

APPLICATION INDEX 2 TO BE COMPLETED BY ALL OVER-THE-COUNTER DERIVATIVE PROVIDERS (ODP) APPLICANTS (NON-BANKS)

Document/ information	Schedule reference	Person responsible	Yes/ No
1. Operational capital requirements			
i. Operating capital calculation <ul style="list-style-type: none"> - 3 year plan, indicating the available capital, expected expenses and income, expected profits or losses, expected cash equivalents and securities that serve as liquid assets for each year; - Annual quantification of potential business losses for an orderly wind-up; - How the applicant defines operational, legal, investment, general business and custody risk and quantification of each risk; - Stress test and scenario analysis framework or stress testing methodology 			
ii. Supporting annual financial statements (with regards to the above)			
iii. Working capital projections (3 years in detail, 5 years less detailed)			
iv. Projection of cash flow			
v. Break even analysis (profit and cash flow)			
vi. Source of funding (if applicable)			
vii. Proof of irrevocable line of credit line (if applicable)			
viii. Capital raising plan, with all necessary approvals ,if applicable			
ix. Any assumptions made in the preparations of budgets, financial statements, calculations, etc.			
x. Details regarding segregation and safe guarding of assets			
xi. Policies and controls regarding the above			
Confirmation of bank details			
xii. Bank statements (6 months)			

2. Fit and proper			
i. Confirmation and acceptance of appointment of an auditor and attorney			
ii. Procedures for election or appointment of members of the controlling body, their terms of office and when membership may be terminated			
iii. Powers and responsibilities of the controlling body members and senior managers			
iv. Procedures for the calling of meetings of people who hold ownership interest in the ODP			
v. Voting powers of people who hold ownership interest in the ODP			
vi. Procedures for the dissolution of the ODP			
vii. Controlling body and senior manager Police clearance			
viii. Official representation from the controlling body members			
ix. Confirmation of good standing in terms of section 4.2 of the Criteria for Authorisation of ODP			
x. Details of any offence to any regulatory body, if applicable			
xi. Application forms (provided) replaces Annexure Annexure 1 FORM FM 6 , B and C attached in the “ CRITERIA FOR AUTHORISATION OF OTC DERIVATIVES PROVIDERS UNDER CONDUCT STANDARD 1 of 2018 ”			
xii. Completed application FORM 1 to be completed by members of the controlling body or senior managers of an ODP			
xiii. Completed application FORM 2 to be completed in respect of the provider			
3. Adequacy of human resources			
i. Schematic structure of the ODP			
ii. Management structure showing individuals responsible for major areas			
iii. Number of personnel employed in each functional area			
iv. Projection of staff requirement for the ODP’s operations (if applicable)			
v. Clear indication of full-time employees allocated to the ODP			

4. Competency			
i. Full Curriculum Vitae of controlling body members and senior managers			
ii. Certified copies of qualifications of controlling body and senior managers			
iii. Certified copies of ID of controlling body and senior managers			
5. Operational ability			
i. Proof of physical address			
ii. Proof of appropriate communication facilities			
iii. Confirmation of off-site and in-house storage facilities, if applicable. Provide contractual agreement with provider			
iv. Copy of company registration documents			
v. Corporate governance policies and principles			
6. Risk management and internal control			
i. Approved risk management policies, frameworks and governance structures			
ii. Enterprise risk policies and processes			
iii. Portfolio risk policies processes			
iv. Risk management processes of the ODP and escalation procedures			
v. Details and full description of risk management systems (IT systems)			
vi. Approved IT Framework, policies and governance structures			
vii. Approved IT Risk Framework, policies and governance structures			
viii. Composition of audit and risk committee and terms of reference			
ix. Approved netting policy			
x. Approved liquidity policy			
xi. Details of risk reports and frequency that these are issued			
xii. Internal audit oversight schedule and sample reports, if applicable			
xiii. Error report			
xiv. Proof of daily error resolution			
xv. Fraud prevention policies and frequency of review			
xvi. ISAE 3402 report, if applicable			
xvii. Full narrative of operations			
xviii. Full narrative of qualitative and quantitative risk processes			

xix.	Details of applicable public disclosures			
xx.	Details of application of Three lines of defense or explanation of segregation of duties/roles and responsibilities between business, risk and audit			
xxi.	Details of continuous risk training programmes in place			
xxii.	List of all third party services (outsourcing and pure 3 rd party), with emphasis on material arrangements			
7. Compliance Function				
i.	Compliance policy for the ODP			
ii.	Compliance monitoring process			
iii.	Compliance function reporting lines			
8. Business continuity				
i.	Business continuity plan (including disaster recovery / operational resilience)			
ii.	Approved internal audit plan			
9. Record keeping and data retention				
i.	Data retention and storage and governance policies			
10. Additional Information				
i.	Valuation policy (including valuation methodology and process for approval)			
ii.	Processes for resolving pricing differences			
iii.	Details of expertise of personnel performing valuation			
iv.	Details of the services to be provided by the provider			
i.	Details of the licensed independent clearing house or associated clearing house appointed by the provider, where applicable			
ii.	Details pertaining to the settlement, custody and administration arrangements to be put in place by the provider.			
iii.	Details of additional and/or unregulated business to be provided by the provider			
iv.	Details pertaining to whether the provider provides any services in respect of over-the-counter derivative in a foreign jurisdiction			
v.	Details pertaining to the trading method or facility through which the provider will trade its securities			

vi.	The range of counterparties and clients, both local and foreign, expected to transact with the provider			
vii.	The extent and manner of the arrangements in place for the facilitation of portfolio compression, if applicable			
11. Reporting obligations				
i.	List of asset classes to be reported by the ODP			
ii.	Proof of ability to generate the report in Annexure A of “FMA CONDUCT STANDARD 3 OF 2018 - CONDUCT STANDARD FOR REPORTING OBLIGATIONS IN RESPECT OF TRANSACTIONS IN OVER-THE-COUNTER DERIVATIVES”			
iii.	Reasons for inability to generate the report, if applicable			
iv.	Confirmation of daily reporting by the ODP			
v.	Details of the licensed Trade Repository that will be used for the reporting of transactions, if applicable			

APPLICATION FORM FOR AUTHORISATION OF OTC DERIVATIVES PROVIDERS

**THE APPLICATION FORM INCORPORATES ANNEXURE 1 TO FORM FM 6, B and C ATTACHED IN “CONDUCT STANDARD 1 OF 2018 -
CRITERIA FOR AUTHORISATION OF OTC DERIVATIVES PROVIDERS”**

(ANNEXURES B and C –Do not need to be completed)

FORM 1

Application form to be completed in respect of a member of the controlling body or senior manager of a provider

1. Personal details of the member of the controlling body or senior manager (To be completed by all members of the controlling body or senior managers)	
1.1. Surname and title:	
1.2. Full first name(s):	
1.3. Any previous surname(s) or first name(s):	
1.4. Indicate the proposed position to be held, e.g. member of controlling body or managing member of controlling body:	
1.5. Effective date of appointment:	
1.6. Residential address:	
1.7. Previous residential address(es) during the previous 5 years:	
1.8. Postal address:	

1.9. Telephone (h) number:	
1.10. Telephone (c) number:	
1.11. Telephone (w) number:	
1.12. Email address (personal):	
1.13. Email address (work):	
2. Nationality	
2.1. Date of birth:	
2.2. Place of birth:	
2.3. Identity document number:	
2.4. Passport number:	
2.5. Expiry date:	
2.6. Country of issue:	
2.7. Nationality and indicate how it was acquired (e.g. birth, naturalisation or marriage):	

3. Qualification Details			
	(1)	(2)	(3)
3.1. Qualification details:			
3.2. Institution name:			
3.3. Date obtained:			
4. General details in respect of an individual			
4.1. State in what capacity you are completing this document, i.e. as a current or prospective member of the controlling body (executive or non-executive) or senior manager. State full job title and describe the particular duties and responsibilities.			
4.2. Record of investments and significant shareholding history (including indirect holdings) over at least the last five years (including those holdings which provided you a significant influence over the operations and affairs of the entity). This also includes investment records of any immediate family, spouse, children, and parents.			
5. Specific test to assess fitness and probity (if the answer to a question is 'yes' please provide details with proper referencing)	Yes	No	
5.1. Have you ever been within a period of five years preceding the date of application been found guilty in any civil or criminal proceedings by a court of law (whether in the Republic of South Africa or elsewhere) of having acted fraudulently, dishonestly, unprofessionally, dishonourably or in breach of a fiduciary duty?			

5.2. Have you, within a period of five years preceding the date of application been found guilty by any professional or financial services industry body (whether in the Republic of South Africa or elsewhere), of an act of dishonesty, negligence, incompetence or mismanagement?		
5.3. Have you within a period of five years preceding the date of application been denied membership of any body referred to in question 5.2 above on account of an act of dishonesty, negligence, incompetence or mismanagement?		
5.4. Have you within a period of five years preceding the date of application been found guilty by any regulatory or supervisory body (whether in the Republic of South Africa or elsewhere) on account of an act of dishonesty, negligence, incompetence or mismanagement?		
5.5. Have you within a period of five years preceding the date of application had your authorisation to carry on business refused, suspended or withdrawn by any such body on account of an act of dishonesty, negligence, incompetence or mismanagement?		
5.6. Have you within a period of five years preceding the date of application, had any licence granted by any regulatory or supervisory body referred to questions 5.4 and 5.5 above, suspended or withdrawn by such body on account of an act of dishonesty, negligence, incompetence or mismanagement?		

<p>5.7. Have you at any time prior to the date of application been disqualified or prohibited by any court of law (whether in the Republic of South Africa or elsewhere) from taking part in the management of any company or other statutorily created, recognised or regulated body, irrespective whether such disqualification has since been lifted or not?</p>		
<p>5.8. Have you ever been or are you currently an unrehabilitated insolvent or subject to debt review as contemplated by the National Credit Act, 2005 (Act No. 34 of 2005)?</p>		
<p>5.9. Have you ever made any arrangements or composition with your creditors, had your assets sequestered, or been involved in proceedings relating to these?</p>		
<p>5.10. Have you ever been or are you currently subject to any judgment debt or award that remains outstanding or has not been satisfied within a reasonable period?</p>		
<p>5.11. Have you ever been a senior officer or member of a controlling body of a company or a shareholder of a company or been in a position to exercise influence in the company that:</p>		
<p>a. Has been the subject of any adverse judgment or award, in the Republic of South Africa or elsewhere, which remains outstanding or was not satisfied within a reasonable period?</p>		
<p>b. Has, in the Republic of South Africa or elsewhere, made any arrangements or composition with its creditors, filed for business rescue, had assets repossessed or liquidated, or been involved in proceedings relating to any of the foregoing?</p>		

6. Supporting Documents to be attached	Yes	No
6.1. Signed Declaration provided under “CONDUCT STANDARD 1 OF 2018: CRITERIA FOR AUTHORISATION OF OTC DERIVATIVES PROVIDERS”		
6.2. Identity Document (attach a certified copy).		
6.3. Passport Document (attach a certified copy).		
6.4. Completed Personal Credential Verification Forms for purposes of the background screening of each member of the controlling body or senior manager. The forms are obtainable on application.		
6.5. Full Curriculum Vitae.		
6.6. Academic certificates (attach certified copies).		

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(ANNEXURES B and C –Do not need to be completed)

FORM 2

Application form to be completed in respect of the provider

1. Details of the entity and operational ability	
1.1. Entity name:	
1.2. Registration number:	
1.3. Any other name under which the business is conducted and where is it used:	
1.4. Registered address:	
1.5. Postal address:	
1.6. Website address:	
1.7. Email address:	
1.8. Telephone (w) number:	

1.9. Facsimile (f) number:	
1.10. Tax number:	
2. Provider's bank details	
2.1. Name of the bank:	
2.2. Physical address:	
2.3. Postal address:	
2.4. Telephone (w) phone:	
2.5. Email address (w):	
3. Provider's auditors details	
3.1. Company name:	
3.2. Physical address:	
3.3. Postal address:	
3.4. Telephone (w) phone:	
3.5. Email address (w):	
4. Provider's attorney details	
4.1. Company name:	
4.2. Physical address:	
4.3. Postal address:	

4.4. Telephone (w) phone:		
5. Specific test to determine the financial soundness of the provider (If any answer to any of these questions is 'yes' please provide details with proper referencing)	Yes	No
5.1. Has the provider been subject to any judgment debt or award that remains outstanding or has not been satisfied within a reasonable period?		
5.2. Has the provider ever been or currently is under liquidation or provisional liquidation, or subject to business rescue proceedings as contemplated in the Companies Act or has the provider ever made or has made arrangements with creditors, or filed for winding-up?		
6. Supporting Documents to be attached	Yes	No
6.1. Signed Form FM 6 provided under “CONDUCT STANDARD 1 OF 2018: CRITERIA FOR AUTHORISATION OF OTC DERIVATIVES PROVIDERS”		
6.2. Confirmation that the provider has adequate access to communication facilities including at least a full-time telephone or cell phone service, and administrative facilities, including electronic, typing and document duplication facilities.		
6.3. Confirmation that the provider has adequate storage and filing systems for the safe-keeping of records, business communications and correspondence.		
6.4. Confirmation that the assets of the provider (excluding goodwill and other intangible assets) must exceed the provider's liabilities (excluding loans validly subordinated in favour of all other creditors).		

6.5. Confirm that the provider maintains current assets which are at least sufficient to meet its current liabilities.		
6.6. Tax clearance certificate.		
6.7. Companies and Intellectual Property Commission (CIPC) certificate		
6.8. Copies of the licenses the applicant already possesses, e.g, banking license, FAIS license.		
6.9. Business plan including SWOT analysis		
6.10. Organogram of the applicant, if the applicant is applying under a group structure, it must also provide a group organogram and indicate where it fits within the group.		