

FSCA COMMUNICATION 6 OF 2025 (RF)

The calculation of late payment interest by pension funds

1. PURPOSE

The purpose of this Communication is to provide an update to the industry on the date to be applied for the calculation of late payment interest (LPI) amounts in respect of contributions, which are not transmitted into a pension fund's bank account within the period prescribed in section 13A(3)(a) of the Pension Funds Act, 1956 (PFA).

2. BACKGROUND

- 2.1 FSCA Conduct Standard 1 of 2022 (RF): Requirements related to the payment of pension fund contributions (Conduct Standard 1 of 2022) came into effect on 19 February 2023. At the same time, the Minister of Finance repealed Regulation 33 to the PFA.
- 2.2 Following the issuing of the Conduct Standard 1 of 2022, the Financial Sector Conduct Authority (FSCA) received requests from the industry for clarification on the calculation of LPI as contemplated in the PFA and the Conduct Standard, more specifically in relation to the date from which LPI starts running. Following these requests, Communication 15 of 2023 (Communication 15) was issued which indicated that section 13A(7) read with section 13A(3)(a) provides that LPI starts running on the 8th day, i.e. the day after the lapsing of the seven days following the end of the month in respect of which contributions were payable.
- 2.3 Following the publication of Communication 15, the FSCA was made aware of a differing interpretation, resulting in the FSCA obtaining independent legal advice from senior counsel, who confirmed the FSCA's interpretation. The Office of the Pension Funds Adjudicator (OPFA) expressed a contrary interpretation based on legal advice sourced by that Office. The advice provided to the OPFA was that LPI must be calculated from the 1st day of the month following the expiry of the period in respect of which contributions were payable, i.e. the 1st and not the 8th day following the end of the month in respect of which contributions were payable.

- 2.4 In light of the conflicting advice, the FSCA sought to resolve the matter by seeking advice from another senior counsel and who was provided with the reasoning of the differing views expressed to the FSCA and OPFA respectively.

3. RECONSIDERATION

Having received guidance and advice in this regard, and upon reflection it is the FSCA's considered view that LPI is to be calculated from the 1st day as opposed to the 8th day of the month, following the end of the month in respect of which contributions were payable. A contribution in respect of a month is payable within the first seven days of the next month; and should it not be so paid, the defaulting payer is liable for interest at the prescribed rate both retrospectively for that seven-day period and prospectively until the contribution is paid.

4. PROPOSED LEGISLATIVE CHANGES

The FSCA has requested National Treasury that consideration be given to amend the relevant statutory provisions to explicitly provide for the date from which LPI should be calculated, i.e. the 1st day following the end of the month in respect of which contributions were payable.

5. CONCLUSION

- 5.1 LPI is to be calculated from the 1st day as opposed to the 8th day of the month, following the end of the month in respect of which contributions were payable.
- 5.2 Communication 15 is accordingly hereby withdrawn.

6. ENQUIRIES

For more information regarding this Communication, please contact the Retirement Funds Supervision Department of the Authority by emailing Ms Takalani Lukhaimane at Takalani.Lukhaimane@fsca.co.za.



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