



**ADDENDUM TO THE
MEMORANDUM OF UNDERSTANDING**

entered into between

**The Prudential Authority
(PA)**

And

**The Financial Sector Conduct Authority
(FSCA)**

(together hereinafter referred to as "the Parties")

A handwritten signature in black ink, consisting of a series of loops and curves, located in the bottom right corner of the page.

1. Basis of the Addendum

WHEREAS the Parties have entered into a Memorandum of Understanding (MoU) in terms of sections 76 and 77 of the Financial Sector Regulation Act, 2017 (Act No. 9 of 2017) to give effect to co-operation and collaboration between the Parties in performing their functions;

WHEREAS the Parties wish to make amendments to the MoU;

NOW THEREFORE the Parties enter into this Addendum, which Addendum shall together with the MoU and Annexures thereto; as amended herein, constitute the whole MoU between the Parties.

2. Amendments to the MoU

The Parties agree to amend the MoU as follows:

2.1. Ad Paragraph 10 : Delegation of Powers

Paragraph 10 is amended by the substitution of the following paragraph:

"10. Delegation of powers

- 10.1 Sections 48(4) and 71(5) of the FSR Act provide that either Party may delegate any power or duty to the other Party in terms of a section 77 MoU.
- 10.2 The FSCA hereby delegates the following powers to the PA:
 - 10.2.1 Collection of the PA's levies in accordance with sections 237(1)(b) and 246(2) of the FSR Act;
 - 10.2.2 The supervision of, and regulation of compliance by, insurers with the Financial Intelligence Centre Act, 2001 (Act No. 38 of 2001) (FIC Act) as set out in Part 4 of Annexure 8; and
 - 10.2.3 Matters relating to supervision and regulation of market infrastructure as set out in part 2 of Annexure 8.
- 10.3 The PA hereby delegates the following powers to the FSCA:
 - 10.3.1 supervision and regulation of insurance as set out in Part 3 of Annexure 8; and
 - 10.3.2 the appointment of investigators and the investigation of contraventions of section 11 of the Banks Act to the extent as set out in Part 4 of Annexure 8.
- 10.4 The delegated powers in paragraph 10.2 and 10.3 will be exercised in accordance with a framework and system of delegation set out in Part 1





Prudential Authority



Financial Sector
Conduct Authority

of Annexure 8 to ensure that such delegations do not constrain the relevant Party from achieving its objectives.

3. Amendments to Annexure 8 of the MoU

The Parties agree to amend Annexure 8 as follows:

3.1 Ad Paragraph 1: Scope and Purpose

- (a) The substitution of paragraph 1.3 with the following

“1.3 This annexure consists of four parts –“;

- (b) The insertion after subparagraph 1.3.3 of the following subparagraph:

“1.3.4 Part 4 – Deposits“;

3.2 Ad Paragraph 5: Delegation of powers and duties relating to the regulation and supervision of insurance matters

- (a) The substitution of paragraphs 5.1 and 5.1.1 with the following paragraphs:

“5.1 The PA agrees to delegate the supervision, regulation and enforcement of compliance in relation to the following insurance matters to the FSCA:

5.1.1 Section 5(1) and 67(1) of the IA to the extent that those sections relate to insurance activities or business conducted by persons that do not hold any authorisation under the IA to conduct insurance business, other than reinsurance activities or business;”;

- (b) the insertion after paragraph 5 of the following paragraph:

“Part 4 –Deposits

6. Delegation of powers relating to section 11 of the Banks Act

6.1 The PA agrees to delegate to the FSCA the power to –

- 6.1.1 appoint investigators in terms of section 134 of the FSR Act; and
 - 6.1.2 investigate in terms of section 135 of the FSR Act a contravention of section 11 of the Banks Act to the extent that the FSCA reasonably suspects that the activity resulting in the contravention appears to be, constitutes or simulates, a ponzi scheme or an activity designated in GN No.498 published in the Government Gazette No.17895 on 27 March 1997.
- 6.2 The delegation referred to in paragraph 6.1 –
- 6.2.1 is subject to the condition that the FSCA must obtain the approval of the PA prior to exercising any of the powers referred to in paragraph 6.1; and
 - 6.2.2 does not divest the PA of any of its powers referred to in that paragraph.”; and
- (c) the amendment of paragraph 6 by the substitution of the reference to the number 6 with the number 7.

4. Whole Agreement

All Paragraphs, together with Annexures, other than those referred to in this Addendum shall remain unchanged and in full force and effect as amended herein.

Signed and agreed to at PRETORIA on this 5th day of MAY 2020.



Chief Executive Officer: Mr Kuben Naidoo
For and on behalf of the Prudential Authority





Prudential Authority



Signed and agreed to at PRETORIA on this 21st day of May 2020.

Commissioner: Mr Abel Sithole
For and on behalf of the Financial Sector Conduct Authority