

FSCA COMMUNICATION 7 OF 2020 (RF)

PENSION FUNDS ACT, 1956

SUBMISSION OF HISTORICALLY OUTSTANDING ACTUARIAL VALUATION REPORTS AND ANNUAL FINANCIAL STATEMENTS

1. Purpose

- 1.1 The Financial Sector Conduct Authority (“the Authority”) has identified that there are a number of pension funds that have no remaining members, with historical outstanding actuarial valuation report submissions and outstanding annual financial statement submissions.
- 1.2 This communication sets out a process which may be followed by such funds in order to achieve compliance with regulatory requirements as soon as possible.

2. Definitions

For the purposes of this communication:

“effective transfer date” means the effective date of the section 14 transfer application transferring out the last members of the fund¹ in terms of the Pension Funds Act, 1956 (“PFA”); and

“payment date” means the date that the last transfer is made, following approval of the section 14 application.

3. Submission of consolidated report

- 3.1 A fund may combine statutory submission reports for a number of reporting periods into a single report, subject to the fund meeting the following conditions :
 - (a) the fund’s surplus apportionment scheme has been approved, a nil return has been noted or the fund commenced after 7 March 2002;
 - (b) there were no remaining active members, paid-up members/deferred members or pensioners as at 31 December 2019;
 - (c) the fund has affected a transfer of members in terms of an approved section 14(1) scheme or a transaction in terms of section 14(8) of the PFA and the assets matching the transfer have been transferred out (where applicable);

¹ Where there are multiple transfer dates, the most recent date should be considered.

- (d) the fund is pending deregistration following the section 14 transfers or a liquidator's appointment has been approved in terms of section 28(2) of the PFA;
 - (e) there is no litigation pending by or against the fund; and
 - (f) the net assets of the fund (i.e. investment portfolios and bank account assets after deducting unclaimed benefits) as at 31 December 2019 were below R 250 000.
- 3.2 At the time of the consolidated submission, the authorised representative of the administrator, the valuator, the Board of Management (board) and the Principal Officer of the fund must certify that the fund complies with all of the above criteria.
- 3.3 Any consolidated submission must also be accompanied by:
- (a) a certificate by the administrator reflecting:
 - (i) the bank balance and net debtors and creditors at the consolidation date; and
 - (ii) in the case of an actuarial valuation report submission, confirmation of the intention to draft consolidated financial statements from the date of the last submitted financial statements to the effective consolidation date;
 - (b) a certificate by a valuator certifying that no member or former member of the fund will be prejudiced by allowing the consolidation to proceed; and
 - (c) details on any outstanding complaints from fund stakeholders or confirmation that there are no outstanding complaints. This must be certified by the board.
- 3.4 The effective date of the consolidation must be at a financial year end of the fund.
- 3.5 In order to submit the consolidated report:
- (a) Where there was no appropriately constituted board in terms of section 7A, the Authority will upon being informed by the Administrator in writing, write to the board to properly constitute itself within 90 days written notice by the Authority, and where the fund cannot properly constitute a board or the board fails to comply with the requirements prescribed by the FSCA pursuant to section 7A, appoint so many persons as may be appropriate to the board in terms of section 26(2) of the PFA and assign to such board such specific duties as the Authority deems appropriate.
 - (b) Where there was no appointed valuator, the board will be required to appoint a valuator.
 - (c) Where the appointment of an auditor is required, the board will be required to appoint an auditor.

4. Consolidated valuation report

- 4.1 The consolidated valuation report must consider:
- (a) the period from the last approved statutory valuation report until the effective transfer date;
 - (b) the period from the effective transfer date to the payment date; and
 - (c) the period after the payment date.

- 4.2 This report must note significant movements or releases since the previously submitted statutory actuarial valuation. Build-ups of any reserves held must be included.
- 4.3 Any decisions taken with regard to section 15C surplus allocations must be detailed and the manner in which all stakeholders were considered must be explained.
- 4.4 On approval of the valuation report, the Authority will also grant exemption for a further three-year period, allowing the fund time to proceed with the deregistration process. During this time:
- (a) the fund is expected to submit any outstanding annual financial statements within 3 months of the effective date of approval of the valuation report; and
 - (b) the fund is expected to submit its application for deregistration within 6 months of the date of approval of the valuation report.
- 4.5 The fund may submit a consolidated application for exemption (i.e. exemption covering multiple valuation periods), if the fund would have qualified for exemption throughout this period.

5. Consolidated financial statements

- 5.1 The consolidated financial statements must consider:
- (a) the period from the last submitted financial statements until the effective transfer date;
 - (b) the period from the effective transfer date to the payment date; and
 - (c) the period after the payment date.
- 5.2 Where a liquidator has been appointed to distribute the remaining assets in the fund, the financial statements should be until the date on which the appointment of a liquidator was approved in terms of section 28(2) of the PFA.

6. Timelines

- 6.1 Any fund intending on applying the consolidated process referred to in this communication is required to approach the Authority before 30 June 2020, in order to commit to an action plan in this regard.
- 6.2 In such cases, the Authority will consider waiving penalties relating to outstanding actuarial valuation report submissions.
- 6.3 All submissions of consolidated valuation reports and financial statements must be made prior to 30 April 2021. No consolidated submissions in terms of this Communication will be accepted after that date.

8. Contact

For further information regarding this Communication, please contact Giulia Tognon at giulia.tognon@fsca.co.za.

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