

FSCA COMMUNICATION 10 OF 2023 (FM)

NOTICE REGARDING THE PUBLICATION OF DRAFT CONDUCT STANDARD – REQUIREMENTS RELATING TO THE REPORTING AND DISCLOSURE OF SHORT SALES

1. PURPOSE

- 1.1. The purpose of this Communication is to inform stakeholders that today the Financial Sector Conduct Authority (FSCA) published the following documents on its website:

- 1.1.1. Notice regarding the Publication of Draft Conduct Standard – Requirements relating to the reporting and disclosure of short sales (draft Conduct Standard);
- 1.1.2. Statement supporting the draft Conduct Standard (Statement); and
- 1.1.3. Comments Template for draft Conduct Standard.

2. BACKGROUND AND CONTEXT

- 2.1 Currently, the regulatory framework in South Africa does not prescribe requirements for the reporting and disclosure of short sales on the trading platforms of licensed exchanges.
- 2.2 The FSCA intends to close the aforementioned regulatory gap by developing a legal framework prescribing reporting and disclosure requirements consistent with international best practices. The covered short sale reporting and disclosure framework would also ensure alignment of the South African regulatory framework with international standards.
- 2.3 The development of the draft Conduct Standard also took into account industry comments received on a Paper titled “Discussion paper on the implementation of a short sale reporting and disclosure framework” that was published for comment on 20 November 2018. Details of this consultation process are set out in the Statement supporting the draft Conduct Standard.
- 2.4 It is envisaged that transparency in the short sales environment will have distinct benefits for the market and its users. Greater disclosure will help deter market abuse and reduce the risk of disorderly markets posed by short sales. In addition, a regulatory framework will provide early warning signs of a build-up of large short positions, thereby alerting the FSCA to potential market abuse or emerging systemic risks. This will enable the FSCA to effectively monitor the market and take appropriate action where necessary.
- 2.5 Public access to information on short sales will also provide important benefits to the market, improving insights into market dynamics, aiding transparency, and making available important information to assist price discovery.

- 2.6 To reduce identified risks, the proposed regulatory framework will consist of a short sale transactional reporting and public disclosure framework as well as short sale positional reporting and public disclosure framework.
- 2.7 Further details regarding these proposals, the need therefore and the expected impact of the proposals are set out in the Statement.

3. INVITATION TO COMMENT ON DRAFT CONDUCT STANDARD

- 3.1 The documents referred to in paragraph 1 are available on the FSCA's website at www.fsca.co.za.
- 3.2 Interested parties are invited to submit comments on the draft Conduct Standard on the Comments Template published herewith, in Word format, on or before **17 May 2023** to FSCA.RFDstandards@fsca.co.za.

4. CONTACT

For further information regarding this Communication please contact the Regulatory Framework Department of the FSCA by emailing Tshifhiwa Mavhuthugu at tshifhiwa.mavhuthugu@fsca.co.za.



FARZANA BADAT
COMMISSIONER (ACTING)
FINANCIAL SECTOR CONDUCT AUTHORITY

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