



SECTION 14 TRANSFERS UNDER THE TWO-POT RETIREMENT SYSTEM

One of the important matters currently under question is the Section 14 transfer process after 1 September 2024, the implementation date of the two-pot system. Many funds may be in various stages of the transfer process between funds and it is important to seek clarity.

The technical issues around the section 14 transfer process have been dealt with in three main communications issued in 2024, namely:

- **Draft Amendments to FSRA Conduct Standard 1 of 2019 (PFA)** – Conditions for amalgamations and transfers in terms of section 14 of the Pension Funds Act, 1956 (Act No. 24 of 1956) (known as the Draft Amendments)
- **FSCA Communication 21 of 2024** – Draft Forms for Section 14 transfers
- **FSCA Communication 31 of 2024** - Exemption of funds from certain provisions of the FSRA Conduct Standard No.1 of 2019 (PFA)

Summary of the background:

- **The FSCA published the S14 Conduct Standard on 5 August 2019** – known as “the S14 Conduct Standard”. The S14 Conduct Standard prescribes conditions for

amalgamations and transfers, and included, as part of the appendices to the Conduct Standard, the various types of forms that pension funds must complete when submitting an application under section 14 of the Pension Funds Act (PFA).

- The legislative amendments catering for the two-pot system on 1 September 2024 resulted in a misalignment between the current prescribed section 14 application forms and the two-pot regulations, in that the section 14 application forms only allow for a single transfer value, whereas the two-pot regulations require that transfer values be differentiated in two parts in the forms. As such, the section 14 application forms need to be formally changed to reflect the changes to the retirement funds framework brought about by two-pot.
- The problem is two-fold:
 - Because the current S14 transfer forms are appendices to a Conduct Standard, changing them requires a lengthy legislative process, and
 - The forms need to be changed to cater for the various components (or pots) under the two-pot legislation.

DRAFT AMENDMENTS TO FSRA CONDUCT STANDARD 1 OF 2019 (PFA) – CONDITIONS FOR AMALGAMATIONS AND TRANSFERS IN TERMS OF SECTION 14 OF THE PENSION FUNDS ACT, 1956 (ACT NO. 24 OF 1956) (KNOWN AS THE DRAFT AMENDMENTS)

On 8 May 2024, the FSCA published the draft amendments to FSRA Conduct Standard 1 of 2019 (“the Draft Amendments”) for public consultation, with the due date for submissions being 19 June 2024.

The Draft Amendments proposed to:

- Remove the Section 14 application forms from the Conduct Standard itself, so that the forms could be amended without the lengthy legislative process of amending a conduct standard each time that a change to the forms is required, and
- Enable the FSCA to determine the manner of submission, content and format of the section 14 application forms.

No significant concerns were raised in the consultation process meaning that there were no substantial changes to the Draft Amendments.

FSCA COMMUNICATION 21 OF 2024 – DRAFT FORMS FOR SECTION 14 TRANSFERS

At the end of June 2024, the FSCA published Communication 21 of 2024. The purpose of which was to:

- **Invite public consultation on the Draft Forms** to be used for transfers under the two-pot system.

Interested stakeholders had until 31 July 2024 to submit comments. The majority of industry stakeholders and bodies have submitted their comments. The final forms have yet to be published.

- **Clarify the treatment of section 14 transfers** with the implementation of the two-pot retirement system.

The communication also provided clarity to retirement funds and administrators on how to treat transfers from one fund to another in terms of section 14 during the transition to the two-pot retirement system.

The communication specifically provided clarity regarding:

- (a) seed capital allocation;
- (b) payment of savings pot withdrawal benefits; and
- (c) allocation of transfer values across the various components.

FSCA COMMUNICATION 31 OF 2024 – FORMS FOR SECTION 14 TRANSFERS

Since the Draft Amendments have not yet taken effect, the FSCA has, as an interim measure, granted exemption to all funds from the requirement to use the forms prescribed under FSRA Conduct Standard 1 of 2019. The exemption is granted subject to the requirement that funds must use the revised forms proposed under the Draft Amendments instead.

The exemption will be withdrawn once the Draft Amendments are finalised and the determination notice is published on the FSCA's website.