

FSCA COMMUNICATION 17 OF 2022 (RF)

Arrear contributions: An alert to retirement funds and employers

1. Purpose

This communication is meant to alert retirement funds and employers regarding arrear contributions by retirement funds and employers. The Financial Sector Conduct Authority (“the Authority”) intends to publish the names of those retirement funds and employers who are in arrears.

2. Background

2.1 Arrear contributions arise when employers:

- (a) deduct retirement contributions from employees’ salaries and do not transmit this money into the bank account of a retirement fund, or
- (b) fail to transmit employer contributions, in terms of the retirement funds’ (in which they participate) rules, into the fund’s bank account.

Arrear contributions do not arise in instances where the fund and employer have registered and applied rules which enable the suspension of contribution payments for a period

2.2 In terms of Section 13A of the Pension Funds Act, 1956 (Act No. 24 of 1956) (“PFA”), funds have 7 days after the expiration of the period in respect of which contributions are due, to pay the contributions over to the funds.

2.3 Section 37(1) of the PFA makes the contravention of section 13A (non-payment of contributions) a criminal offence, with consequences of potential personal liability for the directors.

2.4 Our preliminary statistics indicate that municipalities and private sector companies have approximately R1 billion and R6 billion arrear contributions, respectively. This compromises good outcomes for members of funds who would have to retire short of their full retirement benefits.

3. Intention to publish of names of retirement funds and employers with arrear contributions

3.1 Retirement funds and employers are hereby formally alerted to an imminent publication of the names of employers and funds with arrear contributions. The Authority is currently compiling the list and checking the accuracy of the value of arrear contributions.

3.2 Retirement funds must immediately share this communication with the employers.

4. Enquiries

- 4.1 For further information regarding this Communication please contact the Authority by emailing Ms. Corlia Buitendag, at cornelia.buitendag@fsca.co.za.



OB MAKHUBELA
DIVISIONAL EXECUTIVE: RETIREMENT FUNDS SUPERVISION

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