

FSCA COMMUNICATION 4 OF 2021 (RF)

Exemption of funds from the requirements of Regulation 24(a)(iv) of the Pension Funds Act, 1956 relating to the submission of COVID-19 related rule amendments pursuant to FSCA Communication 11 of 2020 (RF)

1. Purpose

The purpose of this communication is to inform the industry that the Financial Sector Conduct Authority (“the Authority”) has reduced the prescribed fees related to rule amendments due to financial distress caused by employers’ and employees’ inability to pay their full, or any, section 13A contributions to the funds due to the national state of disaster brought about by the COVID-19 pandemic.

2. Background

- 2.1 On 26 March 2020, the Authority issued FSCA Communication 11 of 2020 (RF) (“Communication”) to elucidate to boards of trustees of funds the legislative requirement to submit amendments to effect changes to registered rules in respect of employers and / or employees in financial distress as a result of the national state of disaster brought about by the COVID-19 pandemic.
- 2.2 On 18 June 2020, the retirement fund industry approached the Authority, and amongst other issues, raised the issue of the cost to the funds for the rule amendments to be registered with a request that the Authority considers suspending or reducing contributions for a period of time to alleviate the added financial pressures caused by the volumes of applications required as a result of the impact of the COVID-19 pandemic. The Authority understands the financial impact such changes have on financially stressed funds and administrators and has decided to temporarily reduce the prescribed fees for the alteration, rescission of or an addition to the rules of a fund insofar as it relates to the COVID-19 pandemic.

3. Exemption

- 3.1 In order to give effect to this temporary alleviation, the Authority has exempted the relevant funds from the requirements of Regulation 24(a)(iv) read with sub-paragraph (d) of Schedule L of the Regulation 36 of the Pension Funds Act, 1956 .
- 3.2 In order to qualify for this exemption, funds submitting an application for the alteration, rescission of, or an addition to the rule of a fund must –
 - (a) be able to evidence that the rule amendment is required due to financial distress or an employers’ and/or employees’ inability to pay their full or any section 13A contributions to the fund due to the national state of disaster brought on by the COVID-19 pandemic; and
 - (b) lodge such application for a rule amendment with the Authority by not later than **30 April 2021**, by following the process set out in paragraph 4 below.

- 3.3 This exemption is for a limited period and will only be applicable to funds that applied for the alteration, rescission of, or an addition to the rules of a fund as from 1 August 2020, being the date when the decision was made to allow for the reduced fee (as explained in paragraph 2.2 above.)
- 3.4 Only funds that have lodged an application for the alteration, rescission of, or an addition to the rules of a fund with the Authority between 1 August 2020 and 30 April 2021, and whose employers/members remain in financial distress and are required to effect extensions to their initial applications will qualify for the reduced application fee until **31 July 2021**.
- 3.5 Funds who have been financially distressed by the COVID-19 pandemic and want to qualify for the reduced application fee, must apply for rule amendment as per the process outlined in paragraph 4 below.

4. Process for submission of amendments/special rules

- 4.1 The Applicant must select the applicable field on the Authority's online portal to indicate that the application is in respect of funds that are financially distressed as a result of the COVID-19 pandemic. The accompanying cover letter to the application must also clearly indicate the purpose of the submission, have attached proof of payment of the reduced application fee, and where applicable request that the Authority debit the administrator's account with the reduced application fee.
- 4.2 The reduction of fees through the exemption is ONLY available to the funds that have between 1 August 2020 and 30 April 2021 applied for the initial alteration, or rescission of, or addition to rules as result of financial distress brought about by the COVID-19 pandemic or will apply for a further extension of its initial application the alteration, or rescission of, or addition to rules as result of financial distress brought about by the COVID-19 pandemic.
- 4.3 If a fund wishes to request a refund of application fees already paid, the fund must lodge an application for a refund with the Authority and include the case number of the affected application. The Authority will not refund any amount if the process and requirement in paragraph 4.1 to 4.3 above is not adhered to.

5. Enquiries

For more information regarding this Communication contact the Retirement Funds Supervision Division of the FSCA at fikile.mosoma@fsca.co.za.



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