

FSCA COMMUNICATION 3 OF 2025 (FM)

Publication of draft Conduct Standard – Requirements pertaining to the reporting and public disclosure of short sales

1. Purpose

The purpose of this Communication is to inform stakeholders that today the Financial Sector Conduct Authority (FSCA) published the following documents for public consultation:

- Conduct Standard [–] of 2025 (FM) – Requirements pertaining to the reporting and public disclosure of short sales; and
- Statement of Need and Impact of the Conduct Standard – Requirements pertaining to the reporting and public disclosure of short sales; and
- Comments template for the Conduct Standard – Requirements pertaining to the reporting and public disclosure of short sales.

2. Background and context

- 2.1 Currently, the regulatory framework in South Africa does not prescribe requirements for the reporting and disclosure of short sales. The FSCA intends to close the regulatory gap created by the lack of a regulatory framework by developing a legal framework, the draft Conduct Standard, prescribing reporting and disclosure requirements for short sales (draft Conduct Standard), that is consistent with international best practices. The framework would also ensure alignment of the South African regulatory framework with international standards.
- 2.2 The publication of the draft Conduct Standard was preceded by two publications, a “Discussion paper on the implementation of a short sale reporting and disclosure framework” (Discussion Paper) that was published in November 2018, and the first draft of the Conduct Standard that was published for public consultation in March 2023 (first draft Conduct Standard).
- 2.3 Substantial commentaries were submitted on the first draft Conduct Standard and industry commentators raised various very fundamental concerns. Subsequent to the publication of the first draft Conduct Standard, the FSCA engaged targeted stakeholders to further unpack the concerns raised and to deliberate with these stakeholders to come up with a workable solution.
- 2.4 As a result of these engagements, the FSCA decided to adopt a fundamentally different approach and reformulated the draft Conduct Standard. Because of the significant changes that were made, the next version of the draft Conduct Standard is being published for a second round of public consultation.
- 2.5 The Statement of Need and Expected Impact that is published alongside the draft Conduct Standard explains, in detail, why the conduct standard is being proposed and what its expected impact is.
- 2.6 The FSCA remains of the view that a legal framework governing the reporting and public disclosure of short sales will support the transparency of the short sales market,

and will have distinct benefits for the market and its users. Greater disclosure will help deter market abuse and reduce the risk of disorderly markets posed by short sales. Such a framework will also provide early warning signs of a build-up of large short positions, thereby alerting the FSCA to potential market abuse or emerging systemic risk that will enable the FSCA to effectively monitor the market and take appropriate action where necessary. Public access to information on short sales will also provide informational benefits to the market, improving insight into market dynamics, aiding transparency, and making available important information to assist price discovery.

3. Availability of Information and Enquiries

- 3.1 The documents referred to in paragraph 1 is available on the FSCA's website at www.fsca.co.za.
- 3.2 For more information regarding the Conduct Standards and/or this Communication please contact the Regulatory Framework Department of the FSCA at tshifhiwa.mavhuthugu@fsca.co.za.

A handwritten signature in black ink, appearing to read 'Unathi Kamlana', is written over a large, stylized checkmark.

**UNATHI KAMLANA
COMMISSIONER
FINANCIAL SECTOR CONDUCT AUTHORITY**

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