



Financial Sector
Conduct Authority

Discussion Items

1. FSCA Commissioners
2. Statistics
3. Impact of the Covid 19 pandemic
4. Expected publications
5. Update on Legal Cases

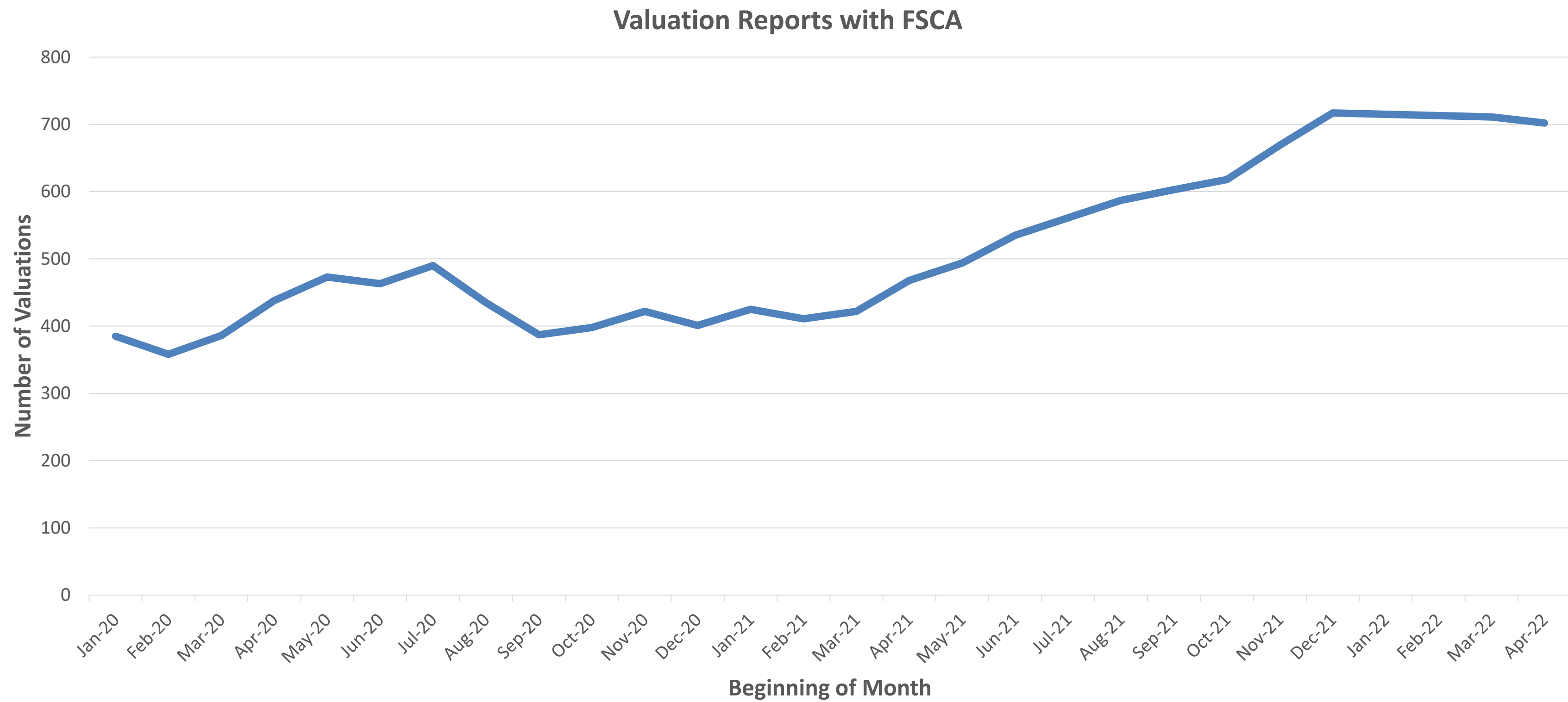
Commissioners



Statistics



Reports with FSCA



Watch this Space: Expect Information Circular in the next 6 months.



Reports with FSCA

Valuation Report	Grand Total
2020	2
Sep	1
Dec	1
2021	540
Jan	2
Feb	1
Mar	53
Apr	39
May	37
June	54
July	32
Aug	58
Sep	65
Oct	68
Nov	62
Dec	69
2022	160
Jan	40
Feb	49
Mar	71
Grand Total	702

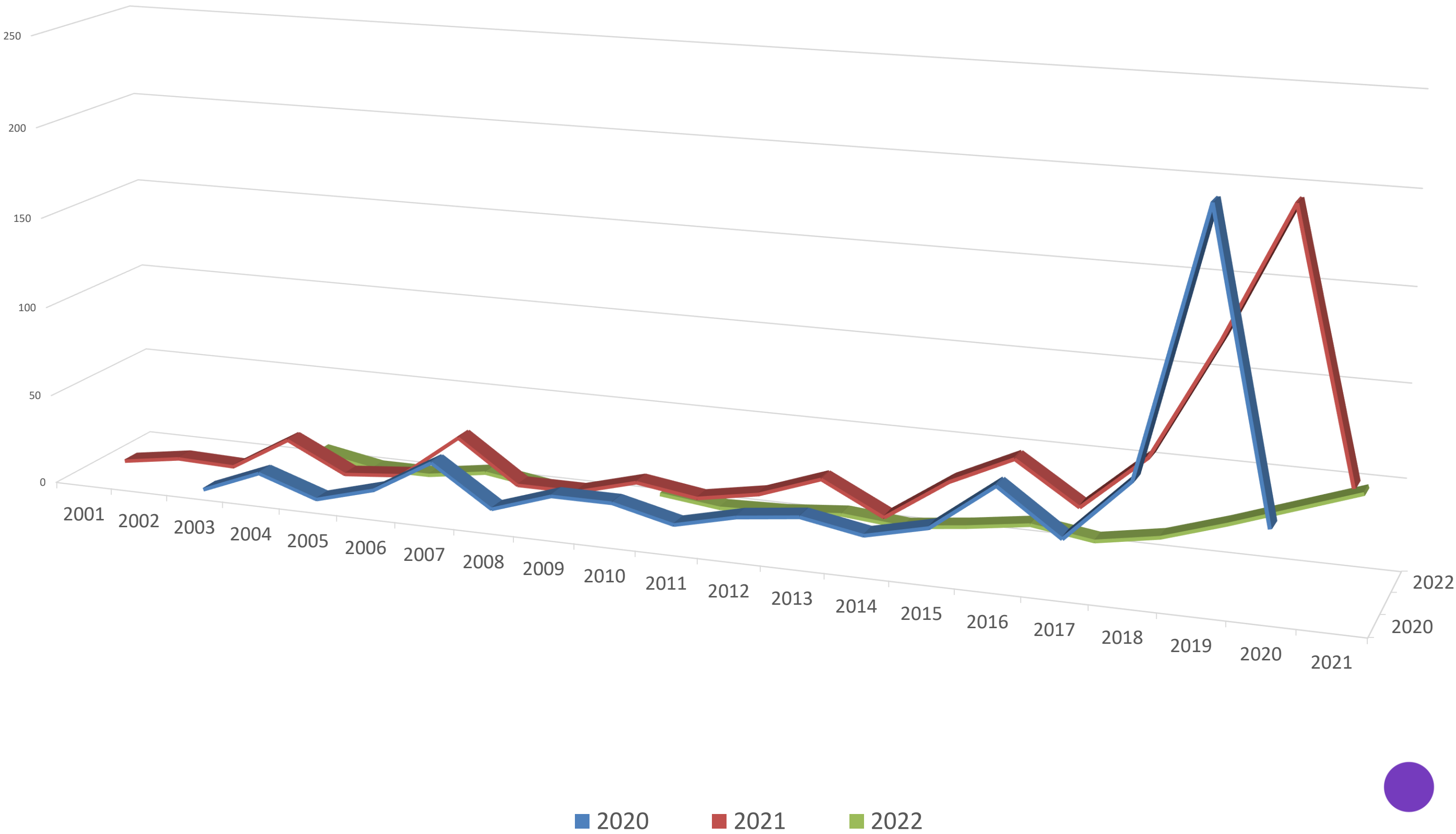


Submissions

Submission Date

Effective Date

Reports & Responses Submitted			
	2020	2021	2022
2001		1	
2002		6	2
2003	2	5	
2004	15	24	7
2005	4	8	1
2006	13	11	1
2007	32	36	6
2008	10	13	1
2009	21	13	
2010	21	22	5
2011	13	17	1
2012	21	23	2
2013	25	35	5
2014	19	18	2
2015	27	41	6
2016	53	57	11
2017	29	35	6
2018	63	65	12
2019	206	129	23
2020	46	201	35
2021		60	47
Total	620	820	173



Surplus submissions



Received

2020	2021	2022
24	63	8



Awaiting responses

Query Letter Date

Query Letter Sent	Number
2007	1
2009	2
2010	2
2011	5
2012	2
2013	5
2014	13
2015	30
2016	35
2017	58
2018	82
2019	88
2020	149
2021	179
2022	4
Total	655



Common queries

DC:

- Returns Earned vs Returns Allocated
- Treatment of Expenses

CRA:

- Appropriateness of CRA balances
- CRA Build-Ups (e.g. 15G)

DB:

- Basis Calculation Methodology
- AOS

Inconsistencies in Reports





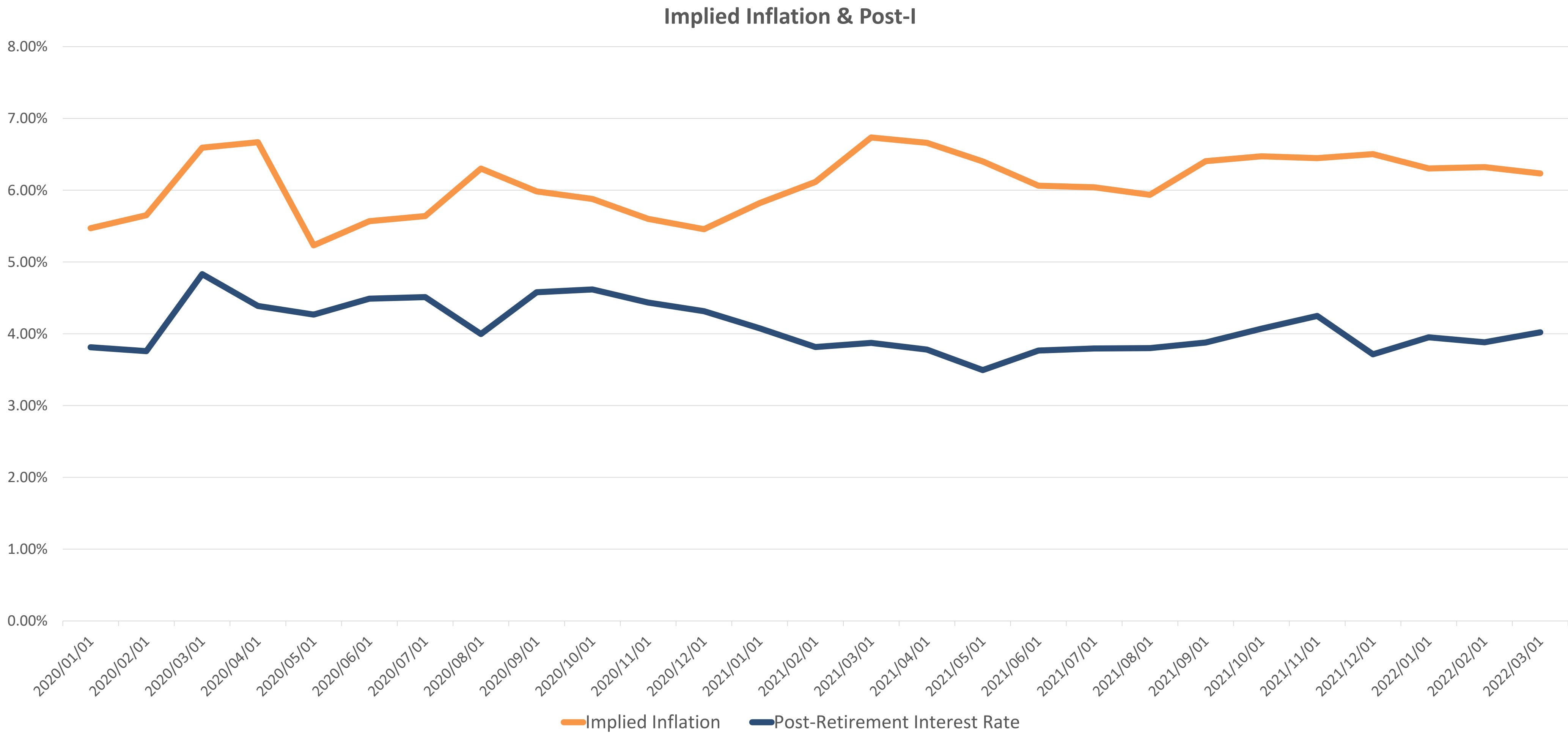
Reports still outstanding

Effective Date	Year	Number
	2002	1
	2003	1
	2004	7
	2005	86
	2006	139
	2007	695
	2008	105
	2009	177
	2010	882
	2011	132
	2012	239
	2013	1023
	2014	190
	2015	399
	2016	1366
	2017	321
	2018	516
	2019	1639
	2020	571
	2021	989
	2022	2182
	Total	11660





Implied Inflation & Post-I



Exemptions

- Things to look out for before applying for valuation exemption:
 - Are there amounts to be allocated reflected in AFS (negative, significant)?
 - Are there any significant events (conversion, transfer-out of pensioners)?
- We are re-evaluating the exemption process.



Section 15E Applications

Received

2020	2021	2022
82	55	7



The impact of the Covid 19 pandemic on contributions for retirement savings and liquidations submitted to the FSCA



Background and observations

- **3 582** surveys received May / June 2020
- The majority of funds where distress was noted had already started with the processes of amending their rules at the time.
- The **greatest number** of requests for relief were found to be in the **manufacturing and services industries**, particularly **smaller businesses** participating in bargaining council funds and umbrella fund arrangements.
- Continued payment of premiums for risk benefits



Type of response	No. of funds	Percentage (%)
Relief sought by the employer and employee constituencies	47	6%
Relief sought by the employee constituency only	27	3%
Relief sought by the employer constituency only	303	38%
Subtotal	377	48%
No relief sought	416	52%
Total	793	100



Survey

- Considering pes in umbrella schemes and bargaining council funds.
- Relief sought by 13 078 entities

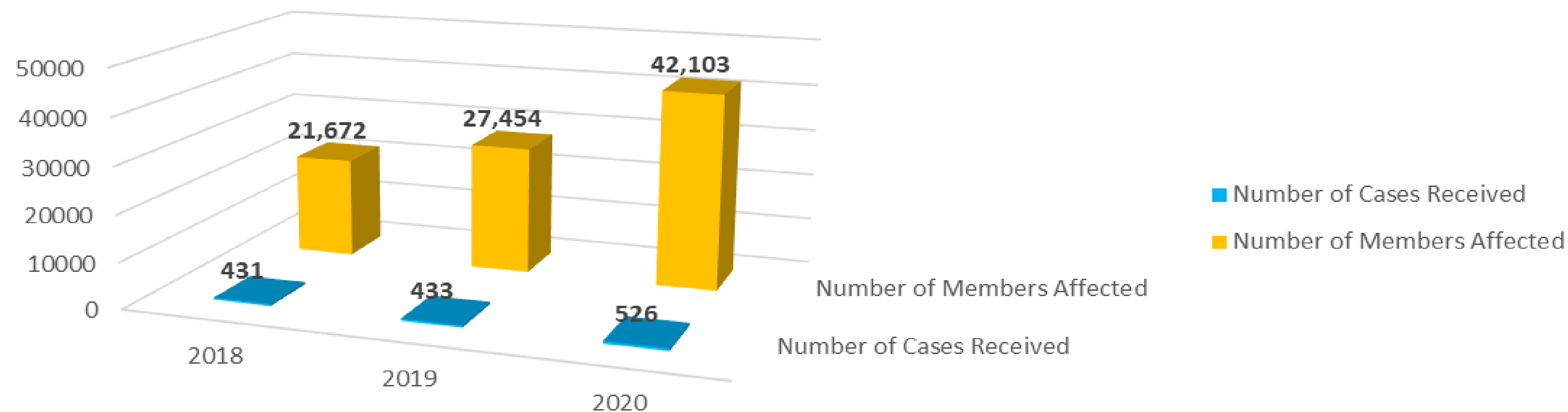
Type of response	Employers	Employees
Relief sought by the employer and employee constituencies	2 794	169
Relief sought by the employee constituency only	-	225
Relief sought by the employer constituency only	9 890	-
Total relief sought by all constituencies	12 684	394

Liquidations

Formal process of liquidation

Period	Number of FSCA liquidation cases	Number of members	Net asset value R
1 Jan to 31 Dec 2018	431	21 672	1 313 176 078
1 Jan to 31 Dec 2019	433	27 454	1 776 026 830
1 Jan to 31 Dec 2020	526	42 103	1 896 436 188
1 Jan to 30 Apr 2021	165	7 283	327 523 024
Total	1 555	98 512	5 313 162 120

Impact of Pandemic on Households



Future standards



1. Primary legislation

Conduct of Financial Institutions (COFI) Bill

- FSCA supports the National Treasury in refining and progressing the Bill.
- Currently serving before NEDLAC. Once this is finalised, it will likely be submitted to Parliament.

Financial Markets Act Review

- A working group between National Treasury, the Prudential Authority, the FSCA and the Reserve Bank is reviewing the current Financial Markets Act.
- Timelines not clear.

2. Retirement fund specific developments

Requirements related to Payment of Pension Funds Contributions (Section 13A)

- To build on existing Regulation 33 under the PFA.
 - Parliament on 8 December 2021. The parliament period lapsed and it is currently with Exco.

Conditions for investment in derivative instruments for pension funds

- Prescribe conditions when investing in derivative instruments
 - Previously published for public comment. Revised version likely to Parliament during the course of 2022.

2. Retirement fund specific developments

Conditions for living annuities in annuity strategy

- As contemplated in Regulation 39(3)(a)
 - prescribing the conditions
 - drawdown levels
- Two rounds of public consultation. Temporary on hold as consider regulatory workplan for the next 3 years. Likely submit to parliament during 2022.

Communication of Benefit Projections to members of pension funds

- Minimum information to be provided to a member
- Benefit projection communication
- Two rounds of public consultation. Temporary on hold as consider regulatory workplan for the next 3 years. Likely submit to parliament during 2022.

2. Retirement fund specific developments

Pension Funds Financial Statements and Regulatory Reporting Standard

- To update the current requirements
- Draft Standard under development. Will be published for public comment.

Other:

- Conduct Standard – Conditions for securities lending for pension funds
- Conduct Standard – Culture and Governance requirements for retirement funds

The question asked "have you ever been convicted of a crime" followed by "explain why."

So I put "no" and "good lawyer."

someecards
user card



Written by Jamie Capria

IM NOT RIGHT IN THE HEAD.COM

Case Law Update





Guidance Notice 2 of 2020 – Reg 35(4)

- **Supreme Court of Appeal:** Declared Reg 35(4) invalid (2 November 2020)
- the **obligation** to pay remains but the fund cannot be instructed to hold the **assets**
- Must apply **prudence** to protect interests of former members are protected, considering fiduciary duties
- **Implications:**
 - Consider risks to the fund
 - If assets held based on probabilities, no longer DC
 - Funding mechanism if more former members come forward than expected
 - Rules must be amended
- **Questions:**
 - Illustrate **recent** steps taken to trace the members
 - Motivate any assumptions
 - Manner in which a deficit will be met must be in the rules
 - Consider action if need to transfer unclaimed benefits



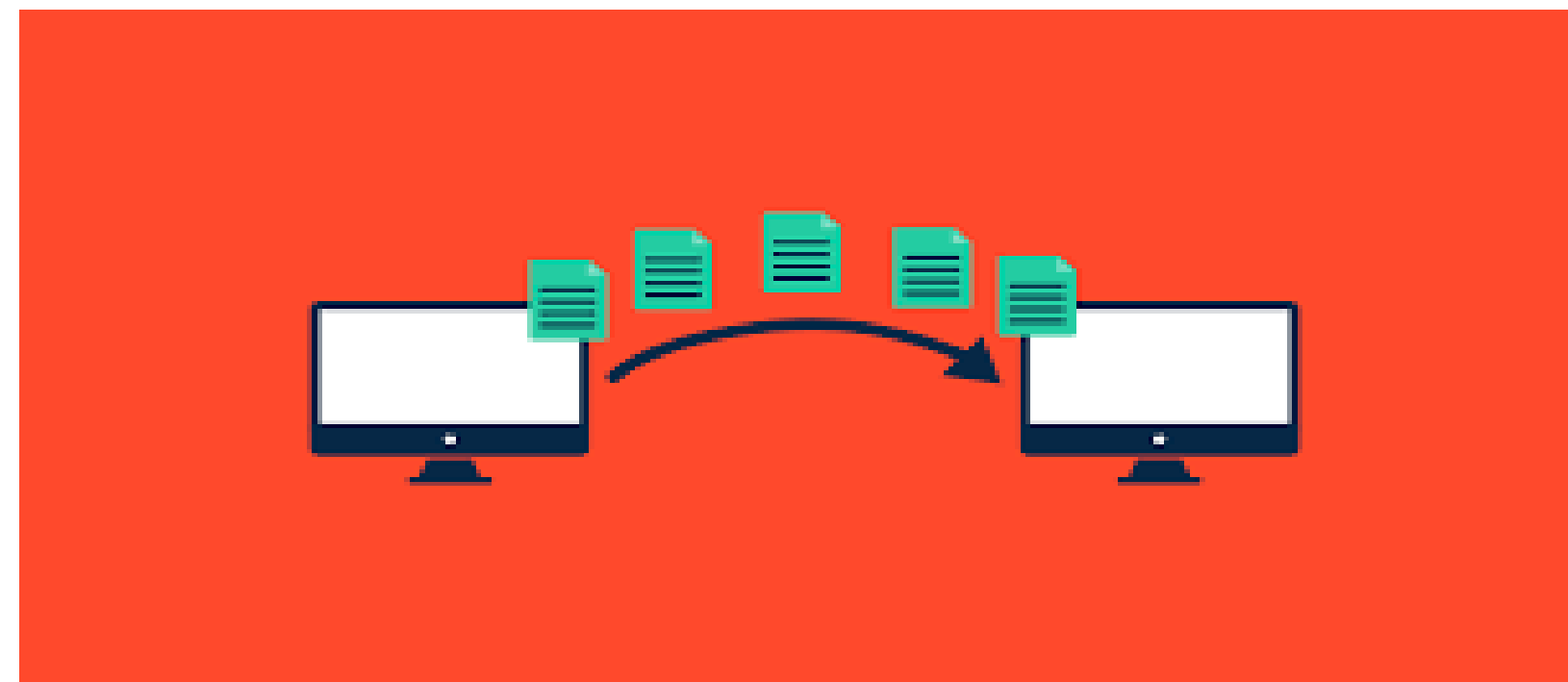
KZN Municipal PF v FSCA

- **Fund:** requested exemption from Reg 39(3)(a)
 - Living annuity investment choice limited to 4 portfolios in annuity strategy
- **Request:** Add 2 further portfolios
 - To offer variety of investment choice
 - To reduce heavy advice fees charged
- **FSCA:** Allowed the KZN Islamic Fund but declined KZN Aggressive Portfolio.
- **Tribunal:** Dismissed the application for reconsideration
 - Prejudice the objects of the default regulations (to simplify investment options)
 - Sophisticated members MAY not appreciate the risk, less sophisticated members MAY be confused



Penlink Portfolio Pr F v FSCA

- **Background:**
 - S14 transfer of (R9.4mil effective 28 February 2015) was approved
 - Fund had until 2 September 2019 to effect the transfer
 - Extension until 6 December 2019 was granted
- **Fund:** Further extension until 31 January 2020 was rejected
- **Tribunal** : Appeal dismissed – further extension will prejudice members (due to poor governance)



Municipal Employees PF & others v Dineo

- D was appointed as Chief Audit executive at the Municipality for a fixed term of 5yrs
- Fixed term contractors not permitted in Rules but contributed to the fund
- At end of contract term, was paid her contribution only (7.5%) NOT employer contributions (22%)
- **Adjudicator:** All the contributions should be paid to her
- **Fund:** The Adjudicator does not have jurisdiction on this matter
 - Did not meet the full definition of '**complaint**'
- Constitutional Court of appeal: Dismissed the fund's appeal
 - D was impoverished
 - Admission and receipt of contributions were acts of administration of the MEPF (even though Ultra vires the rules)



THANK YOU