



CIRCULAR TO PARTICIPATING EMPLOYERS
OF
THE ROAD FREIGHT AND LOGISTICS INDUSTRY PROVIDENT FUND ("the Fund")
PERSONAL LIABILITY FOR NON-PAYMENT OF CONTRIBUTIONS

Non-compliance with Section 13A of the Pension Fund Act 24 of 1956 (the "Act") which deals with payment of contributions to the Fund is now a criminal offence in terms of the new sections 13(8) and (9) that have been added to the Pension Funds Act with effect from 28 February 2014. If convicted, a fine of up to R10 million and/or imprisonment of up to 10 years may be imposed on the responsible party.

In addition to criminalising the non-payment of contributions, the persons at the employer responsible for not paying the contributions over to the Fund is held personally liable for the non-compliance. Every Director of a Company or every Member of a Close Corporation, who is regularly involved in the management of the Company's or Close Corporation's overall financial affairs, or all the persons comprising the governing body of the employer, as the case may be, are personally liable for compliance with this Section of the Act.

In terms of Section 13A (9) (a) of the Act the Fund is compelled to request all participating employers to identify the "Responsible Persons" that will be personally liable in the event of non-compliance with Section 13A. The Fund's appointed Front Office Administrator will request all current and new participating employers to complete a form and provide supporting documents in order for the Fund to capture this information in their records.

Failure in complying with the nomination of Responsible Persons will lead to all Directors of the Company or all the Members of a Close Corporation regularly involved in the management of the Company or Close Corporation, or all the persons comprising the governing body of the employer, as the case may be, being held personally liable for non-compliance.

If the contributions remain outstanding for 90 days, the Fund's trustees must advise the Financial Services Board and report the matter to the National Director of Public Prosecutions to take criminal action against the employer. The Financial Services Board may also inform SARS of any failure to comply with section 13A.

The Financial Intelligence Centre Act No.38 of 2001 (FICA) also requires the Fund to establish and verify the identity of clients in order to combat or eliminate money laundering activities. The Fund will therefore also request documentation for the purpose of updating the records in this regard, whilst obtain the information on the Responsible Persons.
