



**STATEMENT SUPPORTING THE DRAFT  
CONDUCT STANDARD – MINIMUM SKILLS AND  
TRAINING REQUIREMENTS FOR BOARD  
MEMBERS OF PENSION FUNDS**

**DATE OF ISSUE: 22 MAY 2019**

## 1 PURPOSE OF THE STATEMENT

This statement relates to the publication of the draft Conduct Standard prescribing the minimum skills and training required for board members of funds (draft Conduct Standard) to be made in terms section 7A(3)(a) of the Pension Fund Act, 1956 (the Act) read with sections 106(1)(a) and 108(1) of the Financial Sector Regulation Act, 2017 (FSRA).

The purpose of this statement is to explain the need for, expected impact and intended operation of the draft Conduct Standard as required by section 98(1)(a) of the FSRA.

Section 7A(3)(a) of the Act requires that members of the boards of pension funds (funds) must attain such levels of skills and training within six months after the board member's appointment, as may be prescribed by the Financial Sector Conduct Authority (Authority). Section 7A(3)(b) further determines that board members must maintain their skills and training throughout their term of appointment.

The draft Conduct Standard is aimed at prescribing the minimum skills and training requirements for board members of funds as provided for in section 7A(3)(a). This draft Conduct Standard proposes that the certification of the Trustee Toolkit ("Toolkit") as provided for by the Authority on the website "[www.trusteetoolkit.co.za](http://www.trusteetoolkit.co.za)", be prescribed as the minimum skills and training requirement as envisaged in section 7A(3)(a) of the Act.

It is further proposed that board members who already attained the certification will be required to complete additional modules as and when such additional modules are added to the Toolkit by the Authority.

## 2 DRAFT CONDUCT STANDARD

The FSCA, in accordance with section 98(1)(a)(iv) of the FSRA, invites submissions in relation to the draft Conduct Standard, attached in the Schedule to the Government Notice, which the FSCA intends to make under section 7A(3)(a) of the Act.

Submissions on the draft Conduct Standard, using the comments template, may be submitted in writing on or before 04 July 2019 to the FSCA, at [MinimumSkillsandTraining@fsc.co.za](mailto:MinimumSkillsandTraining@fsc.co.za). The comments template consists of four parts. Part A relates to details of the commentator, Part B relates to comments on the draft Conduct Standard, Part C relates to question on the expected impact of the draft Conduct Standard and Part D relates to general comments.

### 3 STATEMENT OF NEED - POLICY CONTEXT AND PROBLEM DEFINITION

Section 7A provides that members of funds have the right to elect, and employers have the right to appoint, their respective representatives to the board of a fund. However, board members so appointed or elected often do not have the necessary and relevant retirement fund knowledge or expertise. Board members may therefore be unable to perform their fiduciary responsibilities or to contribute positively to the governance and management of the relevant fund to which they are appointed or elected.

Board members are expected to understand their duties and responsibilities and what is required of them to be regarded as a fit and proper person. Experience shows that, at times, board members face challenges in discharging their duties and responsibilities given the complex nature of retirement funds. In certain instances, the Authority had to intervene to remove board members from the boards of funds or take appropriate regulatory action. The challenges board members experience include, for example, not understanding conflict of interest, failing to implement and monitor controls and processes to ensure proper management and administration of the fund and failure to objectively assess financial statements and proposals made by service providers.

The Toolkit will train and provide board members with basic knowledge relating to legislative requirements and information on fund governance, their responsibilities and obligations towards the fund and its members, as well as guidance on what is deemed to be fit and proper conduct. As a start, the Toolkit will provide practical guidance on governance matters.

To ensure and monitor compliance with the requirements of the proposed Conduct Standard, the Authority will maintain a record of the successful completion of the Toolkit and additional modules.

### 4 STATEMENT OF IMPACT OF THE CONDUCT STANDARD

As the Toolkit tutorials, case studies and formative (initial) assessments must be completed on-line on the website provided by the Authority, it is anticipated that there will be no financial impact as these assessments can be done anywhere at no cost. The Toolkit is currently not meant to be a form of qualification with a pass or fail outcome. Instead, it is meant to develop skills and provide training, and therefore should allow trustees to complete it within a reasonable period without having to pass or fail.

The summative (final) assessment must be completed under the supervision of the Principal officer or Chairperson of the Board to ensure that the relevant board member completes the assessment without assistance. This summative part is important to enable verification of the trainee.

There may be a cost in respect of the time spent by board members to undertake the summative assessment.

The Toolkit will be updated and enhanced when necessary, and will be done in such a way that board members only need to complete the assessment of the additional prescribed modules.

The draft Conduct Standard proposes that –

- the draft Conduct Standard will take effect on 1 January 2020;
- a board member who was appointed before 1 January 2020 will be required to attain the certification by 30 June 2020;
- a board member who successfully completed the Toolkit certification before 1 January 2020 is not required to complete the certification again; and
- a person who has successfully completed the Toolkit certification and is subsequently appointed to a board of a fund is not required to complete the certification again.

Where board members are unable to complete the Toolkit within the prescribed time, an application may be made to the Authority requesting an extension of time to complete the Toolkit.

Further, where an individual board member's circumstances makes it impractical to complete the Toolkit, i.e. where the board member's tenure will terminate soon after 31 December 2020 and the board member will not make himself or herself available for reappointment or election, such board member may approach the Authority to be exempted from the requirement.

## **5 STATEMENT OF INTENDED OPERATION OF THE CONDUCT STANDARD**

### **Compliance with legislation**

The draft Conduct Standard is consistent with the objectives of the FSR Act, among others, to ensure the fair treatment and protection of financial customers. It is anticipated that the proposed skills and training requirements as determined in the draft Conduct Standard will contribute to board

members being able to meet their fiduciary responsibilities and therefore ensure the fair treatment of, and the protection of financial customers.

### **Monitoring**

The Authority will maintain a record of the successful completion of the Toolkit Certification as well as additional modules as prescribed to monitor compliance with the requirements of the Conduct Standard.

## **6 WAY FORWARD**

The draft Conduct Standard is published in terms of section 98 of the FSRA for a period of six weeks for public comment.

Submissions received on the draft Conduct Standard, will be considered and where appropriate, the necessary changes will be effected and submitted to Parliament, if another round of public consultation is not necessary, for a period of at least 30 days while Parliament is in session.

Once submissions have been received and considered, this statement supporting the draft Conduct Standard may be updated to reflect the expected impact of the draft Conduct Standard.