

FSCA COMMUNICATION 29 OF 2024 (RF)

Publication of Determination of Conditions for Legacy Retirement Annuity Policies excluded from the Two–Component System

1. PURPOSE

The purpose of this communication is to -

- (a) confirm the publication of the final Determination of Conditions for Legacy Retirement Annuity Policies to be excluded from the Two–Component System, as per the definitions of “retirement component” and “savings component” in the Income Tax Act, 1962 (Act No. 58 of 1962) (Income Tax Act); and
- (b) provide responses to interested stakeholders that provided submissions through the public consultation process on the proposed conditions to be determined by the Financial Sector Conduct Authority (FSCA).

2. BACKGROUND

- 2.1 On 1 June 2024 the President assented to the legislation that gives effect to the two-component system in terms of which the rules of a fund must make provision for the member’s interest in a retirement component, a savings component and a vested component. Related amendments to the Income Tax Act through the Revenue Laws Amendment Act, 2024 (Act No. 12 of 2024) has enabled the FSCA to determine the conditions under which a legacy retirement annuity policy/fund will not be subject to the “two-component” system.
- 2.2 Section 1 of the Income Tax Act defines a legacy retirement annuity policy as “*any policy held by a retirement annuity fund entered before 1 September 2024 with a pre-universal life or universal life construct, subject to such conditions that the Financial Sector Conduct Authority may determine*”. These historical policies allowed individuals to purchase an assured lump sum on death and to share in investment returns at portfolio level via, for example, reversionary bonuses on their savings, without a defined fund value.
- 2.3 The definition of the “retirement component” in the Income Tax Act provides that the retirement component shall not apply to a legacy retirement annuity policy as defined in section 1 *that has been exempted from this provision*, subject to the conditions that may be required by the FSCA.
- 2.4 The definition of the “savings component” in the Income Tax Act, provides that the savings component shall not apply to a legacy retirement annuity policy as defined in section 1, *that has been approved for exemption by the FSCA*.
- 2.5 Accordingly on 19 July 2024 the FSCA published *FSCA Communication 25 of 2024 (RF) - Public consultation on the draft Determination of Conditions for Legacy Retirement Annuity Policies to be excluded from the Two–Component System*¹ and the draft determination setting out the proposed conditions to be met in order for a “legacy retirement annuity policy” to qualify as exempted for purposes of the definitions of “retirement component” and “savings component” in section 1 of the Income Tax Act.

¹ Available on the FSCA website under Regulatory Framework > Industry Communication > Retirement funds > FSCA Communication or by clicking on the following link:
[https://www.fsc.co.za/Regulatory%20Frameworks/Regulatory%20Frameworks%20Documents/FSCA%20Communication%2025%20of%202024%20\(RF\).zip](https://www.fsc.co.za/Regulatory%20Frameworks/Regulatory%20Frameworks%20Documents/FSCA%20Communication%2025%20of%202024%20(RF).zip)

- 2.6 Comments were invited from the public on the draft determination and the conditions contained therein by 16 August 2024.

3. SUMMARY OF PUBLIC CONSULTATION AND FINAL DETERMINATION PUBLISHED

- 3.1 Submissions were received from two commentators. Attached to this communication as Annexure A is a consultation matrix setting out all the comments received on the draft determination, and the FSCA's responses to each of the comments. No significant concerns were raised by either commentator, and the comments resulted in minor drafting refinements made to the wording of the conditions.
- 3.2 Accordingly the FSCA have, by notice on its website, determined the conditions as enabled through the Income Tax Act that will exclude legacy retirement annuity policies from the requirements applicable to the retirement component and the savings component of the two-component system. The determination as set out in **FSCA RF Notice 17 of 2024 - Determination Of Conditions For Purposes Of The Definition Of Legacy Retirement Annuity Policy** is available on the FSCA's website.²
- 3.3 The FSCA confirms that it may at any time request information or documentation from a fund to evidence compliance with the conditions as determined by notice on its website.

4. ENQUIRIES

For further information regarding this Communication please contact the FSCA by emailing Ms. Ms. Fikile Mosoma at fikile.mosoma@fsc.co.za or Ms. Giulia Tognon at giulia.tognon@fsc.co.za



ASTRID LUDIN
DEPUTY COMMISSIONER
FINANCIAL SECTOR CONDUCT AUTHORITY

Date: 26 August 2024

² Available on the FSCA website under at *Regulatory Framework > Notices > Retirement funds > FSCA RF Notice 17 of 2024*.