

FSCA COMMUNICATION 8 OF 2025 (RF)

Publication of draft exemption of retail funds in relation to amalgamations and transfers from the requirements of section 14(1) of the Pension Funds Act, 1956, for public consultation

1. Purpose

The purpose of this communication is to inform stakeholders that today the Financial Sector Conduct Authority (“FSCA”) published for public comment on its website a draft notice proposing to exempt retail funds, in terms of section 14(9) of the Pension Funds Act, 1956 (Act No. 24 of 1956) (“PFA”) read with section 281(3) of the Financial Sector Regulation Act, 2017 (Act No. 9 of 2017) (“FSR Act”), from having to meet the requirements of section 14(1) of the PFA.

2. Background

- 2.1 The purpose of section 14(1) of the PFA is to set out the requirements that funds need to comply with before the amalgamation or transfer of business will be in effect or in force, and section 14(8) of the PFA determines that section 14(1) does not apply to funds where the affected members were duly informed of a proposed transaction in the case of an amalgamation or transfer as contemplated in section 14(8)(a), (aA) or (b).
- 2.2 Section 14(9) of the PFA empowers the FSCA to exempt funds from the provisions of section 14 subject to requirements or conditions to be complied with for such exemption to be granted.
- 2.3 Section 16 of FSRA Conduct Standard 1 of 2019¹ stipulates the further requirements for any transaction effected in terms of section 14(8) of the PFA.

3. Rationale for the proposed exemption

- 3.1 The FSCA received a request from industry stakeholders to consider exempting transfers involving retirement annuity funds and preservation funds (collectively referred to as retail funds) from the requirements of section 14(1) of the PFA.
- 3.2 Retirement annuity funds and preservation funds by their nature are retail funds to which members belong through their own choice. Unlike pension and provident occupational funds, these funds do not require an employer/employee relationship. Any transfer in/out of these retail funds is done on voluntary basis at the request of the member, in

¹ “FSRA Conduct Standard 1 of 2019” means the Conduct Standard prescribing the requirements relating to conditions for amalgamations and transfers in terms of section 14 of the Pension Funds Act, 1956, (Act No.24 of 1956).

most cases based on financial advice received from a registered and authorized financial adviser.

- 3.3 In employer funds, trustees are responsible for members' investment selection and portfolios in occupational funds. This is not the case for retail funds.
- 3.4 Whereas transfers to employer funds are usually done on a group basis, transfers into and between retail funds are individual transfers.
- 3.5 A transfer from an employer fund to a retail fund is preceded by withdrawal from that fund, which is then followed by a recognition of transfer form to be completed by both the funds. The same principle applies to transfers between retail funds.
- 3.6 Accordingly transfers in and out of retail funds are done at the instance of members and is therefore voluntary in nature. These transactions are therefore similar to section 14(8) transactions in that the member would be aware of / in agreement to the transaction and therefore the complete S14 process would not be necessary.

4. Invitation to comment on the draft Notice

- 4.1 In the above context, the FSCA has published for public consultation a draft Notice proposing the exemption of retail funds from requirements of section 14(1) of the PFA.
- 4.2 The draft Notice and comments template are available on the FSCA's website at www.fsca.co.za.
- 4.3 Interested parties are invited to submit comments on the draft Notice using the Comments Template published with the draft Notice, in Word format, on or before **5 June 2025** to FSCA.RFDstandards@fsca.co.za.

5. Enquiries

For further information regarding this Communication please contact the Regulatory Framework Department of the FSCA by emailing Roslynne van Wyk at roslynne.vanwyk@fsca.co.za.



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Date of Publication: 17 April 2025