



FSCA RF NOTICE 17 OF 2024

INCOME TAX ACT, 2017

**DETERMINATION OF CONDITIONS FOR PURPOSES OF THE DEFINITION OF LEGACY
RETIREMENT ANNUITY POLICY**

The Financial Sector Conduct Authority, in accordance with the definition of “legacy retirement annuity policy” in section 1 of the Income Tax Act, 1962 (Act No. 58 of 1962) as amended, hereby determine the conditions to qualify as a “legacy retirement annuity policy” for exemption purposes in respect of the definitions of “retirement component” and “savings component” in section 1 of the Income Tax Act, 1962, as set out in the schedule.

**ASTRID LUDIN
DEPUTY COMMISSIONER**

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SCHEDULE

1. Definitions

In this Schedule "**the Act**" means the Income Tax Act, 1962 (Act No. 58 of 1962) and any word or expression to which a meaning has been assigned in the Act shall have the meaning so assigned to it unless a different meaning is assigned elsewhere in this Schedule; and

"**Authority**" means the Financial Sector Conduct Authority established in terms of section 56 of the Financial Sector Regulation Act, 2017 (Act No. 9 of 2017);

2. Conditions for a legacy retirement annuity policy

- (1) In order for a "legacy retirement annuity policy" to qualify as exempted for purposes of the definitions of "retirement component" and "savings component" in section 1 of the Act, the conditions as set out in subparagraphs (2) to (5) must be met.
- (2) The retirement annuity fund must –
 - (a) have entered into the policy before 1 September 2024; and
 - (b) be closed to new members in respect of legacy retirement annuity policies;
- (3) The policy needs to have been established in the form of a binding contract between the parties. The construct of the policy must be such that certain permissible changes may be effected by the insurer or fund member, such as voluntary premium increases or fee reviews by the insurer, as provided for in the policy. Any other material changes to the policy not expressly permissible in the policy may only be made subject to agreement between the parties.
- (4) The benefit offered by the retirement annuity fund and insured by the fund with the insurer through a retirement annuity policy, must constitute:
 - (a) A sum insured at either death or retirement, increased with bonuses declared on a regular basis through the lifetime of the policy, with no defined fund value and no partial cash benefit available on early withdrawal according to the policy contract; or
 - (b) a benefit on death relating to the accumulation of contributions towards retirement, subject to a minimum of a sum insured (to be chosen in line with the policy contract between a minimum and maximum value), structured in such a way that the risk premiums for the sum at risk (sum assured less accumulation of retirement contributions) are deducted regularly from regular contributions or accumulated fund value as well as from the previously accumulated contributions to retirement over time, depending on the experience of the policy with regard to contributions and investment returns, without the need to remove or reprice the risk over time.
- (5) The retirement annuity fund must –
 - (a) be able to evidence that the application of the two-component system on policies meeting the conditions described in section 2(4) will result in a significant negative impact on the fair value of certain of the members' retirement benefits in the fund through –
 - (i) potentially attracting early termination charges, or
 - (ii) policy guarantees being compromised, or
 - (iii) any risk cover that may form part of the policies being compromised;

- (b) be able to evidence that all members in respect of whom legacy retirement annuity policies have been issued are afforded the option to transfer to a different product in the same retirement annuity fund that is subject to the two-component system or to a different retirement annuity fund;
- (c) ensure that elements of the two-component system do not apply only to a limited group of members of the fund, meaning that all members with a particular legacy retirement annuity policy will not be subject to the two-component system;
- (d) ensure that the fund rules have been amended to provide that the relevant elements of the two-component system will not apply to these legacy retirement annuity policies;
- (e) develop a comprehensive communication strategy with clear communication documentation explaining to all affected members why the fund is acting in the best interest of the members in relying on these conditions to be excluded from the application of the two-component system and the impact this has on the members and the fund's rationale in this regard;
- (f) hold a certification from the Head of Actuarial Function of the Insurer that the specific policies being classed as legacy retirement annuity policies to be exempted for the purposes of the retirement component and savings component, meet the conditions of the definition as set out in this schedule; and
- (g) be able to evidence that the board of the fund has certified that these policies of the fund comply with these conditions.

3. Amendment and withdrawal of notice

This notice is subject to –

- (a) amendment thereof published by the FSCA by notice on the website of the FSCA; and
- (b) withdrawal in a like manner.

4. Short title and commencement

This Notice is called the Determination of Conditions for Purposes of the definition of Legacy Retirement Annuity Policy and takes effect on date of publication.