



## FSCA COMMUNICATION 24 OF 2023 (FM / CRA)

### PUBLICATION OF THE DRAFT EQUIVALENCE FRAMEWORK FOR FINANCIAL MARKETS AND DRAFT DETERMINATION OF REQUIREMENTS RELATING TO EXTERNAL CENTRAL COUNTERPARTY AND EXTERNAL TRADE REPOSITORY LICENCE APPLICATIONS – FOR PUBLIC CONSULTATION

#### 1 PURPOSE

- 1.1 The purpose of this Communication is to inform stakeholders that the Financial Sector Conduct Authority (FSCA) published a draft Equivalence Framework for Financial Markets (Equivalence Framework) and a draft Determination of requirements relating to external central counterparty or external trade repository licence applications (Determination) for public consultation today.
- 1.2 The draft Equivalence Framework sets out the approach that the FSCA will take to determine that the regulatory framework of a foreign jurisdiction is equivalent to the regulatory framework established in terms of the Financial Markets Act, 2012 (Act No. 19 of 2012) (FMA) and the Credit Rating Services Act, 2012 (Act No. 24 of 2012) (CRSA).
- 1.3 The Equivalence Framework is accompanied by the following annexures, which outline the requisite information to be submitted to the FSCA in support of an application for equivalence:
  - Annexure A: Equivalence assessment for external trade repositories and external central counterparties and central securities depository links
  - Annexure B: Equivalence assessment for external credit rating agencies
  - Annexure C: Equivalence assessment for external over-the-counter derivatives providers.
- 1.4 The draft Determination sets out the form and manner in which an application for an external central counterparty licence or external trade repository licence must be made to the FSCA.
- 1.5 Furthermore, the purpose of this Communication is to invite comments on the draft Equivalence Framework and draft Determination. Stakeholders and other interested parties are invited to submit their comments **by 20 November 2023**. Comments should be addressed to “*Talita Mshweshwe*” by using the attached comments template and submitting it via email to: [FSCA.RFDStandards@fsc.co.za](mailto:FSCA.RFDStandards@fsc.co.za)

## 2 BACKGROUND

- 2.1 The FSCA is empowered to determine that the regulatory or supervisory regime for the financial markets of a foreign jurisdiction is equivalent to that of the South Africa's. The purpose of the draft Equivalence Framework is to set out the approach that the Authority will take to determine that the regulatory framework of a foreign jurisdiction is equivalent to the regulatory framework established in terms of the FMA and the CRSA.
- 2.2 On 5 December 2019, the FSCA published a package of documents for public consultation, which included a draft Equivalence Framework for external trade repositories, external central counterparties and external central securities depositories. The package also included a draft Determination of requirements relating to external central counterparty or external trade repository licence applications. The FSCA considered all comments received during the consultation period.
- 2.3 The FSCA subsequently implemented a number of revisions to the 2019 draft Equivalence Framework, to incorporate comments received and to expand the scope of the framework to include an equivalence assessment for external credit rating agencies (CRAs), as defined in the CRSA, and external Over-the-Counter Derivative Providers (ODPs) domiciled in a foreign jurisdiction that want to operate and conduct the business of an ODP in South Africa. Similarly, the Determination underwent revisions and refinements as a consequence of the consultation process.
- 2.4 In addition, on 2 February 2022 the FSCA and Prudential Authority (PA) jointly issued the *Joint Roadmap for the development of a regulatory framework for central clearing in South Africa*<sup>1</sup> (Joint Roadmap), in order to mandate central clearing in South Africa. The Joint Roadmap clarifies the process by which the FSCA and PA will mandate central clearing.
- 2.5 The Joint Roadmap specifies that the Authorities will develop an equivalence framework accompanied by a licensing framework for external trade repositories and external central counterparties (i.e. the Determination), as well as an exemption framework for entities that want to be exempted from the provisions of the FMA.
- 2.6 Therefore, once a jurisdiction has been assessed and determined as equivalent per the provisions of the Equivalence Framework, an entity from that equivalent jurisdiction will be able to apply for a licence under either section 49A or 56A of the FMA or for an exemption from a provision in the FMA under section 6(3).
- 2.7 Stakeholders are also hereby informed that the FSCA and PA will shortly release the draft *Joint Standard [-] of 2023: Criteria for the exemption of an external central counterparty or external trade repository from the provisions of the Financial Markets Act* (Joint Standard) for public consultation. The draft Joint Standard sets out the criteria that must be met by an applicant for an external central counterparty or external trade repository licence.
- 2.8 External CRAs and external ODPs do not form part of the workplan for mandating central clearing, however the equivalence assessment for external CRAs and external ODPs has

---

<sup>1</sup> Accessible at:  
<https://www.fsc.co.za/Regulatory%20Frameworks/Temp/Joint%20Roadmap%20for%20the%20development%20of%20a%20regulatory%20framework%20for%20Central%20Clearing%20in%20SA.pdf>

been included in the Equivalence Framework in order that stakeholders may refer to a single framework for equivalence recognition.

### **3 AVAILABILITY OF THE DRAFT EQUIVALENCE FRAMEWORK AND DRAFT DETERMINATION AND ENQUIRIES**

- 3.1 The draft Equivalence Framework and Determination are available on the FSCA's website (<https://www.fsca.co.za>) under *Regulatory Framework > Documents for Consultation > Capital Markets > 2023*.
- 3.2 For more information regarding this Communication, the draft Equivalence Framework and draft Determination, please contact the FSCA Regulatory Framework Department by emailing Talita Mshweshwe at [Talita.Mshweshwe@fsca.co.za](mailto:Talita.Mshweshwe@fsca.co.za).



**KATHERINE GIBSON  
DEPUTY COMMISSIONER  
FINANCIAL SECTOR CONDUCT AUTHORITY**

**Date of publication: 26 September 2023**