



Financial Sector
Conduct Authority

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INFORMATION DOCUMENT IN RESPECT OF INFORMATION GATHERING AND SUPERVISORY ONSITE VISIT INSPECTION IN TERMS OF SECTIONS 131 OF THE FINANCIAL SECTOR REGULATION ACT, NO. 9 OF 2017

Purpose of a supervisory onsite visit inspection

The purpose for which the Financial Sector Conduct Authority (the Authority) may conduct an onsite visit inspection of a supervised entity is to;

- check compliance by the entity with a financial sector law for which the Authority is the responsible authority, a directive issued by the Authority or an enforceable undertaking accepted by the Authority;
- determine the extent of the risk posed by the entity of contraventions of a financial sector law for which the Authority is the responsible authority; and
- assist the Authority in supervising the relevant financial institution.

Powers and obligations of the Authority

The Authority has the following powers:

- The Authority may by written notice to any person, request the person to provide specified information or a specified document in the possession of, or under the control of, the person that is relevant to assisting the Authority to perform its functions in terms of a financial sector law.
- The Authority may by written notice to a supervised entity, require a supervised entity to provide specified information or a specified document in the possession of, or under the control of, the entity that is relevant to the Authority's assessment of compliance by a supervised entity with, or risk of contraventions by a supervised entity of: i) a financial sector law; ii) a directive issued by the Authority; or iii) an enforceable undertaking accepted by the Authority. The Authority may also require the information or document to

Handwritten signature/initials

Executive Committee:

Commissioner: U. Kamlana | Deputy Commissioners: A. Ludin | K. Gibson | F. Badat

be verified as specified in the notice, including by an auditor approved by the responsible authority.

- The Authority may determine the time and place of the onsite visit inspection, provided that the onsite visit must be done at a reasonable time within ordinary business hours.
- The Authority may request any person who has a specified business document that is relevant to the onsite visit in his, her or its possession or under his, her or its control to produce that document and examine, make extracts from and copy any business document on the premises.
- The Authority may question any person on the premises to find out information relevant to the onsite visit inspection.
- The Authority may give the supervised entity a written directive to produce to the Authority, at a time and place and in a manner specified in the directive, a specified business document that is relevant to the onsite visit inspection and is in the possession or under the control of the supervised entity. A directive is effective if given to a person apparently in charge of the premises and will hereafter be referred to as a directive to produce business documents.
- The Authority may, when a business document is produced as required by a directive, examine, make extracts from, and copy the document.
- The Authority may, if, as a result of the onsite visit inspection, the official or the Authority suspects on reasonable grounds that a contravention of a financial sector law has occurred or is likely to occur: i) give a written directive to the supervised entity or the person apparently in control of the premises to ensure that no person removes from the premises, or conceals, destroys or otherwise interferes with, any business document (a directive is effective if given to a person apparently in charge of the premises and will hereafter be referred to as a directive preserve business documents); or ii) take possession of, and remove from the premises, a business document for the purpose of preventing another person from removing, concealing, destroying or otherwise interfering with the document.

The Authority has the following obligations:

- In the case of an intended onsite visit inspection of a supervised entity that conducts business on a private residence, the Authority is only allowed to do so with prior agreement with the person apparently in control of the business reasonably believed to be conducted at the private residence; and the occupant of the private residence or the part of the private residence to be inspected.
- The Authority must conduct a supervisory onsite visit inspection with strict regard to 1) an affected person's right to dignity; freedom and security; and privacy; and other

Important Note

A supervised entity that has been given notice to provide specified information or a specified document must comply with the requirements in the notice.

A person may not intentionally or negligently interfere with or hinder the conduct of an onsite visit.

A supervised entity that fails to comply with the requirements of a notice to provide specified information or a specified document commits an offence and is liable on conviction to a fine not exceeding R1,000.00 for each day during which the offence continues.

A supervised entity that fails to comply with a directive to produce business documents commits an offence and is and is liable on conviction to a fine not exceeding R5,000.00 for each day during which the offence continues.

If the Authority gives a supervised entity a directive to preserve business documents, and without reasonable excuse, a business document to which the directive relates is removed from the premises, or concealed, destroyed or otherwise interfered with, contrary to the directive the supervised entity or person on whom the directive was served commits an offence and is liable on conviction to a fine not exceeding R2,500,000.00

Declaration by supervised entity

I, MAKWE WINDSOR MASILELA, in my capacity as KEY INDIVIDUAL, confirm that I have read the information document and understand the contents thereof.

Signed on this 17 day of JUNE 2024

constitutional rights; and *ii*) decency and good order as the circumstances require, in particular by conducting the supervisory onsite visit inspection discreetly and with due decorum; causing as little disturbance as possible; and concluding the onsite inspection as soon as possible.

- The Authority must ensure that the person apparently in control of the premises is given a written receipt for the business documents taken as mentioned above.
- The Authority must ensure that any business document removed as contemplated above is returned to the supervised entity when retention of the business document is no longer necessary to achieve the object of a financial sector law.
- The supervised entity from whose premises a document was removed as contemplated above, or its authorised representative, may, during normal office hours and under the supervision of the Authority, examine, copy, and make extracts from the document.

Protections afforded to the supervised entity

A person does not have to answer a question asked or comply with a requirement to produce a document or information to the extent that the person is entitled to claim legal professional privilege in relation to the answer, contents of the document or the information. If such a person is a legal practitioner, the person is entitled or required to claim that privilege on behalf of a client of the person.

A person who is questioned, or required to produce a document or information, during a supervisory onsite visit may object to answering the question or to producing the document or the information on the grounds that the answer, the contents of the document or the information may tend to incriminate the person.

On such an objection, the official of the Authority conducting the supervisory onsite visit may require the question to be answered or the document or information to be produced, in which case the person must answer the question or produce the document.

An incriminating answer given, and an incriminating document or information produced, as required above, is not admissible in evidence against the person in any criminal proceedings, except in criminal proceedings for perjury or in which that person is tried for a contravention of section 273 based on the false or misleading nature of the answer.

M. C. W. W.