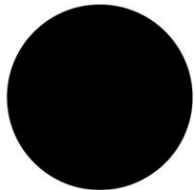


**STATEMENT OF NEED AND IMPACT OF
THE AMENDMENTS TO FSRA CONDUCT
STANDARD 1 OF 2019 (PFA) -
CONDITIONS FOR AMALGAMATIONS
AND TRANSFERS IN TERMS OF SECTION
14 OF THE PENSION FUNDS ACT**

DATE: MARCH 2025



*** This version incorporates changes that were made to the original version of the “Statement supporting draft amendments to FSRA Conduct Standard 1 of 2019 (PFA) - Conditions for amalgamations and transfers in terms of section 14 of the Pension Funds Act” that was published on 7 May 2024.**

1 PURPOSE OF THE STATEMENT

- 1.1 This Statement relates to the Financial Sector Conduct Authority's ("FSCA") amendments to FSRA Conduct Standard 1 of 2019 (PFA) - Conditions for amalgamations and transfers in terms of section 14 of the Pension Funds Act ("Conduct Standard Amendment").
- 1.2 The FSCA intends to make the Conduct Standard Amendment in terms of section 106(1), read with sections 106(2), 106(3) and 108 of the Financial Sector Regulation Act, 2017 (Act No. 9 of 2017). ("FSR Act").
- 1.3 This Statement is published in accordance with section 98(1)(a) of the FSR Act and is intended to support and give context to the Conduct Standard Amendment. The Statement explains the need for, the expected impact of, and the intended operation of the Conduct Standard Amendment .

2 STATEMENT OF NEED - POLICY CONTEXT AND PROBLEM DEFINITION

- 2.1 On 5 August 2019, the FSCA published FSRA Conduct Standard 1 of 2018 (PFA) - Conditions for amalgamations and transfers in terms of section 14 of the Pension Funds Act ("S14 Conduct Standard").
- 2.2 The S14 Conduct Standard prescribes conditions for amalgamations and transfers in terms of section 14 of the Pension Funds Act, 1956 (Act No. 24 of 1956) ("PFA"). Amongst other things, the Conduct Standard prescribes the various types of forms that pension funds has to complete when submitting an application under section 14 of the PFA ("section 14 application forms").
- 2.3 In 2024 the Minister of Finance was in the process of finalising amendments to the Regulations under the PFA to give effect to the so-called Two-Pot system ("Two Pot Regulations"). The FSCA identified that the aforementioned amendments will result in misalignment between the current prescribed section 14 application forms and the Two Pot Regulations, as the current section 14 application forms do not provide allowance for the transfer value in relation to the two-pot system. The section 14 application forms only allow for a single transfer value, whereas the implementation of the Two Pot Regulations will require the transfer value to be differentiated in two parts in the forms. As such the section 14 application forms will have to be revised.
- 2.4 However, because the prescribed section 14 application forms are contained in the S14 Conduct Standard itself, changing the forms needed to be subject to the process reflected in Chapter 7 of the FSR Act, which is onerous and time-consuming process.
- 2.5 If the section 14 application forms were not amended by the time that the Two Pot Regulations take effect, it would mean that any transfer taking place as from 1 September 2024 would still have to be based on the current prescribed forms which, as explained above, is misaligned to the Two Pot Regulations. It was therefore deemed important that, to the extent possible, amendments to the section 14 application forms be given effect before the end of 2024.
- 2.6 The FSCA was further of the view that the current approach, where amendments to the section 14 application forms were subject to the FSR Act Chapter 7 process, were overly burdensome and counterproductive, especially given the fact that the format of section 14 application forms is largely administrative in nature.

- 2.7 It might be noted that section 108 of the FSR Act, which provides for additional matters for making standards, states that a standard may provide for the FSCA to make determinations for the purposes of the standard (see section 108(2)(a)). Typically, the FSCA would provide for such determinations in a Conduct Standard where it relates to determining the content and format of applications, notifications and the like- i.e. matters of an administrative nature. In the FSCA's opinion, section 14 application forms are well suited to being subject to determination as opposed to formal legislative amendments.
- 2.8 Therefore a need had arisen to streamline the process pertaining to amending section 14 application forms in line with the empowering provisions provided for in the FSR Act. As such, the FSCA proposed amendments to the S14 Conduct Standard.

3 SUMMARY OF THE AMENDMENTS

- 3.1 The draft amendments focus on the following:
- *Removal of the application forms from the S14 Conduct Standard:*
The draft amendments propose to remove the section 14 application forms from the Conduct Standard itself. Going forward the application forms will be determined separately by way of empowering provisions.
 - *Enabling the determination of application forms:*
The draft amendments propose to insert provisions that enable the FSCA to determine the manner of submission, content and format of the section 14 application forms (in line with section 108(2) of the FSR Act). As such, all references to the previous forms that were contained in the S14 Conduct Standard has also been removed.

4 STATEMENT OF IMPACT OF THE DRAFT AMENDMENTS

- 4.1 The Conduct Standard Amendment will provide more flexibility to the FSCA when making changes to section 14 application forms as it will negate the need for legislative amendments when changing such forms. This flexibility is also in the interest of pension funds as changes to section 14 application forms necessitated by external developments, such as changes to the Regulations under the PFA, can be given effect to more expeditiously which means that pension funds will obtain legal certainty quicker.
- 4.2 It is envisaged that the Conduct Standard Amendment will have no cost implication for funds as no new requirements are being introduced.

5 STATEMENT OF INTENDED OPERATION OF THE AMENDMENTS

- 5.1 The Conduct Standard Amendment is intended to become effective on the date of publication.
- 5.2 At the same time as the effective making of the Conduct Standard Amendment, the FSCA will determine the relevant section 14 application forms which were enabled through the Conduct Standard Amendment.
- 5.3 Following the implementation of the Conduct Standard Amendment, the FSCA will assess and evaluate the effect of the amendments continuously as part of its supervisory responsibility to mitigate any unintended consequences of these amendments should these arise.