

FSCA COMMUNICATION 32 OF 2023 (CIS)

Publication of draft Conduct Standard – Requirements for CIS Managers

1. PURPOSE

The purpose of this Communication is to inform stakeholders that today the Financial Sector Conduct Authority (FSCA) published the following documents for public comment:

- 1.1 Draft Conduct Standard – Requirements for CIS Managers (draft Conduct Standard);
- 1.2 Statement supporting the draft Conduct Standard; and
- 1.3 Comments Template for the draft Conduct Standard.

2. BACKGROUND

2.1 During the course of 2020 and 2021, South Africa underwent a Financial Sector Assessment Program (FSAP) conducted by the International Monetary Fund (IMF). On 21 January 2022, the IMF released its final FSAP Report and made various findings and recommendations aimed at assisting South Africa in identifying key sources of systemic risk in the financial sector and implementing policies to enhance its resilience to shocks and contagion.

2.2 Various recommendations made in the FSAP Report pertained to matters related to the CIS environment that fall within the jurisdiction of the FSCA. These recommendations included the following:

- The current framework lacks product governance requirements, and there is a need to distinguish between the duties of CIS managers and the duties of a distributor. Some of the specific issues identified include that CIS managers should identify and assess target markets and financial customers for each new product created and should have clear marketing and distribution strategies. These were cited as critical elements in the South African context, where the distribution of CIS through online platforms is increasing;
- There is a need for the adoption of a standardised prospectus for a CIS that lists the scheme's operating rules in accordance with international best practice. This approach will provide more clarity on the content and format of information presented to financial customers and will also support better comparability of CIS offerings. There is also a need to continue aligning CIS disclosure requirements with international best practice;
- Issues pertaining to the oversight of trustees, fiduciaries or custodians, especially where the custodial function has been sub-delegated;
- A need to clarify and strengthen the responsibilities and obligations of the risk management function, provide for requirements pertaining to an internal audit function and in particular establish requirements for the compliance function;

- Notwithstanding the existing general obligation pertaining to conflicts of interest, a need was identified to strengthen the conflicts of interest framework and address various specific issues pertaining to conflicts of interest, such as best execution obligations, timely trading and transaction allocation, related party transactions and group structures, the prevention of churning, and the like; and
- There is a need to define a list of changes in CIS operating rules that are considered as material and that require prior notification and/or consent of financial customers.

- 2.3 The FSAP Report therefore highlighted a need to effect various changes to the CIS regulatory framework to ensure closer alignment with international standards, enhance the financial sector's resilience to shocks and contagion and support better protection of financial customers.
- 2.4 The draft Conduct Standard is aimed at addressing some of the recommendations in the FSAP Report.

3. INVITATION TO COMMENT ON DRAFT CONDUCT STANDARD

- 3.1 The draft Conduct Standard is to be made in terms of section 106(1) of the of the Financial Sector Regulation Act, 2017 (Act No. 9 of 2017) (FSR Act) and is published for comment in terms of section 98(1)(a) of the FSR Act.
- 3.2 Interested parties are invited to submit comments on the draft Conduct Standard by **16 February 2024** to FSCA.RFDStandards@fsc.co.za.

4. AVAILABILITY OF INFORMATION AND ENQUIRIES

- 4.1 The documents referred to in paragraph 1 are available on the FSCA's website at www.fsc.co.za.
- 4.2 For more information regarding the draft Conduct Standard and/or this Communication please contact the Regulatory Frameworks Department of the Authority at Marius.deJongh@fsc.co.za or Andile.Mjadu@fsc.co.za.



UNATHI KAMLANA
COMMISSIONER
FINANCIAL SECTOR CONDUCT AUTHORITY

Date of publication: 23 November 2023