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KPMG in South Africa

Regulatory Updates for the week ended 26 November, 2021

FinWatch – A Weekly Newsletter

Find the latest edition of **FinWatch** which provides a gist of all regulatory developments impacting the financial services industry in South Africa.

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Regulatory Developments

Update on draft Conduct Standard of 2020 (RF)

The Financial Sector Conduct Authority (FSCA) has communicated that the proposed condition 2(a) from the draft conduct standard will be linked to the definition of 'hedge fund' as mentioned under the Collective Investment Schemes Act, 2002. (Act No.45 of 2002) (CISCA) and be administered by a registered manager in accordance with section 42 of CISCA. [Link](#)

Exemption of particular persons from competence and fee requirements, No. 50 of 2021

The Financial Sector Conduct Authority (FSCA) has exempted certain people under Section 44(4) of the Financial Advisory and Intermediary Services Act, 2002. The conditions for exemption apart from exemption relating to fees are –

The applicant must

- Promptly inform the Authority of any matter that may impact their ability to comply with the requirements set out in Column 3 of the Table in Annexure A on expiry of the exemption;
- Promptly advise the Authority of any change to the particulars furnished in and relating to their applications for exemption;
- For the duration of the exemption, render financial services under supervision as contemplated in the Services under Supervision Notice and comply with the requirements and conditions of that Notice. [Link](#)

IFWG - Articulating the policy rationale and policy imperatives for Open Finance in South Africa

The Intergovernmental Fintech Working Group (IFWG)'s paper presents an initial collection of views on policy rationale and policy imperatives for Open Finance in South Africa. This framework provides two methods of data sharing, namely, Application Programming Interface (API) and Screen Scraping. The paper discusses these at length. [Link](#)

Tribunal appeals to FAIS Ombud

The Financial Services Tribunal has criticized the FAIS Ombud for not holding an oral hearing during which material disputes of fact could be aired and considered, before making a revelation. It set aside the Ombud's determination against a financial service provider who advised his client to invest in Sharemax and ordered her to reconsider the complaint. It was contended that Ombud's decision making was defective and that the disputes were material disputes of fact. [Link](#)

KPMG Global Economic Outlook indicates that South Africa is in need of a growth mandate

KPMG's Global Economic Outlook paper has outlined the need for South Africa to have a growth mandate. The pursuit of long-term economic growth and employment creation has not received much attention and has generally fluctuated along with global markets and commodity cycles. South Africa needs to start 'working smarter', ensure driving core agenda to growth and creating room for opportunity where it matters most, if they expect to level up with global economies and truly see recovery in the year to come. [Link](#)

FCA recognises the revised FX Global Code and the Precious Metals Code

The Bank of England (BoE) has accepted the revision by the Financial Conduct Authority (FCA) regarding the Precious Metals Code and the revised FX Global Code (FX Code) under its codes recognition scheme. This scheme was launched in 2018 and is for codes that apply to unregulated financial markets and activities. The FCA has re-recognised it post the Global Foreign Exchange Committee's (GFXC) three-year review opens in a new window. [Link](#)

Operational Resilience and Operational Continuity in Resolution

The Prudential Regulation Authority's (PRA) consultation paper outlines proposals to apply the group provisions in the Operational Resilience part of the PRA Rulebook relevant to Capital Requirements Regulation (CRR) firms to holding companies, and to make other minor formatting and clarification amendments to the Operational Resilience (Appendix 1) and Operational Continuity Parts of the Rulebook. The proposal is open for feedback until 14th January 2022. [Link](#)

FCA announces proposals to improve outcomes for non-workplace pension customers

The Financial Conduct Authority (FCA) has announced proposals that offer firms a new default investment option to aid non-workplace pension customers in saving for their retirement. The default option would require to be a properly diversified basket of investments

and must take account of climate change and other environmental, social and governance risks. This consultation is open to response until 18th February 2022. [Link](#)

IRS seizes \$3.5bn in crypto linked to tax fraud and money laundering in 2021

The US Internal Revenue System has seized ZAR54.98 billion worth of cryptocurrencies during fiscal year 2021, which accounted for 93 percent of all the assets seized by tax enforcement that year. The criminal investigation unit prioritised training and the deployment of cryptocurrency, blockchain and open-source intelligence (Osint) technologies to resolve complex cyber-financial criminal schemes. [Link](#)

ASIC sues ANZ over ‘introducer program’ home loan referrals

The Australian Securities and Investments Commission (ASIC) has commenced a lawsuit against the Australia and New Zealand Banking Group Ltd (ANZ) alleging breach of the Credit Act by accepting customer information and documents from introducers and other unlicensed individuals and a few of these documents were claimed to be fraudulent. ASIC is seeking to engage an independent expert to conduct a review of ANZ’s current home loan customer referral arrangements. [Link](#)

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