FSCA CONDUCT STANDARD 1 Of 2022

The Financial Sector Conduct Authority (FSCA) has issued new requirements for contributions, monthly contribution statements and the reporting of contributions. The intention is to standardise across the retirement industry the manner and format that funds report on contributions. The conduct standards are law.

Section 13A governs the payment of the monthly contributions by employers to the pension or retirement fund on behalf of their employees. The Act states:

> **"Any contribution to a fund… shall be transmitted directly into the fund's account… not later than seven days after the end of the month for which such a contribution is payable."**

This means that the contributions <u>**must**</u> have reached the fund's bank account by the **7th of the month**.

CONTRIBUTION STATEMENTS TO BE PROVIDED BY THE EMPLOYER TO THE FUND.

What information must the contribution statement contain?

When an employer becomes a participating employer of a fund, the very first contribution statement must at a minimum contain the following:

a) the name of the fund;
b) the fund registration number;
c) the period in respect of which the contribution is payable;
d) the name and address of the employer;
e) where an employer has multiple pay-points, the pay-point which made the deduction;
f) the contact person responsible at the employer or pay-point dealing with enquiries relating to contribution statements and payment of contributions;
g) the identity of the person envisaged in section 13A(8) of the Act, as requested from the employer by the fund in terms of section 13A(9)(a) of the Act;
h) in respect of each member, the following
 i. full name;
 ii. date of membership;
 iii. *date of birth;*
 iv. South African identity number or passport number;
 v. employer pay or industry number;
 vi. income tax number;
 vii. contact number, including (where available) cellular phone number;
 viii. e-mail address (where available);
 ix. *postal address;*
 x. residential address;
 xi. annual pensionable emoluments;

The minimum information to be furnished to a fund by an employer in subsequent contribution statement must include –

a) All the information in the initial statement (except the information in subparagraph (g) that need only be provided if the identity of the person has changed);
b) the membership number allocated to each member by the fund; and
c) an indication of any changes as compared to the contribution statement for the previous period showing any differences in the data, including additions as a result of new members, reductions as a result of membership terminations, adjustments as a result of changes in pensionable emoluments, the payment of additional voluntary contributions, corrections due to error or any other information that may be relevant.

xii. percentage and amount of contributions;
xiii. split between member and employer contribution; and
xiv. details of any additional voluntary contributions paid.

Employer's declaration

A new requirement is that all information to be provided by the employer in the contribution statements must be accompanied by a declaration by the employer that all employees eligible to be members of the fund **are accurately reflected in the contribution statement**. This places an obligation on the employer to ensure that all eligible employees appear on the contribution statements provided to funds.

By when must the contribution statements be provided to the fund?

The Act provides that contribution statements must be provided either at the time of paying contributions or not later than 15 days after the end of the month in respect of which the contribution payment is made.

PENALTIES FOR NON-COMPLIANCE

Failure to comply with FSCA CONDUCT STANDARD 1 OF 2022 is a criminal offense with serious consequences. It is therefore critically important that Employers ensure strict compliance. Please take note of the following:

- The FSCA has said that it will 'name and shame' employers and funds where contributions are unpaid/short-paid. The FSCA announced that it will publish the name of the Participating Employer on its website for public notice in terms of FSCA Communication 17 of 2022.
- All funds are obliged to directly inform members, in writing, if the employer is not compliant with any of the requirements.
- The Conduct Standard states that compound interest will be levied on all late or unpaid contributions in terms of section 13A(7) of the Act.

  The interest must be calculated from the first day following the expiry of the period in respect of which such amounts were payable until the date of receipt by the fund.

  The interest is prescribed as the prime rate plus 2 percent and must be paid to the fund by no later than the end of the second month following the month in respect of which the amount is payable.
- Funds are required to lodge a criminal complaint at SAPS against the persons personally responsible at the participating employer for compliance. Any person who fails to comply is guilty of an offense and may be liable, on conviction, to a fine not exceeding R10 million or imprisonment not exceeding 10 years, or both.

Who can be held liable for non-compliance?

- If the employer is a company, every director who is regularly involved in the management of the company's overall financial affairs.
- If the employer is a Close Corporation registered under the Close Corporation Act, 1984 (Act No. 69 of 1984) every member who controls or is regularly involved in the management of the company's overall financial affairs.
- Every person on whose directions or instructions the governing body of the employer acts or who is in control of or is regularly involved in the management of the employer's financial affairs.

GET MORE INFORMATION

Please refer to our Verbatim 82 or the FSCA Conduct Standard 1 of 2022 for more detailed information. Furthermore, we have prepared a contribution template that you may use for the submission of your contributions. Click on any of these buttons to read more.

Verbatim 82

Conduct Standard 1 of 2022

Contribution template