



**FSCA CONDUCT STANDARD [-] OF 2024 (RF)**

**CONDITIONS PRESCRIBED IN RESPECT OF PENSION FUND  
BENEFIT ADMINISTRATORS**

**FINANCIAL SECTOR REGULATION ACT, 2017**

**PENSION FUNDS ACT, NO. 24 OF 1956**

The Financial Sector Conduct Authority hereby, in terms of section 13B(1) of the Pension Funds Act, 1956 (Act No. 24 of 1956) read with section 106(1)(a) of the Financial Sector Regulation Act, 2017 (Act No. 9 of 2017), prescribes the conditions that must be complied with by Pension Fund Benefit Administrators as set out in the Schedule.

**Unathi Kamlana  
Commissioner  
Financial Sector Conduct Authority**

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## PART I

### INTERPRETATION AND APPLICATION OF CONDUCT STANDARD

#### 1. Definitions and application

- (1) In this schedule “**the Act**” means the Pension Funds Act, 1956 (Act No. 24 of 1956) and any word or expression to which a meaning has been assigned in the Act shall bear the meaning so assigned to it, and, unless the context otherwise indicates -

“**administration services**” means the services referred to in section 13B(1) of the Act;

“**annual expenditure**” means the expenditure set out in the latest set of financial statements of a benefit administrator, or in the case of a benefit administrator commencing business, the budgeted expenditure as expressed in the budget or financial accounts, less staff bonuses, employees’ and directors’ share in profits, other appropriation of profits to directors and emoluments of directors, partners or sole proprietor;

“**associate**” in relation to a juristic person –

- (a) which is a company, means any subsidiary or holding company of that company, any other subsidiary of that holding company and any other company of which that holding company is a subsidiary,
- (b) which is a close corporation registered under the Close Corporations Act, 1984 (Act No. 69 of 1984), means any member thereof as defined in section 1 of that Act;
- (c) which is not a company or a close corporation as referred to in subparagraphs (a) or (b), another juristic person which would have been a subsidiary or holding company of the first-mentioned juristic person -
  - (i) had such first-mentioned juristic person been a company; or
  - (ii) in the case where that other juristic person, too, is not a company, had both the first-mentioned juristic person and that other juristic person been a company;
- (d) means any person in accordance with whose directions or instructions the governing body is accustomed to act; and
- (e) means any trust controlled or administered by a person referred to in items (a) to (d);

“**audit**” has the meaning assigned to the term in section 1 of the Auditing Professions Act, 2005 (Act No. 26 of 2005);

“**benefit administrator**” means an administrator as defined in the Act;

“**compensation payment**” means a payment, whether in monetary form or in the form of a benefit or service, by or on behalf of a benefit administrator to a complainant to compensate the complainant for a proven or estimated financial loss incurred as a result of the benefit administrator’s contravention, non-compliance, action, failure to

act, or unfair treatment forming the basis of the complaint, where the benefit administrator accepts liability for having caused the loss concerned, but excludes any -

- (a) goodwill payment;
- (b) payment contractually due to the complainant; or
- (c) refund of an amount paid by or on behalf of the complainant to the benefit administrator where such payment was not contractually due;

and includes any interest on late payment of any amount referred to in items (b) or (c);

**"complainant"** means a person who has submitted a complaint to a benefit administrator and includes a person who -

- (a) is a customer or a potential customer of the benefit administrator concerned and has a direct interest in the matter to which the complaint relates; or
- (b) has submitted a complaint on behalf of a person referred to in item (a);

**"complaint"** means an expression of dissatisfaction by a person to a benefit administrator relating to the administration services performed by that benefit administrator which indicates or alleges, regardless of whether such an expression of dissatisfaction is submitted together with or in relation to a customer query, that the -

- (a) benefit administrator has contravened or failed to comply with an agreement, a law, a rule, a code of conduct or a conduct standard which is binding on the benefit administrator or to which it subscribes;
- (b) benefit administrator's maladministration or wilful or negligent action or failure to act, has caused the person harm, prejudice, distress or substantial inconvenience; or
- (c) the benefit administrator has treated the person unfairly;

**"current assets"**, means assets which are capable of being realised or recovered within a period not exceeding 12 months, and does not include any fixed assets;

**"customer"**, in relation to a benefit administrator, refers to a fund which has contracted with a benefit administrator to perform administration services on its behalf and includes the members and beneficiaries of such fund;

**"customer query"** means a request to the benefit administrator by a customer for information regarding the benefit administrator's services, or to carry out a transaction or action in relation to any such service;

**"director"** means a person referred to in paragraph (a) of the definition of key person;

**"fair value"** has the meaning assigned to it in the financial reporting standards adopted or issued under the Companies Act, 2008 (Act No. 71 of 2008);

**"fit and proper requirements"** means requirements as prescribed in Part V that apply in respect of –

- (a) qualities of honesty, integrity and good standing; and

(b) competence;

**“goodwill payment”** means a payment, whether in monetary form or in the form of a benefit or service, by or on behalf of a benefit administrator to a complainant as an expression of goodwill aimed at resolving a complaint, where the benefit administrator does not accept liability for any financial loss to the complainant as a result of the complaint;

**“governing body”** has the meaning assigned to it in terms of section 1 of the Financial Sector Regulation Act;

**“head of control function”** has the meaning assigned to it in terms of section 1 of the Financial Sector Regulation Act;

**“holding company”** has the meaning assigned to it in terms of section 1 of the Companies Act, 2008 (Act No. 71 of 2008);

**“key person”** has the meaning assigned to it in terms of section 1 of the Financial Sector Regulation Act;

**“liquid assets”** means-

(a) cash; and

(b) a participatory interest in a money market portfolio,

provided that the assets referred to in paragraphs (a) and (b) are capable of being converted, without any penalty on capital in terms of the conditions of the asset, into cash as follows:

(i) 50% within 7 days; and

(ii) 50% within 30 days;”

**“outsourcing arrangement”** has the meaning assigned to such term in section 1 of the Financial Sector Regulation Act, and **“outsourcing”** or any derivative of such term has a corresponding meaning;

**“ownership interest”** means any equity or proprietary interest, for which fair value was paid by the owner at the time of acquisition, other than equity or a proprietary interest held as an approved nominee on behalf of another person, and includes any dividend, profit share or similar benefit derived from that equity or interest;

**“plain language”** means communication that –

(a) is clear and easy to understand;

(b) avoids uncertainty or confusion; and

(c) is adequate and appropriate in the circumstances,

taking into account the factually established or reasonably assumed level of knowledge of the person or average persons at whom the communication is targeted;

**“potential customer”** means a fund which has approached the benefit administrator in relation to becoming a customer of the benefit administrator, or a fund which has

been solicited by the benefit administrator to become a customer and / or has received advertising material in relation to the business of the benefit administrator;

**“Regulations”** means the Regulations made under section 36 of the Act, published under Government Notice R98 in *Government Gazette* 162 of 26 January 1962, as amended;

**“rejected”**, in relation to a complaint, means that a complaint has not been upheld and the benefit administrator regards the complaint as finalised after advising the complainant that it does not intend to take any further action to resolve the complaint, and includes complaints regarded by the benefit administrator as unjustified or invalid, or where the complainant does not accept or respond to the benefit administrator's proposals to resolve the complaint;

**“senior manager”** means a person referred to in –

- (a) paragraph (b) of the definition of key person;
- (b) paragraph (c) of the definition of key person, provided that the reference to “the business of the financial institution” in that paragraph must be read as a reference to the administration services part of the business; and
- (c) paragraph (d) of the definition of key person, to the extent that such person oversees the enforcement of policies and the implementation of strategies relating to the administration services part of the business of the financial institution;

**“subsidiary”** has the meaning assigned to it in section 1(3) of the Companies Act, 2008 (Act No. 71 of 2008);

**“suspense account”** means a bank account which has the purpose of temporarily housing doubtful or unclassified payments until they are confirmed and allocated to the correct account;

**“upheld”** means that a complaint has been finalised wholly or partially in favour of the complainant and that -

- (a) the complainant has explicitly accepted that the matter is fully resolved; or
  - (b) it is reasonable for the benefit administrator to assume that the complainant has so accepted; and
  - (c) all undertakings made by the benefit administrator to resolve the complaint have been met or the complainant has explicitly indicated its satisfaction with any arrangements to ensure such undertakings will be met by the benefit administrator within a timeframe acceptable to the complainant.
- (2) This Conduct Standard is applicable to all benefit administrators performing administration services on behalf of funds.
- (3) Where a benefit administrator is also a licensed insurer in term of the Insurance Act, 2017 (Act No. 18 of 2017) or a licensed bank in terms of the Banks Act, 1990 (Act No. 94 of 1990), in the event of any inconsistency between a provision of this Conduct

Standard and any requirement in the Insurance Act, 2017 (Act No. 18 of 2017) or Banks Act, 1990 (Act No. 94 of 1990), including subordinate legislation made thereunder, the latter will prevail.

- (4) Where possible, the requirements set out in this Conduct Standard may be applied in a manner that is proportional to the nature, scale and complexity of the business of the benefit administrator and the activities which it performs, taking into account its business and operating model, scope of activities and associated level of conduct risk exposure.

## **PART II**

### **BUSINESS PRINCIPLES AND GOVERNANCE**

#### **2. Business principles**

- (1) A benefit administrator must –
  - (a) conduct its business in a manner that promotes fair treatment of customers;
  - (b) conduct its business transparently, honestly, fairly with integrity, and due skill, care and diligence;
  - (c) organise and manage its affairs effectively, with an adequate control environment; and
  - (d) deal with the Authority in an open, accountable and cooperative manner.
- (2) The fair treatment of customers by a benefit administrator referred to in subparagraph (1)(a) encompasses achieving, *inter alia*, the following outcomes:
  - (a) The fair treatment of customers is central to the benefit administrator’s culture;
  - (b) services provided by the benefit administrator are suitably designed to meet the needs of its customers;
  - (c) the benefit administrator’s customers are given clear, timely and appropriate information, and are kept appropriately informed, at all relevant times;
  - (d) services provided to its customers are both of an acceptable standard and in line with expectations created by the benefit administrator; and
  - (e) customers do not face unreasonable post-contractual barriers imposed by the benefit administrator, including barriers relating to terminating administration agreements, switching benefit administrators, submitting complaints and the like.

#### **3. Obligations of governing body**

- (1) The governing body of a benefit administrator is accountable for compliance with the requirements of this Conduct Standard.
- (2) The governing body of a benefit administrator is responsible for overseeing -
  - (a) the documentation, establishment and implementation of;
  - (b) the monitoring and subsequent review of the effectiveness of; and
  - (c) continued compliance with;

the benefit administrator's governance arrangements.

#### **4. Governance arrangements**

- (1) A benefit administrator must adopt, document, implement and monitor and review the effectiveness of governance arrangements that provide for the prudent management and oversight of its business and supports the achievement of paragraph 2.
- (2) The governance arrangements referred to in subparagraph (1) must –
  - (a) ensure that the benefit administrator develops an appropriate business plan setting out the aims and scope of the business, the business strategies and related matters;
  - (b) promote accountability of key persons and address roles, responsibilities and duties of the governing body and key persons (as relevant), including –
    - (i) appropriate segregation of key duties and functions;
    - (ii) ensuring that directors, senior management and heads of control functions (where relevant) possess the necessary skills, knowledge and expertise;
    - (iii) ensuring that directors, senior management and heads of control functions (where relevant) have appropriate resources to fulfil their functions;
    - (iv) ensuring that directors, senior management and heads of control functions (where relevant) perform their functions honestly, fairly, with integrity and with and due skill, care and diligence;
  - (c) provide for mechanisms to identify, remedy and, where appropriate, remove persons whose conduct materially increases the risk of the benefit administrator to not achieve the requirements of the Act and this Conduct Standard;
  - (d) provide for management processes and responsibilities and the establishment, implementation and management of appropriate and effective control functions within the benefit administrator;
  - (e) provide for sound and sustainable remuneration policies and practices which promote the alignment of interests of the benefit administrator with those of its customers and which avoid excessive risk taking and unfair treatment of customers; and
  - (f) demonstrate how the benefit administrator and its personnel will comply with this Conduct Standard.
- (3) The matters contemplated in subparagraph (2) may be addressed in one or more separate policies or procedures forming part of the overall governance arrangements of a benefit administrator.
- (4) A benefit administrator must regularly review the effectiveness of its governance arrangements, including regular, risk-based monitoring and evaluation of the adequacy and effectiveness of its systems, processes, procedures and internal control mechanisms and measures to address any deficiencies, and document any changes thereto.

- (5) The monitoring and evaluation contemplated in subparagraph (4) must specifically also consider the effectiveness of the systems, processes, procedures and internal control mechanisms in place in ensuring –
- (a) effective risk detection and compliance with this Conduct Standard and other applicable legislation; and
  - (b) the integrity of the benefit administrator’s practices, including the effectiveness of its practices in relation to ensuring fair outcomes for customers.

### **PART III**

#### **NOTIFICATIONS REGARDING CHANGES IN BUSINESS INFORMATION**

##### **5. Change of certain business information of a benefit administrator**

A benefit administrator must notify the Authority of any change in the following details within 30 days of such change occurring:

- (a) Business or trading name;
- (b) registered address;
- (c) postal address; and
- (d) contact details.

### **PART IV**

#### **KEY PERSONS**

##### **6. Appointment and termination of key persons**

- (1) A benefit administrator must notify the Authority of –
- (a) the appointment of a director, senior manager or head of a control function (where applicable);
  - (b) the termination of appointment of a director, senior manager or head of a control function (where applicable), together with reasons for the termination,
- within 30 days of such appointment or termination occurring.
- (2) The Authority may at any time, by notice to the benefit administrator, object to the appointment of a key person referred to in subparagraph (1) and instruct the benefit administrator to terminate the appointment of such key person, if satisfied, on the basis of available facts and information, that the –
- (a) key person has contravened or failed to comply with any provision of the Act;
  - (b) key person does not meet or no longer meets the fit and proper requirements; or
  - (c) appointment of the key person is contrary to public interest.

### **PART V**

## FIT AND PROPER REQUIREMENTS

### 7. Fit and proper requirements

A benefit administrator and its key persons as referred to in paragraph 6(1) must at all times comply with the fit and proper requirements prescribed in this Part.

### 8. Honesty, integrity and good standing

- (1) A person referred to in paragraph 7 must be a person who is -
  - (a) honest and has integrity; and
  - (b) of good standing.
  
- (2) Without limiting the generality of subparagraph (1), any of the following constitutes *prima facie* evidence that a person does not meet the requirements contemplated in subparagraph (1): The person -
  - (a) has been found guilty (and that conviction has not been expunged) in any criminal proceedings or liable in any civil proceedings by a court under any law in any jurisdiction of -
    - (i) an offence under a law relating to the regulation or supervision of a financial institution as defined in the Financial Institutions (Protection of Funds) Act, 2001 (Act No. 28 of 2001) or a corresponding offence under the law of a foreign country;
    - (ii) theft, fraud, forgery, uttering a forged document, perjury or an offence involving dishonesty, breach of fiduciary duty, dishonourable or unprofessional conduct; or
    - (iii) an offence under the Prevention of Corruption Act, 1958 (Act No. 6 of 1958), the Corruption Act, 1992 (Act No. 94 of 1992) or the Parts 1 to 4, or section 17, 20 or 21, of the Prevention and Combating of Corrupt Activities Act, 2004 (Act No. 12 of 2004), or a corresponding offence under the law of a foreign country;
  - (b) has been convicted (and that conviction has not been expunged) of any other offence committed after the Constitution of the Republic of South Africa, 1996, took effect, where the penalty imposed for the offence was or may be imprisonment without the option of a fine, or a significant fine;
  - (c) has accepted civil liability for, or has been the subject of a civil judgment in respect of, theft, fraud, forgery, uttering a forged document, perjury or any conduct involving dishonesty, breach of fiduciary duty, misrepresentation, or negligent, dishonourable and unprofessional conduct;
  - (d) has been the subject of frequent or material preventative, remedial or enforcement actions by the Authority or a regulatory authority;
  - (e) has been removed from an office of trust for theft, fraud, forgery, uttering a forged document, misrepresentation, dishonesty, breach of fiduciary duty or business conduct;
  - (f) has breached a fiduciary duty;
  - (g) has been suspended, dismissed or disqualified from acting as a director, managing executive, public officer, auditor or statutory actuary (or his or her

- alternate) under any law or any action to achieve one of the aforementioned outcomes has been instituted against the person;
- (h) has been refused a registration, approval, authorisation or a licence to carry out a trade, business or profession, or has had that registration, approval, authorisation or licence suspended, revoked, withdrawn or terminated by a regulatory authority;
  - (i) has been denied registration or membership of any professional body or has had that registration or membership revoked, withdrawn or terminated by a professional body because of matters relating to honesty, integrity, or business conduct;
  - (j) has been disciplined, reprimanded, disqualified, or removed in relation to matters relating to dishonesty, integrity, incompetence or business conduct by a -
    - (i) professional body; or
    - (ii) regulatory authority,
 or any action to achieve one of the aforementioned outcomes has been instituted against the person;
  - (k) has been found guilty at a disciplinary hearing by a current or previous employer in relation to matters of fraud, dishonesty, integrity or business conduct;
  - (l) has knowingly been untruthful or provided false or misleading information to, or been uncooperative in any dealings with, the Authority or a regulatory authority;
  - (m) has demonstrated a lack of readiness and willingness to comply with legal, regulatory or professional requirements and standards;
  - (n) has been found to be not fit and proper by the Authority or any regulatory authority in any previous assessments of fitness and propriety and the reasons for being found not fit and proper have not been remedied;
  - (o) has been involved or is involved as a director, trustee, member, partner, controlling shareholder or managing executive, or is concerned in the management of a business that has been -
    - (i) the subject of any matter referred to in items (a), (b), (c), (d), (f), (h), (j)(ii), (l), (m), (n), or (p); or
    - (ii) placed in liquidation, statutory management, curatorship or business rescue;
 while that person has been connected with that organisation or within one year of that connection; or
  - (p) has failed to disclose information required to be disclosed in terms of the Act, Financial Sector Regulation Act or this Conduct Standard.
- (3) Without limiting subparagraph (2), compliance with subparagraph (1) by the benefit administrator itself must be demonstrated through its corporate behaviour or conduct and through the personal behaviour or conduct of the persons who control or govern the benefit administrator or who is a member of a body or group of persons which control or govern the benefit administrator.
  - (4) Notwithstanding subparagraph (2), the Authority must, in assessing whether a person meets the requirements in subparagraph (1), have due regard to -
    - (a) the seriousness of a person's conduct, whether by commission or omission, or behaviour, and surrounding circumstances to that conduct or behaviour that has

- or could potentially have a negative impact on a person's compliance with subparagraph (1);
- (b) the relevance of such conduct or behaviour that has or could potentially have a negative impact on the persons' compliance with subparagraph (1), to the duties that are or are to be performed and the responsibilities that are or are to be assumed by that person; and
- (c) the passage of time since the occurrence of the conduct or behaviour that had a negative impact on the person's compliance with subparagraph (1).

## **9. Competence requirements**

A key person of a benefit administrator as referred to in paragraph 6(1) must at all times have -

- (a) adequate, appropriate and relevant skills, knowledge and expertise in respect of the function that, that person performs; and
- (b) relevant educational qualifications and experience in respect of the function that, that person performs.

## **10. Non-compliance by key persons**

Where a key person of a benefit administrator as referred to in paragraph 6(1) does not comply with this Part, the Authority may direct the benefit administrator to make arrangements, to the satisfaction of the Authority, to address the non-compliance, which arrangements may include, as relevant -

- (a) providing the relevant education or training that is required to that key person over a certain period of time;
- (b) utilising external resources to support that key person;
- (c) outsourcing the functions and duties of that key person; or
- (d) suspending such key person from the appointment as a key person;
- (e) terminating the appointment of such key person in accordance with paragraph 6(2).

# **PART VI**

## **AGREEMENTS IN RESPECT OF ADMINISTRATION SERVICES**

### **11. Administration and service level agreement**

- (1) A benefit administrator must enter into written administration and service level agreements with a fund prior to rendering any administration services for such fund.
- (2) An administration agreement referred to in subparagraph (1) must provide for, amongst other things, the following:
  - (a) Details of the administration services that the benefit administrator will perform for the fund including the specific duties and responsibilities of the benefit administrator;

- (b) the particular powers and/or responsibilities of the fund's board to be exercised by the benefit administrator;
  - (c) the benefit administrator's duties and responsibilities in relation to communicating with and making disclosures to members of the fund, including the circumstances in which the benefit administrator must communicate to the members of the fund and the type of information<sup>1</sup> that must be communicated;
  - (d) the remuneration to which a benefit administrator will be entitled to<sup>2</sup> and the basis on which the fees for the administration services and other remuneration or income payable to the benefit administrator will be calculated;
  - (e) an undertaking that the benefit administrator will timeously provide information to a fund regarding take-on procedures, including the responsibilities of the relevant parties concerned;
  - (f) that all records pertaining to the administration of the fund remains the sole property of the fund and must be available timeously upon request of the fund, but not later than 7 days from the date of request or such other period as determined by the fund;
  - (g) the remedies available should a breach of any of the conditions contained in the administration agreement or service level agreement occur, and the procedure that must be followed to rectify any such breach;
  - (h) requirements in respect of the outsourcing of administration services to another benefit administrator, including that such other benefit administrator must be approved in terms of section 13B of the Act to perform such administration services;
  - (i) specify that a party to the agreement may only terminate the agreement if written notice of the intended termination has been provided to the other party at least 90 days before the termination of the agreement, provided that the agreement may make provision for earlier termination in the case of a contracting party breaching the agreement;
  - (j) details regarding how the benefit administrator will hand over to another benefit administrator or the fund should the administration agreement be terminated;
  - (k) details of whether the benefit administrator employs a head of the compliance function, compliance officer or person responsible to monitor compliance by the benefit administrator with the Act, Regulations, this Conduct Standard and the rules of the fund.
- (3) A service level agreement referred to in subparagraph (1) must at least include –
- (a) clear timelines for the performance of the relevant duties and responsibilities of the parties as set out in the administration agreement;
  - (b) robust administrative procedures dealing with all aspects relevant to the administration services that will be rendered;
  - (c) a clear and effective communication and reporting procedure; and
  - (d) the manner and frequency of review of the service level agreement.

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<sup>1</sup> Such information must include information regarding the benefit administrator's complaints management processes and procedures.

<sup>2</sup> Including any income, directly or indirectly, earned by –

- (i) the benefit administrator from providing other services to the fund; or
- (ii) other divisions, subsidiaries or associates of the benefit administrator from performing certain administration or other functions for the fund.

- (4) The agreements referred to in subparagraph (1) must be reviewed and monitored regularly to ensure that the agreements continuously and appropriately address the changing needs of the benefit administrator's customers in a cost-effective manner.

## **12. Termination of administration agreement**

- (1) When a notification to terminate as referred to in paragraph 11(2)(i) is provided, a benefit administrator must -
- (a) within 30 days of such notice being provided notify the Authority of the termination;
  - (b) within 15 business days after the effective date of the termination, transfer to the fund and/or the newly appointed benefit administrator all the information, records and data relating to the administration of the fund that it has in its possession or under its control; and
  - (c) within 30 days after the effective date of the termination, submit to the fund and/or the new benefit administrator –
    - (i) a reconciliation of the bank accounts, benefits and contributions as at date of termination of the administration agreement;
    - (ii) a report containing details of the termination; and
    - (iii) a report containing the details of unresolved complaints, containing the relevant data as set out in paragraph 22(3).
- (2) The information, records and data referred to in subparagraph (1)(b) must be provided in –
- (a) an electronic format, as agreed to with the fund and/or the newly appointed benefit administrator; or
  - (b) such other format as agreed to with the fund where the information is not available in electronic format; and
  - (c) a format that will support efficient and effective transfer of the information, records and data from the administrator to administration system of the fund or newly appointed administrator.

## **PART VII OUTSOURCING**

### **13. Outsourcing of administration services**

- (1) A benefit administrator may only enter into an arrangement for the outsourcing of any of its administrative services to another benefit administrator if the administration agreement between the benefit administrator and the fund as referred to in paragraph 11(1) -
- (a) makes provision for such outsourcing; and
  - (b) confirms that the benefit administrator shall remain accountable for any of the duties, responsibilities and record keeping outsourced to any other benefit administrator.

- (2) A benefit administrator must, prior to entering into any outsourcing arrangement referred to in subparagraph (1), obtain consent from the relevant funds for the benefit administrator to enter into the outsourcing arrangement and advise the relevant funds of any additional costs that might be applicable as a result of the outsourcing arrangement and any material changes to the outsourcing arrangement that may occur in future.
- (3) A benefit administrator may not enter into an outsourcing arrangement referred to in subparagraph (1) unless the benefit administrator is satisfied that –
  - (a) the outsourcing arrangement will not –
    - (i) compromise the fair treatment of the benefit administrator’s customers or the continuous and satisfactory service they may have been receiving; or
    - (ii) result in key decision-making responsibilities being removed from the benefit administrator.
  - (b) the service provider to whom the administration services will be outsourced –
    - (i) has been approved by the Authority as a benefit administrator in terms of section 13B of the Act;
    - (ii) has the ability and capacity to perform the outsourced services effectively, reliably and professionally; and
    - (iii) will be able to comply with this Conduct Standard on an ongoing basis.
- (4) An outsourcing arrangement referred to in subparagraph (1) must be recorded in writing and must –
  - (a) clearly provide for all material aspects of the outsourcing arrangement;
  - (b) specifically provide for access by the benefit administrator to the service provider’s business and information in respect of the outsourced services.

#### **14. Management, oversight and review of outsourcing arrangements**

- (1) A benefit administrator must implement appropriate processes and procedures to manage, oversee and regularly review the carrying out of outsourced services by a service provider and must ensure, through regular assessments,<sup>3</sup> that it remains satisfied in respect of the matters contemplated in paragraph 13(3).
- (2) A benefit administrator must take appropriate action to identify and address any shortcomings relating to the outsourcing arrangement or breaches of the outsourcing arrangement.

### **PART VIII**

#### **CONFLICTS OF INTEREST**

#### **15. Conflict of interest management**

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<sup>3</sup> At least annually.

- (1) A benefit administrator must adopt, maintain and implement a conflict of interest management policy that demonstrates how the benefit administrator will comply with section 13B(5)(a) of the Act.
- (2) A conflict of interest management policy referred to in subparagraph (1) must –
  - (a) be adopted by the governing body of the benefit administrator;
  - (b) include -
    - (i) mechanisms for the identification of conflicts of interest;
    - (ii) measures for the avoidance of conflict of interest and, where avoidance is not possible, the reasons therefor and the measures adopted to mitigate and manage such conflicts of interest;
    - (iii) criteria, measures and procedures for disclosing and declaring conflicts of interest and reporting same to the governing body of the benefit administrator;
    - (iv) a list of the benefit administrator’s associates and any ownership interests that exist between the benefit administrator and third parties, and the nature of such ownership interests;
    - (v) criteria and procedures for declaring conflicts of interest and reporting same to the governing body of the benefit administrator;
    - (vi) processes, procedures and internal controls to facilitate compliance with the conflict of interest management policy, and consequences of non-compliance.
- (3) A benefit administrator must –
  - (a) ensure that its employees and, where appropriate, associates are aware of the contents of its conflict of interest management policy and provide for appropriate training and educational material in this regard;
  - (b) continuously monitor compliance with its conflict of interest management policy and annually conduct a review of the policy; and
  - (c) provide its customers with access to its conflicts of interest policy.
- (4) The governing body of a benefit administrator must notify the Authority of any incidents of material conflict of interest observed that might prejudice a fund or its members, including where officials of a fund or other officials of the benefit administrator (including their friends and families) are doing business with the fund or benefit administrator.

## **PART IX**

### **COMMUNICATION, DISCLOSURES AND COMPLAINTS MANAGEMENT**

#### **16. Communication and disclosures**

- (1) Before, during and after the conclusion of an administration agreement, a benefit administrator must communicate and disclose to the fund with which it has or intends to conclude an administration agreement, all relevant facts that such fund should be aware of or that could reasonably be expected to influence the fund’s decisions

relating to the administration agreement and provision of administration services by the benefit administrator.

- (2) All communications and disclosures to customers by a benefit administrator, as contemplated in paragraph 11(2)(c), must –
  - (a) use plain language;
  - (b) be timely, relevant and complete;
  - (c) be factually correct and not misleading or deceptive;
  - (d) promote understanding of the financial service being provided;
  - (e) take account of the needs and circumstances of the customers.

#### **17. Establishment of a complaints management framework**

- (1) A benefit administrator must establish, maintain and operate an adequate and effective complaints management framework to ensure the effective resolution of complaints and the fair treatment of complainants that -
  - (a) is appropriate for the business model, policies, services of the benefit administrator, and the funds on whose behalf it performs administration services;
  - (b) enables complaints to be considered after taking reasonable steps to gather and investigate all relevant and appropriate information and circumstances, with due regard to the fair treatment of complainants;
  - (c) does not impose unreasonable barriers to complainants; and
  - (d) addresses and provides for, at least, the matters provided for in this Part.
- (2) A benefit administrator must regularly review its complaints management framework and document any changes thereto.

#### **18. Requirements for complaints management framework**

- (1) A complaints management framework must at least provide for -
  - (a) relevant objectives, key principles and the proper allocation of responsibilities for dealing with complaints across the business of the benefit administrator;
  - (b) appropriate performance standards and remuneration and reward strategies (internally and where any services are outsourced) for complaints management to ensure objectivity and impartiality;
  - (c) documented procedures for the appropriate management and categorisation of complaints, including expected timeframes and the circumstances under which any of the timeframes may be extended;
  - (d) documented procedures which clearly define the escalation, decision-making, monitoring and oversight and review processes within the complaints management framework;
  - (e) appropriate complaint record keeping, monitoring and analysis of complaints, and reporting (regular and ad hoc) to the governing body of the benefit administrator -
    - (i) identified risks, trends and actions taken in response thereto; and
    - (ii) the effectiveness and outcomes of the complaints management framework;

- (f) a process for managing complaints relating to any persons to whom the benefit administrator has outsourced services, insofar as such complaints relate to services provided in connection with the benefit administrator's services, which process must -
  - (i) enable the benefit administrator to reasonably satisfy itself that the person(s) to whom it has outsourced services has adequate complaints management processes in place to ensure fair treatment of complainants;
  - (ii) provide for monitoring and analysis by the benefit administrator of aggregated complaints data in relation to complaints received by the person(s) to whom it has outsourced services and their outcomes;
  - (iii) include effective referral processes between the benefit administrator and the person(s) to whom it has outsourced services for handling and monitoring complaints that are submitted directly to either of them and require referral to the other for resolution; and
  - (iv) include processes to ensure that complainants are appropriately informed of the process being followed and the outcome of the complaint; and
- (g) regular monitoring of the complaints management framework generally.

## **19. Allocation of responsibilities**

- (1) A governing body of the benefit administrator is responsible for effective complaints management and must approve and oversee the effectiveness of the implementation of the benefit administrator's complaints management framework.
- (2) Any person that is responsible for making decisions or recommendations in respect of complaints generally or a specified complaint must -
  - (a) be adequately trained;
  - (b) have an appropriate mix of experience, knowledge and skills in complaints handling, fair treatment of complainants, the subject matter of the complaints concerned and relevant legal and regulatory matters;
  - (c) not be subject to a conflict of interest; and
  - (d) be adequately empowered to make impartial decisions or recommendations.

## **20. Complaints escalation and review process**

- (1) A benefit administrator must establish and maintain an appropriate internal complaints escalation and review process.
- (2) Procedures within the complaints escalation and review process should not be overly complicated or impose unduly burdensome paperwork or other administrative requirements on complainants.
- (3) A complaints escalation and review process should -
  - (a) follow a balanced approach, bearing in mind the legitimate interests of all parties involved including the fair treatment of complainants;
  - (b) provide for internal escalation of complex or unusual complaints at the instance of the initial complaint handler;

- (c) provide for complainants to escalate complaints not resolved to their satisfaction; and
- (d) be allocated to an impartial, senior functionary within the benefit administrator or a person appointed by the benefit administrator for managing the escalation or review process of the benefit administrator.

## **21. Decisions relating to complaints**

- (1) Where a complaint is upheld, any commitment by the benefit administrator to make a compensation payment, goodwill payment or to take any other action must be carried out without undue delay and within any agreed timeframes.
- (2) Where a complaint is rejected, the complainant must be provided with clear and adequate reasons for the decision and must be informed of any applicable escalation or review processes, including how to use them and any relevant time limits.

## **22. Record keeping, monitoring and analysis of complaints**

- (1) A benefit administrator must ensure accurate, efficient and secure recording of complaints and complaints-related information.
- (2) The following must be recorded in respect of each complaint -
  - (a) all relevant details of the complainant and the subject matter of the complaint;
  - (b) copies of all relevant evidence, correspondence and decisions; and
  - (c) progress and status of the complaint, including whether such progress is within or outside any set timelines.
- (3) A benefit administrator must maintain the following data in relation to complaints on an ongoing basis -
  - (a) number of complaints received,
  - (b) the type and nature of complaints received;<sup>4</sup>
  - (c) the details of the complaint handlers;
  - (d) the turn-around times for resolving complaints;
  - (e) number of complaints upheld;
  - (f) number of rejected complaints and reasons for the rejection;
  - (g) number of complaints escalated by complainants to the internal complaints escalation process;
  - (h) the details of the complaint handlers of escalated complaints;
  - (i) how escalated complaints were resolved and the timeframes for doing so;
  - (j) number and amounts of compensation payments made;
  - (k) number and amounts of goodwill payments made; and
  - (l) total number of complaints outstanding.
- (4) Complaints information recorded in accordance with this subsection must be scrutinised and analysed by a benefit administrator on an ongoing basis and utilised

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<sup>4</sup> All complaints that were submitted to the Pension Funds Adjudicator should also be flagged as such.

to manage conduct risks and effect improved outcomes and processes for its customers, and to prevent recurrences of poor outcomes and errors.

- (5) A benefit administrator must establish and maintain appropriate processes for reporting of the information in subparagraph (4) to its governing body or any relevant sub-committee, and senior management.

### **23. Communication with complainants**

- (1) A benefit administrator must ensure that its complaint processes and procedures are transparent, visible and accessible through channels that are appropriate to its customers.
- (2) A benefit administrator may not impose any charge for a complainant to make use of complaint processes and procedures.
- (3) All communications with a complainant must be in plain language.
- (4) A benefit administrator must disclose to a customer -
  - (a) the type of information required from a complainant;
  - (b) where, how and to whom a complaint and related information must be submitted;
  - (c) expected turnaround times in relation to complaints; and
  - (d) any other relevant responsibilities of a complainant.
- (5) A benefit administrator must within a reasonable time after receipt of a complaint acknowledge receipt thereof and promptly inform a complainant of the process to be followed in handling the complaint, including -
  - (a) contact details of the person or department that will be handling the complaint;
  - (b) indicative and, where applicable, prescribed timelines for addressing the complaint; and
  - (c) details of the internal complaints escalation and review process if the complainant is not satisfied with the outcome of a complaint.
- (6) Complainants must be kept adequately informed of -
  - (a) the progress of their complaint;
  - (b) causes of any delay in the finalisation of a complaint and revised timelines; and
  - (c) the benefit administrator 's decision in response to the complaint.

## **PART X**

### **DATA MANAGEMENT AND MAINTENANCE OF RECORDS**

#### **24. Data management**

- (1) In this Part “**processing**” has the meaning assigned to it in section 1 of the Protection of Personal Information Act, 2013 (Act No. 4 of 2013) and includes processing of all administration agreements and customer-related information.
- (2) A benefit administrator must have an effective data management framework that includes appropriate strategies, policies, systems, processes and controls relating to the processing of any data which enables the benefit administrator to at all times –
  - (a) have access, as and when required, to customer and administrative data that is up-to-date, accurate, reliable, secure and complete;
  - (b) properly identify, assess, measure and manage the conduct of business risks associated with its business to ensure the ongoing monitoring and consistent delivery of fair outcomes to its customers;
  - (c) comply with all relevant legislation relating to confidentiality, privacy, security and retention of data;
  - (d) comply with any regulatory reporting requirements;
  - (e) adequately categorise, record and report on complaints.
- (3) If a benefit administrator outsources the processing of any data, the benefit administrator must be able to access such data at any time as and when required by the benefit administrator.
- (4) A benefit administrator must have sufficient organisational resources and the operational ability to ensure that its data management framework is effective, adequately implemented and complies with this Part.
- (5) A benefit administrator must regularly review its data management framework and document any changes thereto.

## **25. Maintenance of records**

- (1) A benefit administrator must have appropriate systems, processes and procedures in place to –
  - (a) document communications with customers, including former members of the relevant funds and complainants;
  - (b) store and retrieve transaction documentation and all other material documentation relating to the rendering of administration services, including member and former member related information<sup>5</sup>; and
  - (c) keep the information, records and data referred to in items (a) and (b) above safe from destruction.
- (2) Information, records and data referred to in subparagraph (1) must –

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<sup>5</sup> Amongst other things, full names, surname, identity numbers and contact details of members, members’ employers (where applicable), any information required on a contribution schedule, any information and documents relating to benefits paid by the benefit administrator to members of such fund, including proof of benefits paid, the name of the transferee fund where a member has been transferred to another fund, and the like.

- (a) be kept in an appropriate electronic or recorded format, which is accessible and readily reducible to written or printed form;
- (b) be retained for a period of at least five years after all the information, records and data has been transferred in accordance with paragraph 12(1)(b), provided that this paragraph does not apply if the benefit administrator ceases to act as a benefit administrator in relation to any pension fund; and
- (c) on request, timeously be made available to the Authority, customers or any other person that is entitled to the information, subject to the Protection of Personal Information Act, 2013 (Act No. 4 of 2013).

## **26. Safe custody of documents of title and register of ownership of fund assets**

- (1) A benefit administrator must, whenever a document of title relating to assets held by a fund or to be held in custody on behalf of a fund by virtue of the fund's registered office being the address of a benefit administrator, comes into possession of the benefit administrator, the latter must make adequate arrangements to ensure the continued safety of the documents of title held in safe custody.
- (2) A benefit administrator must –
  - (a) mark any document of title in a manner which will render it possible, at all times, to readily establish the ownership of the fund assets described therein; and
  - (b) maintain a register to identify ownership of fund assets.

## **PART XI FINANCIAL MATTERS**

## **27. Accounting records and financial statements**

A benefit administrator must –

- (a) maintain full and proper accounting records on a continual basis, brought up to date monthly; and
- (b) annually prepare, in respect of the relevant financial year of the benefit administrator, financial statements;

that conform with accounting practices that are generally accepted in South Africa.

## **28. Appointment and termination of auditor**

- (1) A benefit administrator must appoint an auditor registered in terms of the Auditing Professions Act, 2005 (Act No. 26 of 2005) to, on an annual basis, audit its financial statements.
- (2) A benefit administrator must, within 30 days of the appointment of an auditor referred to in subparagraph (1), notify the Authority of the appointment and the details of the auditor, together with a letter of acceptance of the appointment by the new auditor.

- (3) If the appointment of an auditor referred to in subparagraph (1) is terminated, a benefit administrator must within 30 days from the date of termination, notify the Authority, in writing, of such termination and reasons for the termination.

## **29. Submission of annual financial statements to the Authority**

A benefit administrator must, within six months from the expiration of every financial year-end, submit to the Authority-

- (a) a copy of its audited financial statements referred to in paragraph 28; and
- (b) a management representation letter in which the governing body confirms, amongst others, that-
  - (i) it has examined the accounting records and annual financial statements of the benefit administrator;
  - (ii) in the governing body's opinion, the benefit administrator's annual financial statements fairly present, in all material respects; the financial position of the benefit administrator at the year end and the results of its operations and cash flows for the year then ended in accordance with or the relevant International Financial Reporting Standards, and in the manner required by the Companies Act 2008 (Act No. 71 of 2008) or other applicable legislation;
  - (iii) the accounting systems and policies that were applied in respect of the preparation of the annual financial statements of the administrator are appropriate; and
  - (iv) the benefit administrator is conducting the relevant business in accordance with the provisions of the Act, related regulations and this Conduct Standard.

## **30. Deposit of Fund Monies**

A benefit administrator must, within one business day of receipt of any fund monies into its bank account, pay those monies into a bank account opened in the name of the fund concerned or, in the case of underwritten funds, in the bank account of the relevant insurer.

## **31. Trust Account**

Where a benefit administrator utilises any form of a trust account whereby money is received on behalf of or utilised to facilitate payments on behalf of any fund, the following requirements must be complied with:

- (a) A dedicated interest-bearing banking account must be opened by the benefit administrator to accept moneys and to pay benefits on behalf of the funds with a registered bank;
- (b) such trust account must be held in such a way that customer assets do not form part of the benefit administrator's assets;
- (c) contributions and other amounts received and identified belonging to a specific fund must be allocated to the relevant fund or sub fund within two business days;
- (d) where contributions have been received and the benefit administrator is unable to identify and allocate such contributions to a specific fund, such amounts must be investigated within 2 business days and any amounts not allocated within 30 days from

- receipt thereof must be reported to an appropriate senior manager and the relevant fund;
- (e) an appropriate senior manager must ensure that all available actions have been taken to investigate any unallocated amounts, and any such unallocated amounts must be reported to the governing body of the benefit administrator on a quarterly basis;
  - (f) on identification and allocation of any previous unallocated amounts, any interest earned on such amounts from the date of receipt until the date of actual payment to the fund account must be included in the payment of the amounts to the relevant fund;
  - (g) in the case where a benefit payable to a beneficiary is made through the administrator's trust account, such benefit must be transferred or paid within two working days from when the deposit was made to the trust account;
  - (h) where a payment to a beneficiary is rejected by a bank or a payment is returned unpaid to the trust account, such amount must be transferred or paid back to the relevant fund within two business days of the rejection or returned payment;
  - (i) reconciliations must be performed on the trust account on a daily basis and must be reviewed by the appropriate senior manager on a monthly basis; and
  - (j) reconciling items referred to in subparagraph (i) need to be clearly identified and resolved within 7 business days after the reconciliation has been performed.

### **32. Unclassified payments and suspense accounts**

- (1) A benefit administrator must when it receives an unclassified payment investigate the origins of such payment without delay and allocate it correctly.
- (2) If the correct classification of a payment referred to in subparagraph (1) has not been confirmed within 3 business days of receipt of the payment, the benefit administrator must place the payment in a suspense account.
- (3) All amounts in a suspense account referred to in subparagraph (2) must be reported to an appropriate senior manager on a monthly basis.
- (4) The senior manager referred to in subparagraph (3) must report any balances in the suspense account to the governing body of the benefit administrator on a quarterly basis together with the balance and age of the amounts in the suspense account.

### **33. Indemnity and Fidelity Guarantee Insurance**

- (1) A benefit administrator must maintain in force professional indemnity and fidelity guarantee insurance from and up to such an amount as determined by the benefit administrator and which is adequate relative to the complexity and size of its administration business.
- (2) The benefit administrator must disclose to the fund –
  - (a) instances where the professional indemnity and fidelity guarantee insurance provides for a self-payment gap; and
  - (b) any material exclusions, limitations or restrictions contained in the professional indemnity and fidelity guarantee insurance.

## PART XII

### FINANCIAL SOUNDNESS AND OPERATIONAL PROCEDURES AND CONTROLS

#### 34. Financial Soundness

- (1) A benefit administrator must at all times maintain –
  - (a) current assets which are equal to or greater than current liabilities; and
  - (b) liquid assets equal to or greater than 8/52 weeks of annual expenditure.
- (2) Where a benefit administrator is regulated by the Authority in terms of other legislation, which legislation includes solvency or liquidity requirements similar to those set out in subparagraph (1), the benefit administrator must comply with the most onerous requirement.

#### 35. Operational ability

- (1) A benefit administrator must have operational ability, including adequate and appropriate human, technical and technological resources and controls to effectively perform its administration services on an ongoing basis and ensure that accurate and complete information, data and records are maintained.<sup>6</sup>
- (2) A benefit administrator must ensure that appropriate operational procedures and controls are established covering all aspects relevant to the provision of administration services, to ensure that such services are provided timeously, effectively and accurately, and that any operational risks are mitigated.
- (3) A benefit administrator must make use of an administration system in the performance of its administration services which provides it with the ability to –
  - (a) render administration services timeously, effectively and accurately;
  - (b) maintain accurate and complete information, data and records;
  - (c) properly communicate with members; and
  - (d) report relevant information as may be required by any law.
- (4) Where a benefit administrator intends to replace its administration system or to migrate from one system to another, the benefit administrator must, prior to the change –
  - (a) notify the Authority of the proposed change; and
  - (b) confirm that such new system complies with the requirements in subparagraphs (1) and (2).
- (5) A benefit administrator must timeously inform all funds that are or may be affected by any material change in an administration system used by the benefit administrator.

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<sup>6</sup> Including the establishment, implementation and maintenance of a contingency plan for disaster recovery and periodic testing of backup facilities to ensure the continuous functioning of its business, especially where administration services have been outsourced to another provider.

## PART XIII

### MERGERS AND ACQUISITIONS AND TERMINATION OR CEASING OF BUSINESS BY BENEFIT ADMINISTRATOR

#### 36. Mergers and Acquisitions

- (1) A benefit administrator may not merge with or acquire the business of another benefit administrator –
  - (a) unless the benefit administrator has conducted a proper due diligence of the other benefit administrator, including ensuring that such other benefit administrator and its directors, senior managers and heads of control functions (where relevant) comply with the fit and proper requirements;
  - (b) unless, where required, the parties involved in the acquisition or merger have obtained the necessary approvals from other relevant authorities in terms of applicable legislation including, where applicable, the Competition Commission; and
  - (c) without the approval of the Authority.
- (2) A merger or acquisition referred to in subparagraph (1) that took place without the approval of the Authority is void.

#### 37. Ceasing, dissolution or liquidation of business

- (1) A benefit administrator must, when it intends to cease conducting business or its business is being finally liquidated or dissolved, –
  - (a) inform all the funds under its administration of its intention to cease administration or its final liquidation or dissolution; and
  - (b) transfer all information, records and data relating to the administration of the fund that it has in its possession or under its control, to the fund concerned, or the new benefit administrator, as the case may be.
- (2) A benefit administrator must provide a report to the Authority, in the form of a letter and including any supporting documents, where applicable, within 90 days after the date of ceasing to perform administration services, confirming that the requirements set out in subparagraph (1) have been met.

#### 38. Suspension or withdrawal of approval as a benefit administrator

- (1) A benefit administrator must, if it is informed in terms of section 13B(8) of the Act of the Authority's intention to suspend or withdraw its approval, inform all funds under its administration of the Authority's intention.
- (2) Where a benefit administrator's approval has been suspended by the Authority, such benefit administrator may not enter into any new agreement with any fund (including additional agreements with existing funds) until such time as the Authority uplifts the suspension.

## PART XIV

### ADMINISTRATION

#### 39. Determination of manner, format and content of notifications and approval applications

The Authority may, by notice on its website, determine the manner, format and content of –

- (a) any notification or application for approval referred to in this Conduct Standard;
- (b) the report and notifications referred to in paragraphs 12(2)(a), 12(2)(c)(ii) and (iii);
- (c) the register referred to in paragraph 26(2)(b);
- (d) the management letter referred to in paragraph 29(b);
- (e) the notification and confirmation referred to in paragraph 35(4); and
- (f) the report referred to in paragraph 37(2).

#### 40. Short title, commencement and transitional arrangements

- (1) In this paragraph 'date of publication' refers to the date on which this Conduct Standard was published on the website of the Authority.
- (2) This Conduct Standard is called Conditions Prescribed for Pension Fund Benefit Administrators, 2024.
- (3) The respective paragraphs of this Conduct Standard take effect as follows:

Part	Paragraph	Effective date
I	1	Date of publication
II	2	Date of publication
	3 and 4	6 months after date of publication
III	5	Date of publication
IV	6	Date of publication
V	7 to 10	Date of publication
VI	11 and 12	12 months after date of publication, including in respect of administration agreements entered into before the date of publication
VII	13 and 14	12 months after date of publication, including in respect of outsourcing arrangements entered into before the date of publication
VIII	15	6 months after date of publication
IX	16 to 23	6 months after date of publication
	24 and 25	6 months after date of publication
X	26	Date of publication
XI	27 to 33	Date of publication
XII	34	Date of publication
	35	6 months after date of publication
XIII	36 – 38	Date of publication
XIV	39 to 41	Date of publication

#### 41. Repeals

- (1) This Conduct Standard hereby repeals the Conditions made in respect of Administrators acting on behalf of Pension Funds as published in Board Notice 24 of 2002, in Government Gazette No. 23153 of 1 March 2002.
- (2) The repeal referred to in subparagraph (1) takes effect as follows:

<b>Paragraph</b>	<b>Effective date of repeal</b>
5 to 13	Date of publication
1 to 4; 14	12 months after date of publication