

Our reference: MF001/LAW/19

23 October 2019

TO: **TITO TITUS MBOWENI**
Minister of Finance

Per: **Mary Marumo**
Per Email: mary.marumo@treasury.gov.za
minreg@treasury.gov.za

CC: **ISMAIL MOMONIAT**
Ministry of Finance
Deputy Director General for Tax and Financial Sector Policy

Per: **Noeline Scholtz**
Per Email: Noeline.Scholtz@treasury.gov.za

CC: **MKHACANI JOSEPH MASWANGANYI**
Parliament of the Republic of South Africa
Chairperson: Standing Committee on Finance

Per: **Arico Kotze**
Allan Wicomb
Per Email: akotze@parliament.gov.za
awicomb@parliament.gov.za

Dear Honourable Minister Tito T Mboweni,

1. Our correspondence dated 30 April 2019 refers.
2. In our previous correspondence Open Secrets enquired about the appointment of the Commissioner and Deputy Commissioner of the Financial Sector Conduct Authority (“FSCA”).
3. In our correspondence, we also noted the vital role that the FSCA plays in ensuring the financial sector is effectively regulated and adheres to the law and values of our Constitution. In addition, we noted the far-reaching consequences that the conduct of the financial sector has on people in South Africa. This necessitates an independent and transparent FSCA, with

the ability to act in the public interest despite pressure from a powerful and well-resourced business sector. The FSCA itself has recognised that its primary duty is to the ordinary people of South Africa.

4. To date we have not yet received a response despite numerous follow ups by Open Secrets and assurances from your office that a response would be forthcoming.
5. This absence of response is concerning, not least because of the importance of the content of our letter, which deals with appointments fundamental to the functioning of the FSCA.
6. Crucially, the Constitution has recognised the public importance of the appointment of public officials such as the Commissioner and Deputy Commissioner of the FSCA, and has consequently mandated that such processes be open and transparent, and follow public participation processes that facilitate accountability of public institutions to ensure that they act in the public interest.
7. On 23 October 2019, Open Secrets released an investigative report, *The Bottom Line: who profits from unpaid pensions?*. The investigation probed the conduct of private fund administrators in the pensions industry and made the following key findings which Open Secrets wishes to bring to the attention of the Ministry of Finance:
 - 7.1. Over R40 billion is owed to over 4 million people and while this remains unpaid the industry players still profit from this money.
 - 7.2. 6 757 pension funds were recklessly and unlawfully cancelled, leading to hundreds of funds being cancelled before paying out their members. Both private fund administrators and the FSCA are responsible for this.
 - 7.3. Evidence shows that there have been unaddressed systemic failures of governance in the pension funds industry, and vulnerable pensioners and fund members continue to suffer as a result.
8. The investigative report, *The Bottom Line: who profits from unpaid pensions?*, is attached hereto and marked "**Annexure A**" for your attention.
9. Consequently, Open Secrets requests an urgent meeting with the Ministry of Finance to discuss the way forward, and in particular, the strengthening of the FSCA as a regulatory and oversight body that acts in the public interest.

10. Kindly provide us with a response to the above by **4 November 2019**.

Please acknowledge receipt of this letter.

Yours sincerely,



Michael Marchant

Researcher: Investigations

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