

## Retirement Matters

### 2/2025



### Two-pot retirement system update

#### Revenue Laws Amendment Bill

The latest version of the 2025 Revenue Laws Amendment Bill was presented to Parliament on 12 March 2025.

It contains technical amendments to the two-pot retirement system legislation, including changes required as a result of the enactment of the Taxation Laws Amendment Act, 2024 which were not taken into consideration when the first draft of this Bill was released. Changes are also proposed in the provisions regarding the payment of the savings component on death. With the enactment of the Revenue Laws Second Amendment Act, 2024, a lump sum payable as a result of the death of a member is still a retirement fund lump sum benefit. However, the definition of “savings component” only makes provision for the treatment of the remaining balance in the savings component on retirement and not on death. As a result, the wording in the current legislation creates the impression that any value in the savings component is only payable as a savings withdrawal benefit on death and will be taxed according to the marginal tax rates.

It is proposed that an amendment be made that, on the member's death, should the nominees or dependants choose to receive a lump sum benefit, such lump sum benefit will be considered part of the retirement fund lump sum benefit for tax purposes.

#### Taxation of savings withdrawal benefits from 1 March 2025

Many retirement fund members are claiming savings withdrawal benefits again in the new tax year from 1 March 2025. Until such time as the Budget Speech delivered on 12 March 2025 has been approved in Parliament, the PAYE table for the previous tax year still applies. SARS has indicated to the industry that the rates applied will be the 2024 rates on the higher of declared income and the income that SARS has on record. SARS is aware that this may result in a shortfall or an over-deduction of PAYE, which will need to be corrected by the affected members in the 2026 filing season.

#### Draft Conduct Standard - Requirements for financial institutions providing financial education initiatives

The FSCA issued the Draft Conduct Standard on Financial Education Initiatives in March 2023 ([Retirement Matters 4/2023](#)) for comments and consultation. The Draft Conduct Standard has now been submitted to Parliament.

The requirements in the Conduct Standard will only apply to financial institutions that provide financial education

initiatives. The financial institution will need to adhere to the requirements, such as the monitoring and evaluation of the effectiveness, efficiency and appropriateness of financial education initiatives, as well as reporting financial education initiatives to the FSCA.

The definitions of financial education and financial education initiative in the draft Conduct Standard provide some guidance on when communication and/or training will have to comply with the requirements. The definition of financial education initiative contains two key concepts, both of which should be aimed at providing financial education:

- 1. Financial education programme:** The term “programme” is defined as, among other things, “an officially organized system of services, activities or opportunities to help people achieve something”. Therefore, in the context of financial education, a financial education programme would entail an officially organised system of financial education driven activities.
- 2. Other similar initiative:** The term “initiative” is defined as “a new plan or process to achieve something or solve a problem”. Therefore, to qualify as an initiative similar to a financial education programme, the initiative has to entail some form of systematic planning/process aimed at providing financial education. This would, for example, include an awareness campaign but would exclude a once-off action like publishing an arbitrary article providing general information.

According to the statement that accompanied the Conduct Standard, various specific activities were highlighted during the consultation process, and it was asked whether the communication by retirement funds to members would fall within the definition of financial education or financial initiatives. The FSCA is of the view that any retirement fund related communication or action that is aimed at providing information to support the understanding of a particular pension fund (including benefits, processes, etc.) will not constitute a financial education initiative.

The FSCA will monitor compliance with the draft Conduct Standard.

When the Conduct Standard is made effective, financial institutions will be provided with a period of 12 months before the requirements become operational to provide financial institutions with sufficient time within which to become compliant and implement appropriate arrangements and controls mechanisms.

The FSCA also intends to send an Information Request to all financial institutions to obtain baseline information with regards to financial education initiatives being undertaken, and to use this baseline information to measure the effectiveness of the requirements of the Conduct Standard once it is made effective.

## CoFI Bill update

In the Budget Speech delivered on 12 March 2025, National Treasury indicated that the final draft of the Conduct of Financial Institutions (CoFI) Bill awaits certification from the Office of the Chief State Law Adviser, whereafter it will be submitted to Cabinet for approval to be tabled in Parliament.

It was confirmed that the FSCA is preparing for the CoFI Bill's implementation, as will be explained in more detail in its 2025 Three-Year Regulation Plan. The FSCA has already started informal engagement on some of the regulatory frameworks it intends to make once the CoFI Bill is passed, and these will continue over the next budget period.

Once the CoFI Bill is enacted, retirement funds will have to be licensed for providing a financial product and providing a financial service, similar to the current FAIS licensing. The indication from the regulator is that it will not be a big-bang approach, but that retirement funds will transition to being licensed over time. A timeline of three years, and possible extensions beyond that, is envisaged. After CoFI is enacted, retirement funds will still have to register their rules in terms of the Pension Funds Act, which will become the Retirement Funds Act. In addition, funds will have to obtain a license in

terms of the Financial Sector Regulations Act. Funds will in essence be dual-licensed: they will have a prudential license in terms of the Pension Funds Act and a conduct license in terms of the Financial Sector Regulations Act. In practice, the FSCA will follow a streamlined approach where funds will only have to submit one application and will be issued with the two licenses. For funds already registered, the current registration status will be converted to being licensed. Funds will be able to do business as if they are licensed, and the FSCA will have to grant the new licenses within three years.

The appointment of valuers and principal officers will remain within the ambit of the Pension Funds Act, unless they perform a CoFI activity, in which case they will have to be licensed under the Financial Sector Regulations Act. Fit and proper requirements may be prescribed for principal officers, but the detail, to be contained in for instance a Conduct Standard, still needs consultation.

The CoFI Bill also deals with financial institutions and their transformation. The proposed changes to the Pension Funds Act include providing the FSCA with the power to prescribe standards to achieve the purposes of the CoFI Bill. The indication is therefore that requirements will be prescribed to promote transformation.

It is envisioned that cabinet approval for the CoFI Bill should be sought during February or March 2025 and the Bill tabled in parliament during March or April. Once the CoFI Bill is enacted, frameworks such as Conduct Standards, will be issued. The CoFI Bill only provides the basic framework/principles/powers, with many of the requirements to be issued via other regulatory instruments.

The regulator has however removed all the proposed amendments to the Pension Funds Act that appeared in previous versions of the CoFI Bill that are not truly consequential to the CoFI Bill, in other words it does not relate to conduct. Indications are that these changes will be proposed in an Omnibus Bill, of which a first draft will be released in the latter part of 2025.

## Q&A

### **Does an *agterskot* transfer application have to be submitted to the FSCA within 180 days of the effective date of the previously approved section 14 transfer?**

In terms of section 14(1)(a) of the Pension Funds Act, a section 14 scheme application must be submitted to the FSCA within a prescribed period of the effective date. FSCA Notice 4 of 2016 prescribes the period to be 180 days. An *agterskot* transfer is still a section 14(1)(a) scheme and as such must be submitted within 180 days of its effective date.

However, Conduct Standard 1 of 2019 does not prescribe that the effective date of the *agterskot* transfer must be the same as the previously approved transfer. Since the calculation of the *agterskot* transfer values normally only takes place once the values have been finalised, the effective date will not necessarily be the same as the previously approved section 14 effective date.

Therefore, although the *agterskot* transfer must still be submitted to the FSCA within the prescribed 180 day period from the effective date, the effective date of the *agterskot* transfer will be determined by the fund and does not have to correspond to the previous approved section 14 transfer.