



**NOTICE OF PUBLICATION – DRAFT EXEMPTION OF MANAGERS OF
COLLECTIVE INVESTMENT SCHEMES FROM CERTAIN REQUIREMENTS IN
BOARD NOTICE 92 OF 2014**

COLLECTIVE INVESTMENT SCHEMES CONTROL ACT, 2002

The Financial Sector Conduct Authority (Authority) hereby invites submissions on the draft Notice – Exemption of Managers of Collective Investment Schemes from certain requirements in Board Notice 92 of 2014, to be made under section 22 of the Collective Investment Schemes Control Act, 2002 (Act No. 45 of 2002) read with section 281(3)(b) of the Financial Sector Regulation Act, 2017, as set out in the Schedule.

This Notice, together with the Schedule, is available on the website of the Authority at <https://www.fsca.co.za>.

Submissions on the draft exemption must be made using the submission template available on the Authority's website and be submitted in writing on or before 30 June 2021 to the Authority at FSCA.RFDStandards@fsca.co.za.

**Katherine Gibson
Acting Commissioner
Financial Sector Conduct Authority**

Date of publication: 28 May 2021

SCHEDULE

EXEMPTION OF MANAGERS OF COLLECTIVE INVESTMENT SCHEMES FROM CERTAIN REQUIREMENTS IN BOARD NOTICE 92 OF 2014

1. Definitions

In this Schedule, “**the Act**” means the Collective Investment Schemes Control Act, 2002 (Act No. 45 of 2002), any word or expression to which a meaning is assigned in the Act shall have that meaning, and unless the context otherwise indicates -

“**advanced electronic signature**” has the meaning assigned to it in section 1 of the ECTA;

“**BN 92**” means the Notice on Advertising, Marketing and Information Disclosure Requirements for Collective Investment Schemes, published under Board Notice 92 of 2014 in Government *Gazette* No. 37895 on 8 August 2014;

“**ECTA**” means the Electronic Communications and Transactions Act, 2002 (Act No. 25 of 2002);

“**electronic application**” means an application or contract as contemplated in paragraph 18(1) of BN 92 that is completed, signed and submitted by an investor to a manager on an online platform;

“**electronic signature**” has the meaning assigned to it in section 1 of the ECTA; and

“**online platform**” means a public-facing internet website, web application or digital application.

2. Extent of exemption and conditions

- (1) Managers are exempted from the requirement to obtain a signature as required in paragraph 18(1) read with paragraph 18(3)(k) of BN 92, when receiving electronic applications from investors, to the extent that the signature of the investor is required to be an advanced electronic signature.
- (2) The exemption referred to in subparagraph (1) is subject thereto that the -
 - (a) investor must sign the electronic application by way of an electronic signature;
 - (b) manager must verify the identity of an investor and implement processes to authenticate each transaction of the investor;
 - (c) application form provides for –
 - (i) the conditions of submitting the electronic application;
 - (ii) the procedure for the submission of an electronic application;
 - (iii) the terms and conditions applicable to the submission of an electronic application and the legal implications thereof;
 - (iv) any disclaimers of liability on the part of the manager;
 - (v) any limitations of liability applicable to the manager;
 - (vi) the security risks and risk of interception inherent to electronic transacting;
 - (vii) related precautionary or security measures; and
 - (viii) confirmation by the manager that its website complies with relevant legislative requirements applicable within the Republic of South Africa; and
 - (d) terms and conditions under which an electronic application may be submitted must be displayed on the screen of the digital platform being used to submit the application.

- (3) Failure by a manager to comply with any condition referred to in subparagraph (2) will automatically result in the exemption no longer being applicable to that manager.
- (4) This exemption shall, subject to paragraph 3, be valid for a period of 2 years after the commencement date.

3. Amendment and withdrawal of exemption and conditions

This exemption and conditions referred to in paragraph 2 are subject to-

- (a) amendment thereof published by the Authority by notice on the website of the Authority; and
- (b) withdrawal in a like manner.

4. Short title and commencement

This Exemption is called the Exemption of Managers of Collective Investment Schemes from certain Requirements in Board Notice 92 of 2014 and comes into effect on date of publication.