

**FSCA Press Release**

**22 November 2024**

## **FSCA publishes list of employers in arrears for Retirement Fund contributions**

The Financial Sector Conduct Authority (“FSCA”) has published FSCA Communication 41 of 2024 (RF) - Publication of names of pension funds and employers with arrear contributions. The communication provides the names of 2330 employers that have contravened section 13A of the Pension Funds Act, 1956 (“PFA”) which prescribes the manner in which the payment of contributions and other benefits should be made to a retirement fund. The FSCA received a total of 7770 employers that contravened section 13A of the PFA, as at 31 December 2023, from retirement funds supervised by the FSCA.

The FSCA has decided to publish the following names from the 7770 employers that were reported:

- 2003 employers who have outstanding contributions that are more than R50 000 and have been outstanding for a period of more than 5 months;
- 200 employers who have outstanding contributions that are more than R50 000 but the last contribution date has not been provided;
- 113 employer’s whose outstanding contributions are less than R50 000, but the outstanding LPI is more than R50 000 and has been outstanding for more than 5 months; and
- 20 employers that have not contributed since date of participation in the retirement fund.

The balance of the 5440 employers have not been included in the publication as they do not meet the thresholds set out above.

The failure of employers to pay retirement fund contributions has severe consequences for members, affecting their withdrawal benefits, as we have seen with the introduction of the Two- Pot System, investment returns, and applicable risk benefits. Withholding these contributions despite deducting the contributions from employees' salaries, is a serious offense that could amount to theft and, in some cases, fraud.

The FSCA oversees regulated entities, which include retirement funds and their boards. However, employers participating in retirement funds are not considered regulated entities under the PFA or the Financial Sector Regulation Act, 2017 (‘FSR Act’), limiting the FSCA’s ability to directly address non-compliant employers. This should be remedied by the introduction of the Conduct of Financial

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**Executive Committee:**

**Commissioner:** U. Kamlana | **Deputy Commissioners:** A. Ludin | K. Gibson | F. Badat

Institutions Bill (CoFI). Retirement fund boards have reported that the following actions, amongst others, have been taken in an effort to recover outstanding contributions:

- Legal action;
- Bargaining council enforcement process;
- Lodged complaints with the Office of the Pension Funds Adjudicator (“OPFA”); and
- Reported contraventions to the South African Police Service.

The FSCA will continue engaging with the National Prosecution Authority and the Directorate for Priority Crime Investigate to ensure that responsible parties are brought to book. The Authority also welcomes the arrests of the officials involved in the non-payment of contributions in the Kai !Garib, Renosterberg and Kamiesberg municipalities.

Members affected by employer non-compliance should engage with their employers and retirement funds directly. If these efforts are unsuccessful, members may lodge a complaint with the Office of the Pension Funds Adjudicator.

The publication is available on the FSCA website and can be accessed via this [link](#).

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