



## COVID-19 news



Dear Client

The impact of the Coronavirus pandemic promises to be unprecedented and has affected all aspects of life across the globe. The measures announced by President Cyril Ramaphosa on 15 March 2020 and the subsequent nation-wide lockdown effective from 23h59 on 26 March 2020 represent significant steps to limit the spread of the virus and to mitigate the humanitarian impact of the pandemic on our nation. An unavoidable consequence of these necessary measures is that our economy will suffer with many employers, breadwinners and families finding themselves in severe financial difficulty.

In the context of retirement funding and as communicated via the FSCA Communication 11 of 2020, the FSCA is mindful of employers and employees who are financially distressed in light of the unprecedented financial challenges that the coronavirus presents, which may impact employers' and employees' ability to comply with the full and/or any payment of contributions in terms of section 13A of the Pension Funds Act.

Sanlam Corporate is resolute in enabling financial resilience for our clients through these difficult times and wishes to highlight the administration mechanisms available to financially distressed clients to mitigate the strain of their retirement funding commitments on their ongoing business viability. Each of these has their own set of negative consequences and none represents best practice but are practical options for clients to consider based on their own unique set of circumstances. We urge all clients considering such options to consult with their employee benefits advisor and labour lawyer before implementation.

### Section 13A

Subject to the rules of the fund, the Pension Funds Act provides that employers must continue to pay contributions to the fund. Section 13A will, therefore, continue to be applied.

### The rules of the fund

- According to the FSCA Communication, the rules, in turn, may make provision for –
  - Temporary absence from work (with or without pay) or a break in service (in instances where employees are not working);
  - A suspension of contribution payments and/or
  - A reduction of pensionable salary (e.g. in respect of employees who are working reduced hours).
- As rules vary from fund to fund, we encourage clients to study their respective rules, together with their consultant, to see which options are available. This includes the definition of “pensionable salary”.

- If the rules do not contain any of these provisions and you wish to make use of such or similar facilities, please contact your rule drafting service provider as a matter of urgency.
- The following must be considered when submitting amendments:
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  - No retrospective amendments will be allowed;
  - Employers must still pay the administration costs and risk-benefit premiums;
  - The amendment must indicate a fixed period of reduction or suspension of contributions. The period may therefore not be open-ended;
  - Members must be informed (proof thereof needs to accompany the rule amendment);
  - No full contribution deductions are allowed from members' salaries while the employer suspends or lowers contributions, and
  - Past arrear contributions still need to be paid for the months prior to the effective date of the suspension/reduction of contributions.

### **Temporary absence/break in service**

- This rule is applicable if employees are not working, with unpaid, paid or partial paid leave.
- Members must be informed where this rule is applied.
- Clients must please indicate the status of these members on their contribution schedules.
- A minimum contribution of the risk-benefit premium and administration fee will continue to be payable by the employer (the fund's rules must authorise payment of such reduced/minimum contributions).
- In respect of risk benefits, clients may enter into specific arrangements with their risk insurers.

For clients insured with Sanlam Group Risk, please click [here](#) for more information.

Please remember to inform your Client Relations Manager of any such arrangements being made.

### **Temporary suspension of contributions for a future period**

- If the rules allow for this, we recommend that the Board follows a formal documented process where an agreement with the employer is reached.
- As the payment of contributions form part of an employee's contract of employment, suspension of contributions may have legal (e.g. labour law) ramifications. Clients must please keep this in mind and consult as necessary.
- We also recommend that funds properly assess the financial distress of the employer before agreeing to a suspension of contributions.
- A minimum contribution of the risk-benefit premium and administration fee will continue to be payable by the employer (the fund's rules must authorise payment of such reduced/minimum contributions).
- In respect of risk benefits, clients may enter into specific arrangements with their risk insurers.

Once again, please remember to inform your Client Relations Manager of any such arrangements being made.

## **Reduction of pensionable/risk salaries**

- Where pensionable salaries are reduced e.g. due to reduced working hours, this should be indicated on the contribution schedule.
- Clients must please check that a member's risk salary does not also change with a change to a pensionable salary unless this is the intention.
- If a client wishes to pursue this option, please check with your Client Relations Manager how pensionable salaries and risk salaries are set up on the administration system. For example, the risk salary for insured benefits is usually equal to the pensionable salary.
- Kindly note that set-up changes on the administration system may impact on the turn-around time for delivery of essential services.

## **Reduction of contribution rates**

- As far as possible, clients should refrain from submitting a rule amendment to this effect and must rather make use of the mechanisms set out above. The implementation of large volumes of rule amendments may impact on the turn-around time for delivery of essential administration services.

## **Retrenchments and liquidations**

- Normal administration processes apply.

## **Communication to members**

The FSCA Communication states that funds are required to inform affected members of employers' requests to reduce or suspend contributions, and of proposed rule amendments pursuant thereto, within 30 days of receipt of such request/decision.

We must emphasise the need for rigorous consultation when considering any of the mechanisms described in this note. You may also need to seek advice from your fund's employee benefits advisor and labour lawyer.

We thank you for your support and understanding. We will persevere to enable financial resilience for funds, members and their families through these difficult times.

Note that this communication is not intended to constitute advice and any liability arising from relying on the contents hereof is hereby excluded. Should you require advice, please contact the fund's consultant or attorney.

Regards

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Chief Executive Officer: Retirement Fund Administration

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