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## Pension Funds Adjudicator 2019 Annual Report

The Pension Funds Adjudicator issued her 2019 annual report on 15 October 2019. In the year under review, the Adjudicator's office received 11 399 new complaints which is 16.38% higher than the previous review period. The bulk of the complaints had to do with the following two issues:

### Non-compliance with section 13A of the Pension Funds Act

In many respects, non-compliance was concentrated in the large funds, i.e. umbrella funds, sectoral determination funds and industry funds. The non-compliance had to do with failure to collect the necessary contributions in terms of section 13A and failure to attempt to implement any enforcement measures in terms of section 13A against a non-compliant employer or responsible persons. The Adjudicator remarked that the levels of non-compliance in these large funds put to question the policy considerations to consolidate funds as it is apparent that the more removed a fund and its administrator are from the ordinary member and employer, the less compliance there is to basic regulatory requirements.

The annual report contains a summary of what the Adjudicator regards as important determinations issued by her in the period under review. Hereunder is a summary of the noteworthy findings made by the Adjudicator in the said determinations about non-compliance with section 13A:

- The board of trustees has a duty placed on it by the provisions of section 13A of the Pension Funds Act to take all reasonable steps to ensure that contributions are paid in accordance with the Act.
- With regards to non-compliance by participating employers of section 13A, a fund must be proactive to ensure accountability and better protection of the interests of members.
- The board of trustees of a fund must advise the FSCA of a participating employer's failure to pay contributions and must take action to remedy it. In this regard, only sending letters to the participating employer will not constitute appropriate action.
- The Adjudicator was very critical of a fund for failing to get the participating employer to provide the name of the person who could be held personally liable for the non-payment of contributions and have their assets attached, if necessary.

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### Delays in payment of benefits

Most members complained about delays in the payment of their withdrawal benefits. The Adjudicator remarked that what is of concern is that the relevant funds and administrators would still not effect payment or make any effort to liaise with the complainants even upon receiving the complaint. Only a few funds, notably the large insurer underwritten umbrella funds and the Contract Cleaning National Provident Fund, would endeavour to pay the benefit complained of even before the finalisation of the complaint.