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Guidance Notice on the Lapsing of Licences in terms of S11 of the Financial Advisory and Intermediary Services Act, 2002

The Financial Sector Conduct Authority (“the **FSCA**”) published the Guidance Notice on the Lapsing of Licences in terms of Section 11 of the Financial Advisory and Intermediary Services Act, 2002. This notice was published by the FSCA in order to provide guidance to Financial Service Providers (“**FSP**”), key individuals or anyone who controls the affairs of the FSP (“**Responsible Persons**”) and remind them of their duties when it comes to lapsing of a licence in terms of s11.

S11 of the FSCA allows FSP’s to lapse their licence and provides several grounds for doing so. It also places a responsibility on the licensee regardless of the ground of the lapse to inform the FSCA in writing of the reasons of the lapse within a reasonable time.

In terms of s 20(b) of the General Code of Conduct (“**GCOC**”) Responsible Persons are required to notify all affected clients and to take reasonable steps to ensure that any outstanding business is completed promptly or transferred to another provider. The FSCA **MAY** require proof of compliance with the requirements of the GCOC upon receipt of a notification of the lapsing of a licence.

Licensees cannot use s11d to avoid compliance with provisions of the FAIS Act and/or administrative action.

Before a licensee lapses a licence they **MUST** comply with s38d of the FAIS Act. This section requires licensees to provide notice to the FSCA, and ensure that they have made arrangements satisfactory to the FSCA to meet all liabilities under transactions entered into with clients prior to sequestration, winding-up or closure, as the case may be.

If the Responsible Persons fail to comply with the above provisions, the lapse will be in bad law, the FSCA will discount the licence and the FSP will remain a regulated entity.

[Click here to read more on the Guidance Notice on the Lapsing of Licences](#)

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