
**ENFORCEABLE UNDERTAKING IN TERMS OF SECTION 151(1) OF THE FINANCIAL
SECTOR REGULATION ACT 9 OF 2017: NIRVESH FINANCIAL SERVICES (PTY) LTD,
MS. MADHUBALA LILA PATEL, AND MR BHAVESH PATEL**

INTRODUCTION

1. This is an enforceable undertaking in terms of section 151 of the Financial Sector Regulation Act, 9 of 2017 (“the FSR Act”). In terms of section 151 a person may give a written undertaking to the Financial Sector Conduct Authority (“the FSCA”) concerning that person’s future conduct in relation to a matter regulated by a financial sector law, and that undertaking, upon its acceptance by the FSCA, becomes enforceable by the FSCA.

THE PARTIES TO THE ENFORCEABLE UNDERTAKING

2. The FSCA is a statutory body established in terms of section 56 of the FSR Act and is the market conduct regulator of financial institutions, including financial services providers. The FSCA is empowered by the FSR Act to supervise and enforce compliance with financial sector laws.

3. The enforceable undertaking is made to the FSCA by the following parties:

- 3.1. **Nirvesh Financial Services (Pty) Ltd** (“Nirvesh Financial Services”), a company with registration number 2014/214417/07 and an authorised financial services provider (“FSP”) with FSP licence number: 4701.

Nirvesh Financial Services is authorised as a Category 1 FSP to render advisory and intermediary services in respect of, amongst other products, derivative instruments.

- 3.2. **Ms. Madhubala Lila Patel** (“Mrs Patel”), a director and key individual of Nirvesh Financial Services. Mrs Patel, in her capacity as a key individual, is responsible for managing and overseeing the activities of Nirvesh Financial Services in respect of *inter alia* internal and external compliance functions, together with her co-key individual.
- 3.3. **Mr. Bhavesh Patel** (“Mr Patel”), a director and key individual of Nirvesh Financial Services. Mr Patel, in his capacity as a key individual, is responsible for managing and

Executive Committee:

Commissioner: U. Kamlana | **Deputy Commissioners:** A. Ludin | K. Gibson | F. Badat

overseeing the activities of Nirvesh Financial Services in respect of *inter alia* internal and external compliance functions, together with his co-key individual.

4. For ease of reference the parties referred to above will be referred to in this document as “*the responsible parties*” and Mr Patel and Mrs Patel will be referred to as “*the current key individuals*”.

BACKGROUND FACTS TO THE ENFORCEABLE UNDERTAKING

5. Veracity Markets (Pty) Ltd (“Veracity Markets”) was appointed as a juristic representative of Nirvesh Financial Services on 29 May 2020 and remained a juristic representative of Nirvesh Financial Services on 30 April 2022. The directors of Veracity Markets were also appointed as representatives of Nirvesh Financial Services from 29 May 2020 to 30 April 2022.
6. During this time, Nirvesh Financial Services, through Mr Patel, as the key individual of Veracity Markets, was responsible for the actions of Veracity Markets, specifically for Veracity Markets’ compliance with applicable financial sector laws.
7. Pursuant to its investigation into Nirvesh Financial Services and Veracity Markets’ business activities, the FSCA found that, whilst Veracity Markets was a juristic representative of Nirvesh Financial Services, and the directors of Veracity Markets were representatives of Nirvesh Financial Services, Veracity Markets contravened several financial sector laws in a material manner, as set out more fully in the investigation report of the FSCA.
8. In summary, the FSCA found that Veracity Markets offered, as principal, Over-the-Counter (“OTC”) derivative instruments, more specifically Contracts for Difference (“CFDs”) to clients on its trading platform. In terms of Regulation 2(1)(a) and (b) of the Financial Markets Regulations issued under the Financial Markets Act No. 19 of 2012 (“Financial Markets Act”), a person may not act as an OTC derivative provider or advertise or hold itself out as such, unless authorised by the FSCA in terms of section 6(8) of the Financial Markets Act. Neither Nirvesh Financial Services nor Veracity Markets was or is authorised to act as an OTC derivative provider.

9. In addition, the FSCA found that Veracity Markets traded in its own name notwithstanding that it was a juristic representative of Nirvesh Financial Services, and published false, misleading, and deceptive statements about its business.
10. In terms of section 13(2)(a) and (b) of the FAIS Act, Nirvesh Financial Services (as an FSP), was at all times required to ensure and be satisfied that its representatives (Veracity Markets and its directors), when rendering financial services, were competent to act and complied with the fit and proper requirements and to take such steps as may have been reasonable in the circumstances to ensure that the representatives complied with any applicable code of conduct as well as with other applicable laws on conduct of business.
11. In addition, in terms of section 12(c) of the General Code of Conduct applicable to FSPs, Nirvesh Financial Services had a duty to structure the internal control procedures concerned so as to provide reasonable assurance that all applicable laws were complied with.
12. The FSCA found that Nirvesh Financial Services failed to exercise proper oversight over its representatives, i.e. Veracity Markets and its directors (Du Plessis and Mesane), and as such contributed to the above-mentioned contraventions by Veracity Markets and its directors. Therefore, Nirvesh Financial Services has been found to have contravened section 13(2)(a) and (b) of the FAIS Act and section 12(c) of the General Code.
13. By extension, and in their capacity as key individuals of Nirvesh Financial Services, the current key individuals have also been found to have contravened section 13(2)(a) and (b) of the FAIS Act and section 12(c) of the General Code as set out above.

INVESTIGATION AND INTENDED SANCTIONS

14. On 20 October 2020, the FSCA commenced an investigation in respect of Veracity Markets and Nirvesh Financial Services in terms of section 135(1) of the Financial Sector Regulation Act No. 9 of 2017 (FSR Act). The investigation has been completed and, based on the findings, the FSCA communicated its intention to impose certain sanctions on Nirvesh Financial Services.
15. After extensive discussions with the FSCA, the responsible parties have decided to make the enforceable undertakings to the FSCA as set out below.

ENFORCEABLE UNDERTAKING

16. The responsible parties will:

- 16.1. Have systems and compliance audit conducted by an independent expert on all aspects of the business of Nirvesh Financial Services, within six months of signature of this undertaking, and provide the FSCA with the report of the expert as soon as possible thereafter.
- 16.2. Within six months of signature of this undertaking, appoint an additional key individual (over and above the current key individuals) to Nirvesh Financial Services who has the appropriate qualifications, skills and experience and who will have the same area of responsibility as the current key individuals. The appointment will be subject to approval of the FSCA and will remain in place for three years from date of appointment of the key individual.
- 16.3. Ensure that Nirvesh Financial Services will not have any juristic representatives registered under its FSP licence.
- 16.4. Within six months of signature of this undertaking, appoint an external compliance officer to assist Nirvesh Financial Services. This appointment will remain in place for three years from date of appointment of the compliance officer.

17. The current key individuals will:

- 17.1. Not apply to be a key individual of any other FSP for a period of three years from date of signature of this enforceable undertaking.
- 17.2. Not apply for an extension of the FSP licence of Nirvesh Financial Services in any manner for a period of three years from date of signature of this enforceable undertaking.

ACKNOWLEDGEMENT BY THE RESPONSIBLE PARTIES

18. The responsible parties confirm that they are familiar with all the provisions of section 151 of the FSR Act (“section 151”).

19. Without limiting the generality of the above confirmation, the responsible parties specifically confirm that they are familiar with the provisions of section 151 that deal with the consequences of a breach of the enforceable undertaking and that they have been informed that the enforceable undertaking will be made public in a manner that is in the complete discretion of the FSCA.

DATED AT Midrand ON THIS 29th DAY OF February 2024.



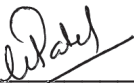
Mrs Madhubala Lila Patel (Key Individual and director of Nirvesh Financial Services), on behalf of Nirvesh Financial Services.

DATED AT Midrand on this 29th day of February 2024.



Mr Bhavesh Patel Key individual and director of Nirvesh Financial Services, on behalf of Nirvesh Financial Services

DATED AT Midrand on this 29th day of February 2024.



Mrs Madhubala Lila Patel - In her personal capacity

DATED AT Midrand on this 29th day of February 2024.



Mr Bhavesh Patel - In his personal capacity

The aforesaid Enforceable Undertaking is accepted by the Financial Conduct Authority in terms of section 151(1) of the Financial Sector Regulation Act, 2017

DATED AT PRETORIA on this 29th day of February 2024.



Gerhard van Deventer
Divisional Executive: Enforcement