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Legal & industry update – June 2025

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- The Information Regulator's online portal for reporting security compromises,
- The draft King V report, and
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FSCA's Regulatory Strategy report for 2025 – 2028

The Financial Sector Conduct Authority's (FSCA) Regulatory Strategy for 2025-2028, emphasises a robust, customer-centric financial sector.

The strategy focuses on five key objectives:

1. Improving industry practices for fair customer outcomes,
2. Combating misconduct to enhance market integrity,
3. Promoting an innovative and inclusive financial sector,
4. Empowering financial resilience for households and small businesses, and
5. Transforming the FSCA into a responsive regulator.

A major priority is preparing for the Conduct of Financial Institutions (CoFI) Bill, which will harmonise conduct regulations into a principles-based framework, addressing gaps in areas like payment services, debt collection and foreign exchange.

The FSCA plans to refine their approach to both crypto assets and open finance, emphasising developing a comprehensive regulatory framework to ensure consumer protection, market integrity and financial stability.

The Conduct Authority will continue implementing their Sustainable Finance Roadmap, focusing on building a more inclusive financial sector that integrates environmental, social and governance principles into its operations.

The FSCA aims to refine licensing and supervisory approaches, integrating supervisory technology (suptech) and an Integrated Regulatory Solution (IRS) to enhance data-driven oversight.

By harmonising frameworks and addressing emerging risks like technological advancements and sustainability, the FSCA seeks to ensure transparency, accountability and fairness. This strategy builds on past efforts, aiming to foster trust, resilience and sustainable growth in South Africa's financial sector.

Clarity on the application of the in duplum rule on outstanding fund contributions

The in duplum rule is a legal principle which limits the total interest payable on a debt to the outstanding principal amount. In May 2025, there was an about turn on its applicability to retirement fund contributions.

Let's look at a brief summary of the matter. In 2023, the KwaZulu-Natal High Court ruled in *Municipal Workers Retirement Fund v Umzimkhulu Local Municipality*, that the in duplum rule does not apply to statutory interest on late pension fund contributions under section 13A of the Pension Funds Act (PFA). Subsequent to this case, the Office of the Pension Funds Adjudicator (OPFA) issued Communication 1 of 2024 confirming that it supported the view of the court that the in duplum rule does not apply to interest arising from the non-payment of arrear contributions in terms of section 13A(7).

However, in March 2025, in *Blue Crane Route Municipality v Municipal Workers Retirement Fund*, the Eastern Cape High Court handed down a judgement that the in duplum rule does apply to arrear contributions. This prompted the OPFA to issue Communication 1 of 2025 on 8 May 2025, in which they reconsidered their position on the matter and confirmed that the in duplum rule does, in fact, apply to outstanding employer contributions to a retirement fund.

The Information Regulator's online portal for reporting security compromises

From 1 April 2025, all organisations must report any security compromises, commonly referred to as information breaches, on the Information Regulator's (IR) eServices portal using the new Security Compromises Reporting functionality.

To access the eServices portal, visit the IR's website at <https://info regulator.org.za> and click on the eServices portal link at the top of the page.

Remember, to submit a breach notification, both the retirement fund and its Information Officer must be registered.

Draft King V code

The draft King V code on corporate governance has been published for comment. King V refines the previous King reports, aiming to make corporate governance simpler and more relevant for South African organisations, including retirement funds. It also modernises its applicability by including commentary on emerging technology, for example AI.

King V differs from past King reports in its:

- **Slimmed-down principles:** Cuts King IV's 17 principles to 12 for easier use, unlike King III's broader approach or King IV's detailed outcomes focus.
- **Tech focus:** Tackles AI and cybersecurity, a step up from King IV's lighter touch on digital transformation.
- **Sustainability push:** Strengthens ESG reporting, building on King IV and CRISA, urging retirement funds to prioritise responsible investing.
- **Retirement fund guidance:** Enhances King IV's retirement fund supplement with practical tips for boards on ethical leadership and risk management.
- **Simpler reporting:** Introduces standardised disclosure templates to simplify reporting, unlike King IV's complex reporting. King V itself has also been written in simpler language, stripping out much of the previous jargon.
- **Law updates:** Reflects recent Companies Act changes, making it more current than King III or IV.

For retirement funds, **King V keeps the focus on trust and accountability**, pushing boards to use tech smartly and align investments with ESG goals. It's about making governance clear, practical, and fit for South Africa's financial context while remaining aligned with global standards. The deadline for comments was 4 April 2025.

FSCA's survey on two-pot fees

In September 2024, the FSCA surveyed 111 retirement fund administrators and six self-administered funds to assess two-pot retirement system fees.

Their key findings can be summarised as:

Average costs: The average withdrawal fee is R357, with 37 administrators charging flat fees (R50–R500, most between R250–R350) and 12 using variable fees (R10 - R750). Once-off implementation costs reached R1.6 billion, with 65% tied to system upgrades.

Challenges faced: Funds faced high withdrawal request volumes, system-related issues, payment delays, and slow account verification. Many administrators absorbed initial costs, but some passed them on via higher monthly/base fees and/or savings pot withdrawal fees, raising concerns about cross-subsidisation between members.

Ongoing intentions: The FSCA will continue to scrutinise fees for fairness and transparency, engaging outliers, including both those providers who are charging above-average fees as well as providers who claim to not have invested in system development at all. The FSCA will monitor long-term cost impacts as the system stabilises and matures.

The FSCA aims to ensure fees align with costs incurred, promoting transparency and protecting retirement fund members.

Retirement fund trustees and management committees are encouraged to discuss their fees with their consultant, to appreciate the context of the FSCA's survey at a point in time when information around two-pot implementation was not completely understood, and to make sure that their fees are reasonable.

This publication does not provide advice or legal opinion. If you have any questions/comments on the above, please contact your consultant.

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