



FSCA COMMUNICATION 16 of 2021 (FAIS)

Submission of compliance reports, handover reports and irregularity reports for Financial Services Providers (“FSPs”) for 2021

1. BACKGROUND

In terms of section 17(4)(a) of the Financial Advisory and Intermediary Services Act, 2002 (“FAIS Act”), a compliance officer or, in the absence of such officer, the authorised FSP concerned, must submit reports to the Financial Sector Conduct Authority (“Authority”) in the manner and regarding the matters, as from time to time determined by the Authority by notice on the official website for different categories of compliance officers. Compliance officers, or FSPs, are required to annually submit these reports to the Authority (“**compliance reports**”).

In addition, in terms of section 17(1)(c), read with section 19(5)(a) of the FAIS Act, if the appointment of a compliance officer of an authorised FSP is terminated, the compliance officer must submit a statement to the Authority of what he/she believes to be the reasons for the termination (“**handover reports**”).

Furthermore, in terms of section 17(1)(c), read with sections 19(4) and 19(5)(b) of the FAIS Act, a compliance officer must report to and inform the Authority in writing of any irregularity or suspected irregularity in the conduct or the affairs of the authorised FSP concerned of which the compliance officer became aware in performing functions as compliance officer and which, in the opinion of the compliance officer, is material (“**irregularity reports**”).

2. PURPOSE

The purpose of this Communication is to provide clarity to stakeholders, FSPs, key individuals and compliance officers regarding the submission of compliance reports, handover reports and irregularity reports for 2021.

3. SUBMISSION OF COMPLIANCE REPORTS AND HANDOVER REPORTS FOR 2021

The Authority is in the process of developing a Conduct of Business Report (“CBR report”) that will apply to all regulated entities which will have to be submitted to the Authority on an annual basis. The CBR report, once finalised, will replace the compliance report contemplated in section 17(1)(c) of the FAIS Act. In light of the afore-mentioned, the Authority has decided, as was the case in 2019 and 2020, that no compliance reports need to be submitted to the Authority during 2021.

The Authority has further decided that there will be **no prescribed format** for a handover report during 2021, as there are no compliance reports to report on. The “statement” referred

to in section 17(1)(c), read with section 19(5)(a) of the FAIS Act, containing the reasons for the compliance officer's termination, can therefore be submitted to the Authority in any form and manner. For example, when a compliance officer resigns, he/she can merely send an e-mail or letter to the Authority setting out the reason/s for and effective date of such resignation.

For clarity purposes, the following compliance reports and handover reports, are not required to be submitted in 2021:

- a) Category I FSP with a Compliance Office;
- b) Category II and IIA FSPs (Bi-Annual Report);
- c) Category III FSP (Bi-Annual Report);
- d) Category IV FSP;
- e) Foreign FSP;
- f) Category I FSP without a Compliance Officer;
- g) Compliance Officer Handover Report; and
- h) Key Individual / Sole Proprietor Handover Report.

4. SUBMISSION OF IRREGULARITY REPORTS

If a compliance officer is aware of any material irregularity or suspected irregularity by the FSP, he/she must inform the Authority in writing. Similarly, if a compliance officer resigns from an FSP and is aware of any material irregularity or suspected irregularity by the FSP, he/she must, in addition to the handover report, submit an irregularity report to the Authority.

5. OUTSTANDING COMPLIANCE REPORTS

FSPs or compliance officers that have not submitted the required compliance reports from date of approval up to 2018, are still required to submit such outstanding reports.

Please note that the failure to submit such reports might lead to regulatory action being instituted against such non-compliant FSPs.

6. CONTACT

For more information regarding this Communication, kindly contact the Authority at info@fsca.co.za.

This communication is available on the Authority's website (www.fsca.co.za) following the path: Home > Regulatory Frameworks > Industry Communication > FAIS.



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