



## **FSCA COMMUNICATION 51 OF 2020 (RF)**

### **Publication of Draft Conduct Standard [-] of 2020 – Conduct Standard prescribing conditions for investments in Hedge Funds**

#### **1. PURPOSE**

The purpose of this Communication is to inform stakeholders that the Financial Sector Conduct Authority (“FSCA”) today published a draft of the Conduct Standard prescribing the conditions for investments in hedge funds, to be made in terms of section 36 of the Pension Funds Act, 1956 (Act No. 24 of 1956) (“the Regulations”) and section 106(1) of the Financial Sector Regulation Act, 2017 (Act No. 9 of 2017) on the FSCA’s official website for public comment.

#### **2. BACKGROUND**

2.1 The main objective of the draft Conduct Standard is to prescribe the conditions that a fund needs to comply with in order to invest in hedge funds. This includes:

- A fund may only invest in a hedge fund if such hedge fund is administered by a registered manager authorised to administer a hedge fund as referred to in paragraph 2(2) of Board Notice 52 of 2015;
- a fund must ensure that when it invests in a hedge fund, the hedge fund manager contractually undertakes to disclose to the fund if the fund’s exposure to embedded derivatives in the hedge fund exceeds one hundred percent of such derivatives; and
- where the board of a fund lacks the expertise to make investment choices, such board must, before it invests in a hedge fund, obtain expert advice as required in terms of section 7D(1)(e) of the Pension Funds Act, 1956 to enable it to make the most suitable investment decisions for its fund in relation to investing in a hedge fund.

2.2 Reasons informing the necessity to develop this Conduct Standard are set out in the Statement of need, expected impact and intended operation of the Conduct Standard published alongside the draft Conduct Standard attached hereto as Annexure B.

#### **3. PUBLIC CONSULTATION**

3.1 The following documents are published on the FSCA’s website to inform the objective of the above regulatory development:

- (a) Notice regarding the publication of draft Conduct Standard [-] of 2020 (RF) – Conduct Standard on Conditions for investments in Hedge Funds (Annexure A);
- (b) A Statement of need, expected impact and intended operation of the Conduct Standard (Annexure B);
- (c) Comments template for public comment on the draft Conduct Standard on conditions for investments in Hedge Funds (Annexure C);

3.2 The draft Conduct Standard, together with the above listed supporting documentation is available on the FSCA's website (<https://www.fsc.co.za>) under *Regulatory Frameworks > Documents for Consultation > Retirement Funds*.

3.3 Interested parties are invited to, in writing, submit comments on the draft Conduct Standard, Statement of need, expected impact and intended operation of the Conduct Standard using the comments template attached as Annexure C as available on the FSCA website, on or before **27 November 2020** to [FSCA.RFDStandards@fsc.co.za](mailto:FSCA.RFDStandards@fsc.co.za).

#### **4. ENQUIRIES**

For more information regarding this Communication contact the Regulatory Framework Department of the FSCA at [Roslynne.vanwyk@fsc.co.za](mailto:Roslynne.vanwyk@fsc.co.za).



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