compliance function, compliance officer or person responsible to monitor compliance by the benefit administrator with the Act, Regulations, conditions and the rules of the fund;
- (q) adequate processes, procedures and controls to identify, manage, monitor and mitigate any risks to the benefit administrator or its clients;
- (r) details of how the benefit administrator will ensure proper governance, risk management and ethical behaviour;
- (s) the procedure to be followed for the renegotiation of administration fees and other fees or income payable to the benefit administrator;
- (t) the obligation on the fund to provide the benefit administrator, on an ongoing basis, with the relevant information in respect of members and employers participating in the fund, which should include at least, but not limited to, the following:
 - (i) Providing and updating of member data and payment of contributions;
 - (ii) information relating to benefit claims, including procedures to be followed; and
 - (iii) notification of any changes in membership data and/or the payroll.

- (3) A service level agreement referred to in subparagraph (1) must at least include –
 - (a) clear timelines for the performance of the relevant duties and responsibilities of the parties as set out in the administration agreement;
 - (b) administrative procedures, such as –
 - (i) contribution and benefit processing;
 - (ii) housing loan administration;
 - (iii) transfers in terms of section 14;
 - (iv) financial accounting, information and reporting;
 - (v) investments and disinvestments;
 - (vi) bank account management;
 - (vii) communications; and
 - (viii) service level reviews;
 - (c) a clear and effective communication and reporting procedure;
 - (d) procedures relating to the take-on by the benefit administrator of a fund as a client;
 - (e) procedures for and fees payable in relation to the handing over from the previous benefit administrator to the new benefit administrator as well as procedures for how the latter benefit administrator will hand over to another administrator should the administration agreement be terminated;
 - (f) the remedies that may be applicable for non-compliance with the service level agreement; and
 - (g) the manner and frequency of review of the service level agreement.
- (4) The agreements referred to in subparagraph (1) must be reviewed and monitored regularly to ensure that the agreements continuously and appropriately address the changing needs of the benefit administrator's customers in a cost-effective manner.

14. Termination of Administration Agreement

- (1) A benefit administrator must, when notice of the termination of an administration agreement between a pension fund and an administrator is provided, -
 - (a) within 30 days of such notice being provided, inform the Authority of the termination in the form and manner to be determined by the Authority by notice on the website of the Authority;
 - (b) within 15 business days of the effective date of the termination, transfer to the fund and/or the newly appointed benefit administrator with all the information, records and data relating to the administration of the fund that it has in its possession or under its control; and
 - (c) within 30 days from the effective date of the termination, submit to the fund and/or the new benefit administrator –
 - (i) a reconciliation of the bank accounts, benefits and contributions as at date of termination of the administration agreement; and
 - (ii) a report containing details of the termination in the form to be determined by the Authority by notice on the website of the Authority.
- (2) A notice contemplated in subparagraph (1)(a) must include the –
 - (a) effective date of the termination; and
 - (b) details of the new benefit administrator, if applicable.

- (3) The information, records and data referred to in subparagraph (1)(b) must –
 - (a) be provided in –
 - (i) an electronic format capable of manipulation by the fund and/or the newly appointed benefit administrator; or
 - (ii) such other format as agreed to with the fund where the information is not available in electronic format;
 - (b) include, but is not limited to –
 - (i) accounting records;
 - (ii) trial balance and member records;
 - (iii) any non-financial data (such as documents of title relating to assets, asset registers, minute books, member details, investment choices, salaries, pensioner payroll details, banking details).

PART VII OUTSOURCING

15. Outsourcing of administration functions

- (1) A benefit administrator may only enter into an arrangement for the outsourcing of any of its functions to a third party if the administration agreement between the benefit administrator and the fund as referred to in paragraph 13(1) -
 - (a) makes provision for such outsourcing; and
 - (b) confirms that the benefit administrator shall remain responsible for any of the duties, responsibilities and record keeping outsourced to any other party.
- (2) A benefit administrator must, prior to entering into any outsourcing arrangement referred to in subparagraph (1), obtain consent from the relevant funds for the benefit administrator to enter into the outsourcing arrangement and advise the relevant funds of any additional costs that might be applicable as a result of the outsourcing arrangement and any changes to the outsourcing arrangement that may occur in future.
- (3) A benefit administrator may not enter into an outsourcing arrangement referred to in subparagraph (1) unless the benefit administrator is satisfied that the service provider to whom the function will be outsourced –
 - (a) has been approved by the Authority as a benefit administrator in terms of section 13B of the Act;
 - (b) has the ability and capacity to perform the outsourced functions effectively, reliably and professionally; and
 - (c) has implemented the necessary governance arrangements and internal controls.
- (4) An outsourcing arrangement referred to in subparagraph (1) may not –
 - (a) compromise the fair treatment of or continuous and satisfactory service to the benefit administrator's customers; or
 - (b) result in key decision-making responsibilities being removed from the benefit administrator.

- (5) An outsourcing arrangement referred to in subparagraph (1) must be recorded in an outsourcing contract and must clearly provide for all material aspects of the outsourcing arrangement, including –
- (a) addressing the rights, responsibilities, and service-level requirements of all parties;
 - (b) providing for access by the benefit administrator and the Authority to the person's business and information in respect of the outsourced function or activity;
 - (c) addressing sub-outsourcing, where allowed;
 - (d) addressing confidentiality, privacy and the security of information of the benefit administrator and its customers;
 - (e) ensuring that the benefit administrator has access to data related to the outsourced activities, including any data relating to the benefit administrator's customers; and
 - (f) making appropriate provision for the termination of the outsourcing contract.

16. Management, oversight and review of outsourcing arrangements

- (1) A benefit administrator must implement appropriate processes and procedures to manage, oversee and regularly review the carrying out of outsourced functions by a service provider, including –
- (a) ensuring that risks associated with the outsourcing are appropriately assessed, monitored, managed and reviewed on an ongoing basis;
 - (b) ensuring adherence to the outsourcing contract;
 - (c) regularly assessing the service provider's -
 - (i) governance arrangements, risk management, and internal controls;
 - (ii) fitness and propriety;
 - (iii) ability to comply with applicable laws;
 - (iv) operational and financial capability;
 - (v) contingency plans.
- (2) A benefit administrator must –
- (a) establish, implement and maintain a contingency plan for disaster recovery and periodic testing of backup facilities to ensure the continuous functioning of its business in the event that an outsourcing arrangement relating to its business functions is terminated or found to be ineffective; and
 - (b) ensure that the termination of an outsourcing arrangement does not result in detriment to the continuity and quality of its provision of services to its customers.
- (3) A benefit administrator must take appropriate action to address any identified shortcomings relating to the outsourcing arrangement or breaches of the outsourcing contract.

PART VIII

CONFLICTS OF INTEREST

17. Conflict of interest management

- (1) A benefit administrator must adopt, maintain and implement a conflict of interest management policy.
- (2) A conflict of interest management policy referred to in subparagraph (1) must –
 - (a) demonstrate how the benefit administrator will comply with section 13B(5) of the Act;
 - (b) include -
 - (i) mechanisms for the identification of conflicts of interest;
 - (ii) measures for the avoidance of conflict of interest and, where avoidance is not possible, the reasons therefore and the measures adopted to mitigate and manage such conflicts of interest;
 - (iii) measures for the disclosure of conflicts of interest;
 - (iv) processes, procedures and internal controls to facilitate compliance with the conflicts of interest management policy; and
 - (v) consequences for non-compliance with the conflicts of interest management policy, either by the benefit administrator or its directors, senior managers (including the responsible key person), head of a control function (where applicable) and employees;
 - (c) include a list of all its associates;
 - (d) include the names of any third parties in which the benefit administrator holds an ownership interest;
 - (e) include the names of any third parties that holds an ownership interest in the benefit administrator;
 - (f) include the nature and extent of the ownership interest referred to in items (d) and (e);
 - (g) be drafted in an easily comprehensible form and manner; and
 - (h) be adopted by the governing body of the benefit administrator.
- (3) A benefit administrator must –
 - (a) ensure that its employees and, where appropriate, associates are aware of the contents of its conflict of interest management policy and provide for appropriate training and educational material in this regard;
 - (b) continuously monitor compliance with its conflict of interest management policy and annually conduct a review of the policy; and
 - (c) publish its conflict of interest management policy in appropriate media and ensure that it is easily accessible for public inspection at all reasonable times.
- (4) A director, senior manager (including the responsible key person), head of a control function (where applicable) or employee of a benefit administrator must report to the Authority any incidents of conflict of interest observed, including where officials of a fund or other officials of the benefit administrator (including their friends and families) are doing business with the fund or benefit administrator.

PART IX

COMMUNICATION, DISCLOSURES AND COMPLAINTS MANAGEMENT

18. Communication and disclosures

- (1) Before, during and after the conclusion of a contract for the provision of administration services, a benefit administrator must communicate and disclose to the fund with whom it has or is intended to conclude an administration agreement with, all relevant facts that such fund should be aware of or that could reasonably be expected to influence the fund's decisions relating to the contract and provision of administration services by the benefit administrator, including –
 - (a) related benefits and risks;
 - (b) all costs to the fund or its members in relation to the supply of the service;
 - (c) salient contractual obligations on the fund or its members and the benefit administrator;
 - (d) consequences for each party should there be a breach of contract; and
 - (e) recourse options for the fund or its members in the case of a dispute with the benefit administrator in relation to its supply of the service.
- (2) Subject to the relevant administration agreement, a benefit administrator must communicate and disclose relevant information to the members of a fund with whom the benefit administrator has concluded an administration agreement, to ensure that such members are made aware of any relevant facts that could reasonably be expected to –
 - (a) influence any decision that such members must take in respect of their participation in the relevant fund; and
 - (b) place such members in a position to take specific actions in relation to the benefit administrator or fund, such as information placing a member in a position to understand the processes and procedures for lodging a complaint.
- (3) All communications and disclosures to customers by a benefit administrator must –
 - (a) use language that is clear, plain and unambiguous;
 - (b) be adequate, appropriate, timely, relevant and complete;
 - (c) be factually correct and not misleading or deceptive;
 - (d) promote understanding of the financial service being provided;
 - (e) promote comparison across similar financial services; and
 - (f) take account of the needs and circumstances of the customers.

19. Establishment of a complaints management framework

- (1) A benefit administrator must establish, maintain and operate an adequate and effective complaints management framework to ensure the effective resolution of complaints and the fair treatment of complainants that -
 - (a) is proportionate to the nature, scale and complexity of the functions that the benefit administrator performs;
 - (b) is appropriate for the business model, policies, services of the benefit administrator, and the funds on whose behalf it administers pension funds;

- (c) enables complaints to be considered after taking reasonable steps to gather and investigate all relevant and appropriate information and circumstances, with due regard to the fair treatment of complainants;
 - (d) does not impose unreasonable barriers to complainants; and
 - (e) must address and provide for, at least, the matters provided for in this Part.
- (2) A benefit administrator must regularly review its complaints management framework and document any changes thereto.

20. Requirements for complaints management framework

- (1) A complaints management framework must at least provide for -
- (a) relevant objectives, key principles and the proper allocation of responsibilities for dealing with complaints across the business of the benefit administrator;
 - (b) appropriate performance standards and remuneration and reward strategies (internally and where any functions are outsourced) for complaints management to ensure objectivity and impartiality;
 - (c) documented procedures for the appropriate management and categorisation of complaints, including expected timeframes and the circumstances under which any of the timeframes may be extended;
 - (d) documented procedures which clearly define the escalation, decision-making, monitoring and oversight and review processes within the complaints management framework;
 - (e) appropriate complaint record keeping, monitoring and analysis of complaints, and reporting (regular and ad hoc) to the governing body of the benefit administrator -
 - (i) identified risks, trends and actions taken in response thereto; and
 - (vi) the effectiveness and outcomes of the complaints management framework;
 - (f) meeting requirements for reporting to the Authority and public reporting in accordance with this Part;
 - (g) a process for managing complaints relating to any persons to whom the benefit administrator has outsourced functions, insofar as such complaints relate to services provided in connection with the benefit administrator's functions, which process must -
 - (i) enable the benefit administrator to reasonably satisfy itself that the person(s) to whom it has outsourced functions has adequate complaints management processes in place to ensure fair treatment of complainants;
 - (ii) provide for monitoring and analysis by the benefit administrator of aggregated complaints data in relation to complaints received by the person(s) to whom it has outsourced functions and their outcomes;
 - (vii) include effective referral processes between the benefit administrator and the person(s) to whom it has outsourced functions for handling and monitoring complaints that are submitted directly to either of them and require referral to the other for resolution; and
 - (viii) include processes to ensure that complainants are appropriately informed of the process being followed and the outcome of the complaint; and
 - (h) regular monitoring of the complaints management framework generally.

21. Allocation of responsibilities

- (1) A governing body and key persons of a benefit administrator is responsible for effective complaints management and must approve and oversee the effectiveness of the implementation of the benefit administrator 's complaints management framework.
- (2) Any person that is responsible for making decisions or recommendations in respect of complaints generally or a specified complaint must -
 - (a) be adequately trained;
 - (b) have an appropriate mix of experience, knowledge and skills in complaints handling, fair treatment of customers, the subject matter of the complaints concerned and relevant legal and regulatory matters;
 - (c) not be subject to a conflict of interest; and
 - (d) be adequately empowered to make impartial decisions or recommendations.

22. Complaints escalation and review process

- (1) A benefit administrator must establish and maintain an appropriate internal complaints escalation and review process.
- (2) Procedures within the complaints escalation and review process should not be overly complicated or impose unduly burdensome paperwork or other administrative requirements on complainants.
- (3) A complaints escalation and review process should -
 - (a) follow a balanced approach, bearing in mind the legitimate Interests of all parties involved including the fair treatment of complainants;
 - (b) provide for internal escalation of complex or unusual complaints at the instance of the initial complaint handler;
 - (c) provide for complainants to escalate complaints not resolved to their satisfaction; and
 - (d) be allocated to an impartial, senior functionary within the benefit administrator or appointed by the benefit administrator for managing the escalation or review process of the benefit administrator.

23. Decisions relating to complaints

- (1) Where a complaint is upheld, any commitment by the benefit administrator to make a compensation payment, goodwill payment or to take any other action must be carried out without undue delay and within any agreed timeframes.
- (2) Where a complaint is rejected, the complainant must be provided with clear and adequate reasons for the decision and must be informed of any applicable escalation or review processes, including how to use them and any relevant time limits.

24. Record keeping, monitoring and analysis of complaints

- (1) A benefit administrator must ensure accurate, efficient and secure recording of complaints and complaints-related information.

- (2) The following must be recorded in respect of each complaint -
 - (a) all relevant details of the complainant and the subject matter of the complaint;
 - (b) copies of all relevant evidence, correspondence and decisions; and
 - (c) progress and status of the complaint, including whether such progress is within or outside any set timelines.
- (3) A benefit administrator must maintain the following data in relation to complaints on an ongoing basis -
 - (a) number of complaints received,
 - (b) the type and nature of complaints received;
 - (c) the details of the complaint handlers;
 - (d) the turn-around times for resolving complaints;
 - (e) number of complaints upheld;
 - (f) number of rejected complaints and reasons for the rejection;
 - (g) number of complaints escalated by complainants to the internal complaints escalation process;
 - (h) the details of the complaint handlers of escalated complaints;
 - (i) how escalated complaints were resolved and the timeframes for doing so;
 - (j) number and amounts of compensation payments made;
 - (k) number and amounts of goodwill payments made; and
 - (l) total number of complaints outstanding.
- (4) Complaints information recorded in accordance with this subsection must be scrutinised and analysed by a benefit administrator on an ongoing basis and utilised to manage conduct risks and effect improved outcomes and processes for its clients, and to prevent recurrences of poor outcomes and errors.
- (5) A benefit administrator must establish and maintain appropriate processes for reporting of the information in paragraph 24(4) to its governing body or executive management.

25. Communication with complainants

- (1) A benefit administrator must ensure that its complaint processes and procedures are transparent, visible and accessible through channels that are appropriate to its customers.
- (2) A benefit administrator may not impose any charge for a complainant to make use of complaint processes and procedures.
- (3) All communications with a complainant must be in plain language.
- (4) A benefit administrator must, wherever feasible, provide customers with a single point of contact for submitting complaints.
- (5) A benefit administrator must disclose to a customer -
 - (a) the type of information required from a complainant;
 - (b) where, how and to whom a complaint and related information must be submitted;

- (c) expected turnaround times in relation to complaints; and
 - (d) any other relevant responsibilities of a complainant.
- (6) A benefit administrator must within a reasonable time after receipt of a complaint acknowledge receipt thereof and promptly inform a complainant of the process to be followed in handling the complaint, including -
- (a) contact details of the person or department that will be handling the complaint;
 - (b) indicative and, where applicable, prescribed timelines for addressing the complaint; and
 - (c) details of the internal complaints escalation and review process if the complainant is not satisfied with the outcome of a complaint.
- (7) Complainants must be kept adequately informed of -
- (a) the progress of their complaint;
 - (b) causes of any delay in the finalisation of a complaint and revised timelines; and
 - (c) the benefit administrator 's decision in response to the complaint.

PART X

DATA MANAGEMENT AND MAINTENANCE OF RECORDS

26. Data management

- (1) In this Part “**processing**” has the meaning assigned to it in section 1 of the Protection of Personal Information Act, 2013 (Act No. 4 of 2013) and includes processing of all administration agreement and customer-related information.
- (2) A benefit administrator must have an effective data management framework that includes appropriate strategies, policies, systems, processes and controls relating to the processing of any data which enables the benefit administrator to at all times –
- (a) have access, as and when required, to customer and administrative data that is up-to-date, accurate, reliable, secure and complete;
 - (b) properly identify, assess, measure and manage the conduct of business risks associated with its business to ensure the ongoing monitoring and consistent delivery of fair outcomes to its customers;
 - (c) comply with all relevant legislation relating to confidentiality, privacy, security and retention of data;
 - (d) comply with any regulatory reporting requirements;
 - (e) adequately categorise, record and report on complaints.
- (3) If a benefit administrator outsources the processing of any data, the benefit administrator must be able to access such data at any time as and when required by the benefit administrator.
- (4) A benefit administrator must have sufficient organisational resources and the operational ability to ensure that its data management framework is effective, adequately implemented and complies with this Part.

- (5) A benefit administrator must regularly review its data management framework and document any changes thereto.

27. Maintenance of records

- (1) A benefit administrator must have appropriate systems, processes and procedures in place to –
 - (a) document communications with customers, including former members of the relevant funds and complainants;
 - (b) store and retrieve transaction documentation and all other material documentation relating to the administration agreement and customers, including former members of the relevant funds; and
 - (c) keep the documents referred to in items (a) and (b) above safe from destruction.
- (2) Documents referred to in subparagraph (1) –
 - (a) may be kept in an appropriate electronic or recorded format, which is accessible and readily reducible to written or printed form;
 - (b) subject to subparagraph (3), must be retained for a period of at least five years after the administration agreement came to end, or where the record does not relate to the administration agreement, five years after the communication concerned; and
 - (c) must, on request, timeously be made available to the Authority, customers or any other person that is entitled to the information.
- (3) A benefit administrator must, in relation to a fund with whom the benefit administrator has or had an administration agreement, retain –
 - (a) details of the members of such fund, including the members’ –
 - (i) full names and surname;
 - (ii) identity numbers;
 - (iii) contact details; and
 - (iv) employers;
 - (b) in addition to the information in subparagraph (a), the name of the transferee fund where a member has been transferred to another fund; and
 - (c) any information and documents relating to benefits paid by the benefit administrator to members of such fund, including –
 - (i) the details referred to in subparagraph (a) of the recipient of the benefits; and
 - (ii) proof of payment of such benefits,for a period of at least 5 years after the date on which the benefit administrator’s approval under section 13B(1) of the Act is suspended, withdrawn or terminated.

28. Safe Custody of Documents of Title

- (1) A benefit administrator must, whenever a document of title relating to assets held by a fund or to be held in custody on behalf of a fund by virtue of the fund’s registered office being the address of a benefit administrator comes into possession of the benefit administrator, make adequate arrangements to ensure the continued safety of the documents of title held in safe custody.

- (2) A benefit administrator must –
 - (a) mark any document of title in a manner which will render it possible, at all times, to readily establish the ownership of the fund assets described therein; and
 - (b) maintain a register to identify ownership of fund assets in the form determined by the Authority by notice on the website of the Authority.

PART XI

FINANCIAL MATTERS

29. Financial accounting procedures and controls

- (1) A benefit administrator must record all its financial procedures to ensure that the benefit administrator and the relevant funds are able to report in terms of applicable accounting and reporting requirements.
- (2) Where applicable, a benefit administrator must ensure that all functions regarding the management of bank and trust accounts are performed in terms of the Act and this Conduct Standard.
- (3) A benefit administrator must establish and maintain general administration procedures, accounting transactions and risk control measures to ensure accurate, complete and timeous processing of data, information reporting, the assurance of data integrity and safeguarding of fund records and data.
- (4) A benefit administrator must establish and maintain a proper internal financial control system.

30. Appointment and termination of auditor

- (1) A benefit administrator must appoint an independent auditor registered in terms of the Auditing Professions Act, 2005 (Act No. 26 of 2005) to on an annual basis –
 - (a) Audit its business;
 - (b) examine the accounting records and annual financial statements of the benefit administrator;
 - (c) determine whether, in the auditor's opinion, the benefit administrator's annual financial statements fairly present, in all material respects; the financial position of the benefit administrator at the year end and the results of its operations and cash flows/ for the year then ended in accordance with or the relevant International Financial Reporting Standards, and in the manner required by the Companies Act 2008 (Act No. 71 of 2008) or other applicable legislation;
 - (d) review the appropriateness of the accounting systems and policies represented to the auditor as having been applied in respect of the preparation of the annual financial statements of the administrator; and
 - (e) determine whether a benefit administrator is conducting the relevant business in accordance with the provisions of the Act, related regulations and this Conduct Standard.

- (2) A benefit administrator must, within 30 days of the appointment of an auditor referred to in subparagraph (1), inform the Authority of the appointment and the details of the auditor.
- (3) Notification of an appointment of an auditor to the Authority as referred to in subparagraph (1) must be accompanied by a letter of acceptance of the appointment by the new auditor.
- (4) If the appointment of an auditor is terminated, a benefit administrator must within 30 days from the date of termination, notify the Authority, in writing, of such termination and reasons for the termination and include a notification on the appointment of a new auditor in accordance with subparagraphs (2) and (3).

31. Accounting records and annual financial statements

- (1) A benefit administrator must –
 - (a) maintain full and proper accounting records on a continual basis, brought up to date monthly, and prepare annual financial statements in conformity with accounting practices that are generally accepted in South Africa; and
 - (b) cause the records and financial statements referred to in item (a) to be audited by an auditor appointed in terms of paragraph 30(1).
- (2) A benefit administrator must submit to the Authority a copy of its audited financial statements referred to in subparagraph (1)(b) within six months from the expiration of every financial year-end, together with the following:
 - (a) Reports by its auditor in the form set out in Annexure 1¹ to this Conduct Standard; and
 - (b) a management representation letter in the form set out in Annexure 2 to this Conduct Standard.

32. Deposit of Fund Monies

A benefit administrator must, within one business day of receipt of any fund monies, pay those monies into a bank account opened in the name of the fund concerned or, in the case of underwritten funds, in the bank account of the relevant insurer.

33. Trust Account

Where a benefit administrator utilises any form of a trust account whereby money is received on behalf of or utilised to facilitate payments on behalf of any fund, the following requirements must be complied with:

- (1) A dedicated interest-bearing banking account must be opened by the benefit administrator to accept moneys and to pay benefits on behalf of the funds with a registered bank;

¹ Comprising Forms A to C.

- (2) such trust account must be held in such a way that customer assets do not form part of the benefit administrator's assets;
- (3) contributions and other amounts received and identified belonging to a specific fund must be allocated to the relevant fund or sub fund within 24 hours;
- (4) where contributions have been received and the benefit administrator is unable to identify and allocate such contributions to a specific fund, such amounts must be investigated within 48 hours and any amounts not allocated within 30 days from receipt thereof must be reported to the responsible key person;
- (5) the responsible key person must ensure that all available actions have been taken to investigate any unallocated amounts, and any such unallocated amounts must be reported to the governing body of the benefit administrator on a quarterly;
- (6) on identification and allocation of any previous unallocated amounts, any interest earned on such amounts from the date of receipt until the date of actual payment to the fund account must be included in the payment of the amounts to the relevant fund;
- (7) in the case where a benefit payable to a beneficiary is made through the administrator's trust account, such a benefit must be transferred or paid within 24 hours from when the deposit was made to the trust account;
- (8) where a payment to a beneficiary is rejected by a bank or a payment is returned unpaid to the trust account, such amount must be transferred or paid back to the relevant fund within 24 hours of the rejection or returned payment;
- (9) reconciliations must be performed on the trust account on a daily basis and must be reviewed by the responsible key person on a monthly basis; and
- (10) reconciling items referred to in subparagraph (9) need to be clearly identified and resolved within 7 business days after the reconciliation has been performed.

34. Unclassified payments and suspense accounts

- (1) A benefit administrator must when it receives an unclassified payment swiftly investigate the origins of such payment and allocate it correctly.
- (2) If the correct classification of a payment referred to in subparagraph (1) has not been confirmed within 72 hours of receipt of the payment, the benefit administrator must place the payment in a suspense account.
- (3) All amounts in a suspense account referred to in subparagraph (2) must be reported to the responsible key person on a monthly basis.
- (4) The responsible key person must report any balances in the suspense account to the governing body of the benefit administrator on a quarterly basis together with the balance and age of the amounts in the suspense account.

35. Indemnity and Fidelity Guarantee Insurance

- (1) A benefit administrator must maintain in force professional indemnity and fidelity guarantee insurance from and up to such an amount as determined by the benefit administrator together with its auditors, relative to the complexity and size of its administration business.
- (2) The benefit administrator must disclose to the fund –
 - (a) instances where the professional indemnity and fidelity guarantee insurance provides for a self-payment gap; and
 - (b) any exclusions, limitations or restrictions contained in the professional indemnity and fidelity guarantee insurance which might affect any claim a fund may have against the administrator.

PART XII FINANCIAL SOUNDNESS AND OPERATIONAL ABILITY

36. Financial Soundness

- (1) A benefit administrator must at all times maintain –
 - (a) a minimum capital of R3 000 000,00 provided that -
 - (i) the prescribed amount may be reduced by such proportions as is already covered by the liquidity requirement set out in subparagraph (1)(c);
 - (ii) such capital may consist of:
 - (aa) Ordinary share capital issued;
 - (bb) preference share capital issued;
 - (cc) share premium account;
 - (dd) non-distributable reserves;
 - (ee) retained income as per audited financial statements;
 - (ff) subordinated loans;
 - (gg) guarantees other than the holding or associated company/entity; and
 - (hh) fixed assets, net of related secured loans;
 - (b) current assets which are equal to or greater than current liabilities; and
 - (c) liquid assets equal to or greater than 13/52 weeks of annual expenditure.
- (2) Where a benefit administrator is regulated by the Authority in terms of other legislation, which legislation includes capital adequacy requirements or liquidity requirements similar to those set out in subparagraph (1), the benefit administrator must comply with the most onerous requirement.

37. Operational ability

- (1) A benefit administrator must have the operational ability, including adequate and appropriate human, technical and technological resources, to –
 - (a) effectively perform its administrative functions; and
 - (b) ensure that accurate and complete data and records are maintained.

- (2) A benefit administrator must ensure that it makes use of an administration system in the performance of its functions which is sufficient to –
 - (a) provide the relevant information to ensure compliance with any reporting requirements in terms of any law;
 - (b) ensure accurate record keeping;
 - (c) maintain accurate and complete member records; and
 - (d) enable proper member communication.
- (3) A benefit administrator must ensure that procedures and controls are provided for when conducting its business (including in its administration system) relating to amongst others the following:
 - (a) Taking on new funds as clients;
 - (b) termination of funds as clients;
 - (c) month-end reporting procedures;
 - (d) information reporting;
 - (e) segregation of duties, roles and responsibilities;
 - (f) application of logical access security;
 - (g) safeguarding of electronic data security, integrity and confidentiality and internal and external cybersecurity,
 - (h) access rights and data security;
 - (i) physical security, including physical security of assets and records;
 - (j) business requirements, processing and control, and technical documentation;
 - (k) system application testing;
 - (l) service level agreements with all external parties;
 - (m) disaster recovery and back-up plan and procedures;
 - (n) business continuity plan and procedures;
 - (o) maintenance of static data at fund and individual member level;
 - (p) contribution and collection of payments;
 - (q) loading of new member data;
 - (r) assessment and payment of claims;
 - (s) housing loan administration; and
 - (t) pensioner payroll administration.
- (4) A benefit administrator must ensure that the necessary system controls and compliance measures are in place to manage and monitor the relevant system in use.
- (5) Where a benefit administrator intends to replace its administration system or to migrate from one system to another, the benefit administrator must, prior to the change –
 - (a) inform the Authority of the proposed change; and
 - (b) submit to the Authority a report by its auditor confirming that such new system complies with the requirements for an administration system set out in subparagraph (2).
- (6) A benefit administrator must inform all funds that are or may be affected by any change in an administration system used by the benefit administrator.

- (7) The lease or purchase agreement in respect of an administration system utilised by a benefit administrator must state that all records and data in respect of the fund which were maintained on that system will be secured at the termination of such agreement and must remain the property of the fund.

PART XIII

MERGERS AND ACQUISITIONS AND TERMINATION OR CEASING OF BUSINESS BY BENEFIT ADMINISTRATOR

38. Mergers and Acquisitions

- (1) A benefit administrator may not merge with or acquire the business of another approved benefit administrator –
 - (a) unless the benefit administrator has conducted a proper due diligence of the other benefit administrator, including ensuring that such other benefit administrator and its directors, senior managers and heads of control functions (where relevant) comply with the fit and proper requirements;
 - (b) unless, where required, the parties involved in the acquisition or merger have obtained the necessary approvals from other relevant authorities in terms of applicable legislation including, where applicable, the Competition Commission; and
 - (c) without the approval of the Authority.
- (2) An application for approval referred to in subparagraph (1)(c) must be submitted in the form and manner determined by the Authority by notice on the website of the Authority.
- (3) A merger or acquisition referred to in subparagraph (1) that took place without the approval of the Authority is void.

39. Ceasing, dissolution or liquidation of business

- (1) A benefit administrator must, when it intends to cease conducting business or its business is being finally liquidated or dissolved, –
 - (a) inform all the funds under its administration of its intention to cease administration or its final liquidation or dissolution; and
 - (b) transfer all information, records and data relating to the administration of the fund that it has in its possession or under its control, to the fund concerned, or the new benefit administrator, as the case may be.
- (2) A benefit administrator must ensure that it provides a report, compiled and signed off by its auditor, to the Authority, in the form of a letter and including any supporting documents, where applicable, within 90 days after the date of ceasing to perform administration business, confirming that the requirements set out in paragraph 39(1) have been met.

40. Suspension or withdrawal of approval as a benefit administrator

- (1) A benefit administrator must, if it is informed in terms of section 13B(8) of the Act of the Authority's intention to suspend or withdraw its approval, inform all funds under its administration of the Authority's intention.
- (2) Where a benefit administrator's approval has been suspended by the Authority, such benefit administrator may not enter into any new agreement with any fund (including additional agreements with existing funds) until such time as the Authority uplifts the suspension.

PART XIV

MISCELLANEOUS

41. Short title, commencement and transitional arrangements

- (1) This Conduct Standard is called Conditions Prescribed for Pension Fund Benefit Administrators, 2021 and takes effect on the date of publication.
- (2) Notwithstanding subparagraph (1), benefit administrators approved prior to the effective date of this Conduct Standard, must comply with the provisions of this Conduct Standard within 6 months after the effective date thereof.

42. Repeals

This Conduct Standard repeals the Conditions made in respect of Administrators acting on behalf of Pension Funds as published in Board Notice 24 of 2002 in Gazette No. 23153 of 1 March 2002.

ANNEXURE 1

FORM A REPORT OF THE INDEPENDENT AUDITOR TO THE MEMBERS OF (Pension Fund)

We have audited the annual financial statements of <insert name of benefit administrator> for the financial year ended <insert date of financial year-end>.

The annual financial statements are the responsibility of the directors.

Our responsibility is to express an opinion on these financial statements, based on our audit.

Scope

We conducted our audit in accordance with the Statements of International Standards on Auditing. Those standards require that we plan and perform the audit to obtain reasonable assurance that the annual financial statements are free of material misstatement. An audit includes:

- examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements;
- assessing the accounting principles used and significant estimates made by management; and
- evaluating the overall financial statement presentation.

We believe that our audit provides a reasonable basis for our opinion.

Audit opinion

In our opinion, the financial statements fairly present, in all material respects, the financial position of the company at (insert date) and the results of its operations and cash flows for the year then ended in accordance with accounting practices that are generally accepted in South Africa, and in the manner required by the Companies Act in South Africa. (Refer note below.)

Name

Registered Accountant and Auditor

Chartered Accountant (SA)

Address

Date

Note:

- Where the benefit administrator is not a company, the opinion paragraph should read as follows:
In our opinion, the financial statements fairly present, in all material respects, the financial position of the entity at (insert date) and the results of its operations and cash flows for the year then ended in accordance with accounting practices that are generally accepted in South Africa, and in the manner required by (insert reference to relevant legislation, if applicable).

FORM B

REPORT OF THE INDEPENDENT AUDITOR: SYSTEM OF FINANCIAL CONTROL AND COMPLIANCE WITH CONDUCT STANDARD [-] OF 2021 (RF) - CONDITIONS PRESCRIBED IN RESPECT OF PENSION FUND BENEFIT ADMINISTRATORS ("CONDUCT STANDARD")

1. System of internal financial control

- 1.1 In light of paragraph 30(1)(d) of the Conduct Standard, we have reviewed the system of internal financial control of the benefit administrator (name of the benefit administrator), with registration number 24/..... In respect of the administration of pension funds for the year ended (financial year end date). These controls are the responsibility of the directors of the benefit administrator. Our responsibility is to report on the system of internal financial control, based on our review.

Scope

- 1.2 We conducted our review in accordance with the statements of International Standards on Auditing applicable to review engagements. These standards require that we plan and perform the review to obtain moderate assurance with regard to the system of internal financial control. A review is limited primarily to inquiries of personnel and analytical procedures applied to financial data and thus provides less assurance than an audit. We have not performed an audit, and, accordingly we do not express an audit opinion.

Inherent limitations

- 1.3 Because of the inherent limitations of a system of internal control, including concealment through collusion or forgery, errors and irregularities may not be prevented or detected. Furthermore, projections of any evaluations of the system of internal financial control to future periods are subject to the risk that internal controls may become inadequate because of changes in circumstances, or that, the degree of compliance with policies or procedures may deteriorate.

Opinion

- 1.4 Based on our review, nothing of significance has come to our attention that causes us to believe that the system of internal financial control is inadequate for the size and complexity of the business being conducted by(name of the benefit administrator).

2. Compliance with the Conduct Standard

Scope

- 2.1 As required by paragraph 30(1)(e) of the Conduct Standard, we have performed certain agreed procedures, described below, with respect to
.....'s <insert name of the benefit administrator> compliance with the Conduct Standard. Our engagement was undertaken in accordance with the International Standards of Auditing applicable to agreed-upon procedures engagements.
- 2.2 The responsibility for determining the adequacy or otherwise of the procedures agreed to be performed, is that of the Authority. Our procedures were performed solely to assist the Authority in determining whether the benefit administrator is conducting the relevant business in accordance with the provisions of the Act, related regulations and the Conduct Standard.

Agreed procedures and findings

- 2.3 Based on enquiries with management, we report that –
- (a) no changes in the business or trading name, registered address, postal address or contact details of a benefit administrator during the year financial ended Took place without a formal notification to the Authority; and
 - (b) for the financial year ended<insert date of financial year-end>, the benefit administrator was under the control of an approved key person as required in terms of paragraph 5 of the Conduct Standard, and the person was <insert name of key person>.
- 2.4 Based on an examination of the original policy documents, we report that the benefit administrator has taken out an Employee's Fidelity Guarantee Policy, No, with <insert name of insurer> and that such policy has been renewed for a period of months ending on the day of
- 2.5 Based on an examination of the original policy documents, we report that the benefit administrator has taken out a Professional Indemnity Policy, No, with <insert name of insurer> and that such policy has been renewed for a period of months ending on the day of
- 2.6 With reference to the audited financial statement, attached, for the financial year ended, we confirm that the annual financial statements were prepared in accordance with the International Financial Reporting Standards.
- 2.7 With reference to the audited financial statements for the financial year ended <insert date of financial year end>, we report that the benefit administrator's capital was equal to or exceeded the amount prescribed in paragraph 36(1)(a) of the Conduct Standard.

- 2.8 With reference to the audited financial statements for the financial year ended <insert date of financial year end>, we report that at the year-end the administrator's current assets exceeded its current liabilities as contemplated in paragraph 36(1)(b) of the Conduct Standard.
- 2.9 With reference to the audited financial statements for the financial year ended <insert date of financial year end>, we report that at the year-end the administrator's liquid assets exceeded the amount calculated in accordance with the formula set out in paragraph 36(1)(c) of the Conduct Standards.
- 2.10 On a test basis, we have examined administration and service level agreements entered into with the relevant funds during the year ended <insert date of financial year end> to ensure that they are in writing and conform to paragraph 13 of the Conduct Standard. We report that no exceptions were noted / the following exceptions were noted <provide details of exceptions>.
- 2.11 Based on enquiries from personnel responsible for financial and accounting matters, we report that for the financial year ended <insert date of financial year end>, the benefit administrator maintained an asset register as contemplated in section 5(2) of the Pension Funds Act, 1956, paragraph 28(2)(b) of the Conduct Standard and the determined format.
- 2.12 Based on enquiries from personnel responsible for financial and accounting matters and an examination of related correspondence, we report that the following administration agreements were terminated during the financial year ended <insert date of financial year end> and in respect of them, paragraph 14 of the Conduct Standard has been complied with:
- 2.13 On a test basis, we have observed the system utilised by the benefit administrator and found it to be (name of the system) and we report that the system is adequate for the size and complexity of the administration business and that the various controls on the system as provided for in paragraph 37 of the Conduct Standard are in place. We report that no exceptions were noted / the following exceptions were noted <provide details of exceptions>.
- 2.14 Based on enquiries from personnel responsible for financial and accounting matters, we report that the benefit administrator has conducted its business within the limitations imposed in terms of section 13B(2) of the Act, and the conditions made under section 13B(1) of the Act, except for the following matters: <provide details of exceptions>.

- 2.15 In addition to the procedures specified in items 2.3 to 2.14 above, we have examined the business of the benefit administrator and we report that the benefit administrator has conducted its business within the limitations imposed in terms of this Conduct Standard.

_____ <signature of auditor>

Name:<insert full names of auditor>

Registered Auditor and Accountant

Chartered Accountant (SA)

Address: <insert address of auditor>

Date:.....

FORM C

REPORT OF THE INDEPENDENT AUDITOR:
CALCULATIONS BASED ON THE ANNUAL FINANCIAL STATEMENTS AS AT
..... <INSERT DATE>

PARAGRAPH 35 OF THE CONDUCT STANDARD [-] OF 2021 (RF) - CONDITIONS
PRESCRIBED IN RESPECT OF PENSION FUND BENEFIT ADMINISTRATORS
("CONDUCT STANDARD")

Paragraph 36(1)(a) - Capital Adequacy	
Capital Amount	R
Ordinary share capital issued	_____
Preference share capital issued	_____
Share premium account	_____
Non-distributable reserves	_____
Retained Income as per audited financial statements	_____
Subordinated loans	_____
Guarantees other than the holding or associated company/entity	_____
Fixed assets, net of related secured loans.	_____

We report that the amount of capital was **less than** / **equal to** / **exceeded** the amount prescribed in paragraph 36(1)(a) of the Conduct Standard.

Paragraph 36(1)(b) - Solvency		
Current Assets per Balance Sheet		R
-	_____	
-	_____	
-	_____	
-	_____	
-	_____	
Current Liabilities per Balance Sheet		R
-	_____	
-	_____	
-	_____	
-	_____	
Surplus / (Deficit):		R _____

Conclusion:

Current assets were **less than / equal to / more than** current liabilities and as a result the administrator was **compliant / not compliant** with the prescribed requirement in terms of paragraph 36(1)(b) of the Conduct Standard.

Paragraph 36(1)(c) – Liquidity		
Total Liquid Assets:		R

Annual Expenditure:		R

13/52 of Total Annual expenditure:		
Excess / Deficit:		

Conclusion:

*Liquid Assets were **equal to / greater than / less than** 13/52 of Annual Expenditure as per the requirement in paragraph 36(1)(c) of the Conduct Standard. The benefit administrator therefore **complied / did not comply** with the requirement.*

Other Auditor observations and comments:

_____ <signature of auditor>

Name:<insert full names of auditor>

Registered Auditor and Accountant

Chartered Accountant (SA)

Address: <insert address of auditor>

Date:.....

ANNEXURE 2

MANAGEMENT REPRESENTATION LETTER

(Administrator's Letterhead)

The AUTHORITY

Address

Address

Address

Address

Date:

Dear Sir/Madam

MANAGEMENT REPRESENTATION LETTER FOR THE PERIOD STARTING ON AND ENDING ON

1. We are providing this management representation letter to the Authority to enable the Authority to –
 - (a) evaluate the financial condition of the benefit administrator as at <insert date of financial year end>; and
 - (b) determine whether or not <insert the name and registration number of the benefit administrator > is capable of performing (insert type of administration) administration services to pension funds in compliance with the conditions determined under section 13B of the Act and Conduct Standard [-] of 2021 (RF) – Conditions prescribed for Pension Fund Benefit Administrators, 2021 ("Conduct Standard").
2. We confirm, to the best of our knowledge and belief, that the benefit administrator –
 - 2.1 has <insert quantity> registered funds with a total asset value of R, and <insert quantity> unregistered funds under the benefit administrator's administration as at the end of the financial year;
 - 2.2 has taken out a Professional Indemnity Policy, under Policy No, with <insert name of insurer> and that such policy has been renewed for a period of months ending on the day of
 - 2.3 has also taken out a Fidelity Guarantee Policy, under Policy No, with <insert name of insurer> and that such policy has been renewed for a period of months ending on the day of

- 2.4 is of the view that both the Fidelity Guarantee and Professional Indemnity policies described above are adequate for the size and the complexity of the business and that they should be adequate to cover the risks of losses due to fraud, dishonesty and negligence;
- 2.5 did not deposit any moneys of a pension fund into a bank account opened in the name of our business, except in the trust account as contemplated in paragraph 33 of the Conduct Standard;
- 2.6 has complied with paragraph 33 of the Conduct Standard in respect of the management of the trust account;
- 2.7 has complied with paragraph 34 of the Conduct Standard in respect of the management of the suspense account;
- 2.8 with reference to the audited financial statements of the benefit administrator for the financial year ending <insert date for financial year-end>, has met the financial soundness requirements as –
- (a) it has maintained capital to the minimum capital amount as contemplated in paragraph 36(1)(a) of the Conduct Standard of the Conduct Standard;
 - (b) its current assets exceeded its current liabilities as contemplated in paragraph 36(1)(b) of the Conduct Standard; and
 - (c) its liquid assets exceeded the amount calculated in accordance with the formula set out in paragraph 36(1)(c) of the Conduct Standards.
- This is confirmed in Annexure A to this letter;
- 2.9 administration and service Level agreements entered into with pension funds during the year ended <insert date> are in writing and conform to the requirements of paragraph 13 of the Conduct Standard;
- 2.10 all outsourcing of administration agreements are in writing and the business has been outsourced to an approved benefit administrator as contemplated in paragraph 15(3)(a) of the Conduct Standard;
- 2.11 has maintained an asset register as contemplated in section 5(2) of the Act, and paragraph 28(2)(b) of the Conduct Standard in the determined format;
- 2.12 conducted the business within the limitations imposed in terms of section 13B(2) of the Act, and the conditions made under section 13B(1) of the Act; and
- 2.13 has a system of control and has checked that the system of internal control is adequate for the size and complexity of the business.
3. During the period under review, the benefit administrator has used the following administration system / systems for the administration of pension funds <insert name of system/systems>.
4. We believe that the business will continue to be in operational existence for the foreseeable future.

5. We declare that the above information is to our knowledge and belief correct and accurate.

_____ <signature of managing/financial director>

Name:<insert full names of managing/financial director>

Date:.....

_____ <signature of key person>

Name:<insert full names of key person>

Date:.....

ANNEXURE A TO MANAGEMENT REPRESENTATION LETTER

Paragraph 36 - Capital Adequacy	
Capital Amount	R
Ordinary share capital issued	_____
Preference share capital issued	_____
Share premium account	_____
Non-distributable reserves	_____
Retained Income as per audited financial statements	_____
Subordinated loans	_____
Guarantees other than the holding or associated company/entity	_____
Fixed assets, net of related secured loans.	_____

*We report that the amount of capital was **less than / equal to / exceeded** the amount prescribed in paragraph 36(1)(a) of the Conduct Standards.*

Paragraph 36(1)(b) - Solvency		
Current Assets per Balance Sheet		R
-	_____	
-	_____	
-	_____	
-	_____	
-	_____	
Current Liabilities per Balance Sheet		R
-	_____	
-	_____	
-	_____	
-	_____	
Surplus / (Deficit):		R _____

Conclusion:

Current assets were **less than / equal to / more than** current liabilities and as a result the administrator was **compliant / not compliant** with the prescribed requirement in terms of paragraph 36(1)(b) of the Conduct Standard.

Paragraph 36(1)(c) – Liquidity		
Total Liquid Assets:		R

Annual Expenditure:		R

13/52 of Total Annual expenditure:		
Excess / Deficit:		

Conclusion:

*Liquid Assets were **equal to / greater than / less than** 13/52 of Annual Expenditure as per the requirement in paragraph 36(1)(c) of the Conduct Standard. The benefit administrator therefore **complied / did not comply** with the requirement.*

_____ <signature of managing/financial director>

Name:<insert full names of managing/financial director>

Date:.....

_____ <signature of key person>

Name:<insert full names of key person>

Date:.....