



## DRAFT CONDUCT STANDARD

### REQUIREMENTS FOR MANAGERS OF COLLECTIVE INVESTMENT SCHEMES

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#### Comments Template

##### **PRIVACY STATEMENT**

Please take note that information collected in this template will be used for the purposes outlined in the template. In so doing, the identities of the entities and persons commenting on behalf of the entity will be identifiable.

The FSCA publishes all comments received and responses on its website with the names of persons that commented, and entities they represent. This is to ensure transparency and openness in the response to comment process. All collected information will be processed in line with the FSCA's Privacy Policy which can be found on [www.fsca.co.za](http://www.fsca.co.za).

##### **IMPORTANT INSTRUCTIONS**

Please note the following instructions for completing the template:

- For referencing purposes please use the numbering as contained in the draft Prudential Standard.
- Commentators are requested to answer the questions relating to the expected impact of the draft Prudential Standard under Section C. If you wish to provide a qualitative response in this regard, please attach the response to the template as an Annexure.
- For any other general comments, please use Section D.
- Please send the completed template, in word format, to: [FSCA.RFDStandards@fsca.co.za](mailto:FSCA.RFDStandards@fsca.co.za) on or before **16 February 2024**.

Please note that no PDF or scanned documents or late submissions will be accepted unless agreed to in writing by the Authority.

## SECTION A - DETAILS OF COMMENTATOR

Name of organisation/individual:	The South African Institute of Financial Markets (SAIFM)
If the commentator is an organisation, provide the name and designation of the contact person:	Natalie Zimmelman CEO
Email address:	<a href="mailto:natalie@saifm.co.za">natalie@saifm.co.za</a>
Contact number:	011-802-4768

## SECTION B - COMMENTS ON THE DRAFT CONDUCT STANDARD

No	Section of the Prudential Standard	Comment
<b>1. DEFINITIONS AND APPLICATION</b>		
1.	Definition of “Authority”	The term “Authority” appears in Chapter 2 section 8 (5) – (8), Chapter 4 section 13 (2) and 13 (2) (a) and Chapter 9 section 20, but it has not been defined in Chapter 1. The term seems to warrant definition, particularly as the standard is referred to as a “prudential standard” in the instructions.
2.	Application	
<b>2. BUSINESS PRINCIPLES, GOVERNANCE AND CONTROL FUNCTIONS</b>		
3.	Proportional application	It looks like the Standard has given the industry the responsibility of determining proportionality regarding the nature, size, scale and complexity of the manager. It would be helpful if the Conduct Standard could provide general guidance, especially regarding size and scale.
4.		
5.		
6.		
7.		
8.		
<b>3. CONFLICTS OF INTEREST</b>		
9.		
10.		
11.		
<b>4. PORTFOLIO DEVELOPMENT</b>		
12.		

**COMMENT TEMPLATE – DRAFT CONDUCT STANDARD –REQUIREMENTS FOR CIS MANAGERS**

No	Section of the Prudential Standard	Comment
13.	13(4)(b) – Distribution	<p>The Conduct Standard states that the manager must “take action” against distributors, should such actions as churning be identified. This needs significantly greater clarification. Should this action be that the manager must report to the Authority, further guidelines should be given to enable the Authority to act and to clarify the expectations. If the manager is to “take action” beyond reporting to the Authority, the expected action must also be clarified. Further, the manager would need to be legally empowered to take such action, as they currently have no legal standing to intervene in the business of a separate juristic entity or even to prevent the distributor from selling the product.</p> <p>The manager is also only able to assess if there has been a significant number of transactions. They are unable to assess whether this has been done to the detriment or benefit of the investor without having sight of the needs analysis of every investor served by that distributor. As these needs analysis may also include numerous other products, there are significant proprietary and personal information access concerns, beyond the unmanageable administrative burden. Without clear evidence, a manager cannot and should not take action against a distributor.</p> <p>Gaining evidence and taking action are, thus, legally and administratively complex and SAIFM asks the Authority to be very specific in their requirements in this regard. Roles, responsibilities, processes and powers need to be significantly defined and legislated to enable the application of this clause.</p>
14.	14(1) – Portfolio approval, monitoring, review and reporting	<p>The Conduct Standard states “A manager must, in relation to the creation of a new portfolio or an existing portfolio <b>or</b> where material amendments have been made to an existing portfolio...”. The second “or” (as highlighted) does not seem to be correct, as this should apply to new portfolios or changes to portfolios, as existing portfolios would already have gone through this process when new.</p>
<b>5. PROSPECTUS</b>		
15.		
<b>6. CUSTODY</b>		
16.		
<b>7. NOTIFICATIONS IN RESPECT OF MATERIAL EVENTS</b>		
17.		
<b>8. MISCELLANEOUS</b>		
18.		
19.		
<b>9. SHORT TITLE AND COMMENCEMENT</b>		
20.		

**SECTION C - QUESTIONS RELATING TO THE ANTICIPATED IMPACT OF THE CONDUCT STANDARD**

No.	Question	Responses
1.	Will the Conduct Standard impose additional compliance costs on the business? If yes, please provide details including the expected costs.	SAIFM does believe that there may be an administrative burden, and significant costs incurred, in complying with the Conduct Standard, but believes that most are, or should already, be in place. The clarity provides valuable guidance and certainty, especially if the proportionality expectations are further defined and required actions clarified and empowered.
2.	How do you anticipate the Conduct Standard affecting the operational cost of the business, if at all?	
3.	Will the Conduct Standard result in termination of existing arrangements? If yes, please be specific and make reference to specific aspects of the draft Conduct Standard that will lead to such a termination.	
4.	If the answer to question 3 is yes, how many arrangements will be impacted and what is the expected cost implication thereof?	
5.	Are any other transitional arrangements necessary to implement the Conduct Standard? If yes, what transitional arrangements do you propose and for which section of the Conduct Standard? (Please provide a justification for your response and details on timeframes to comply with the	

**COMMENT TEMPLATE – DRAFT CONDUCT STANDARD –REQUIREMENTS FOR CIS MANAGERS**

	relevant section)	
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**SECTION D - GENERAL COMMENTS**

No.	Question	Responses
<b>FORMAT OF THE CONDUCT STANDARD</b>		
1.	Do you find the format of the draft Conduct Standard user friendly and simple to understand? If no, please provide suggestions for improvement.	Yes

No.	Issue	Comment/input
<b>ANY OTHER GENERAL COMMENTS</b>		
1.	Qualification requirements	SAIFM notes that there are currently only general qualifications, and no specific qualifications or courses that would directly address the knowledge and competence needs of a manager. SAIFM would be able to assist in this matter but would need to engage the Authority to determine how best to provide this support.
2.		
3.		