



## **FSCA COMMUNICATION 1 OF 2019 (CISCA)**

### **Publication of draft exemption notice exempting managers and auditors of collective investment schemes from the provisions of section 74(1)(a) and (2)(c) of the Collective Investment Schemes Control Act, 2002 (Act No. 45 of 2000) (CISCA)**

**4 October 2019**

#### **1. PURPOSE**

- 1.1 The purpose of this Communication is to inform stakeholders that a draft general exemption has been published on the Financial Sector Conduct Authority's (FSCA) website for public comment by 29 November 2019.
- 1.2 The draft general exemption proposes to exempt managers and auditors of collective investment schemes (CIS) and its portfolios from those parts of section 74(1)(a) and (2)(c) of CISCA, which determines the accounting standard to be applied by managers and auditors of CIS portfolio's, to the extent that the specific accounting standards as set out in the draft exemption are applied.

#### **2. BACKGROUND AND CONTENT OF EXEMPTION**

- 2.1 Currently section 74(1)(a) and (2)(c) of the CISCA requires the manager and auditor of a CIS to ensure that annual financial statements are prepared in conformity with 'generally accepted accounting practice'. The term 'generally accepted accounting practice' (gaap) in CISCA is the accounting standard that was used before the introduction of the International Financial Reporting Standards (IFRS) in South Africa as the accepted accounting standard.

- 2.2 Whilst the Cisca currently determines that annual financial statements are prepared in conformity with gaap, the reality is that gaap ceased to apply on 1 December 2012 in South Africa. Technically, no regulatory requirements exist with regards to an accounting standard for CIS and its portfolios. It is, however, critical that regulation ensures that there is a proper and transparent basis for accounting and financial reporting of CIS's. Proper financial governance of investment institutions is central to the protection of investors.
- 2.3 IFRS together with the International Auditing Standards (IAS), in its full application or with reduced application, has been adopted as the accounting and auditing standard for CIS by major jurisdictions excluding the USA, Japan and China. It is accordingly appropriate from an international perspective to apply IFRS as the appropriate standard, albeit not in its entirety.
- 2.4 As can be understood, the CIS industry has been in a state of regulatory uncertainty since the introduction of IFRS, specifically in the context of the requirements of section 74 of Cisca. Accordingly, it has become a matter of urgency to facilitate the implementation of appropriate accounting standard in respect of a CIS. This is exacerbated by the fact that the International Monetary Fund and World Bank had reported the lack of a specified accounting standard as a negative aspect of South African CIS regulation.
- 2.5 However, in order to change the accounting standards to be adopted by CIS managers and auditors as required in terms of section 74 of Cisca, an amendment to the Cisca will have to be given effect to. Seeing that Cisca is a primary Act, this amendment must be given effect to through Parliament. As such, the FSCA is intending on submitting a proposal to National Treasury relating to a proposed amendment to section 74 of Cisca.
- 2.6 Up until such time as section 74 of Cisca is amended to incorporate the appropriate accounting standard, the FSCA is proposing an interim solution through the publication of a general exemption of managers and auditors

from the requirement under section 74(1)(a) and (2)(c) of the CISCA to apply gaap, to the extent that they apply IFRS and the IAS.

- 2.7 However, it is acknowledged that due to the complex requirements of IFRS and IAS it is not always practical to apply same to the portfolios of a CIS. This is so as IFRS and IAS is too comprehensive, costly and only limited application is necessary to CIS portfolios' financial reporting. Also, the extent of the disclosure requirements of IFRS and IAS is excessive and would only serve to confuse investors. Further, the companies-based approach for auditing CIS portfolios is also no longer sufficient or appropriate.
- 2.8 Accordingly, the draft general exemption proposes a "fit for purpose" set of accounting standards for CIS portfolios that is appropriate for South African CIS's. This is also the growing trend internationally. The then Registrar of CIS initially considered an "IFRS minus" approach along the United Kingdom model to be appropriate and proposed similar approach for a South African standard to be developed. However, the Association for Savings and Investment South Africa (ASISA) was of the view that an approach should be applied that fits South Africa's own purposes.
- 2.9 Accordingly, it is agreed that a specified "fit for purpose" accounting standard is to be confirmed that is based on IFRS and IAS, but excludes or amends those requirements that are not applicable or impractical. The draft exemption gives effect to this approach.
- 2.10 The draft general exemption makes a distinction between the accounting standards applicable to managers and auditors in respect of the CIS itself (which entails full IFRS and IAS application), and the accounting standards applicable to managers and auditors in respect of the individual portfolios within the CIS (which entails a limited or "fit for purpose" IFRS and IAS application).
- 2.11 The Authority believes that the exemption is in public interest and that it will not prejudice the achievement of the objects of CISCA.

### **3. INVITATION TO COMMENT ON DRAFT EXEMPTION NOTICE**

- 3.1 The exemption, to be issued in terms of section 22 of Cisca read with section 281(3) of the Financial Sector Regulation Act, 2017 (Act No. 9 of 2017), and is published together with this communication for public comment until 29 November 2019.
- 3.2 Interested parties are invited to submit comments on the draft Exemption Notice in writing on or before **29 November 2019** to **Marius.DeJongh@fsca.co.za**.

### **4. CONTACT**

For further information regarding this Communication please contact the Regulatory Framework Department of the FSCA by emailing Marius De Jongh at [Marius.DeJongh@fsca.co.za](mailto:Marius.DeJongh@fsca.co.za).