

DRAFT DIRECTIVE OF 2016
FINANCIAL SERVICES BOARD



REPUBLIC OF SOUTH AFRICA
FINANCIAL MARKETS ACT, 2012 (ACT NO. 19 OF 2012)

INTEROPERABLE AND COOPERATIVE ARRANGEMENTS
BETWEEN MARKET INFRASTRUCTURES

I, Dube Phineas Tshidi, the Registrar of Securities Services, under section 6(4)(a) of the Financial Markets Act, 2012 (Act No. 19 of 2012) hereby invite comments concerning the intended directive implementing interoperability and cooperation between Market Infrastructures.

1. Definitions

- 1.1. In this Directive, “the Act” means the Financial Markets Act, 2012 (Act 19 of 2012) and any word or expression to which a meaning has been assigned in the Act.
- 1.2. In this Directive, “MI” means Market Infrastructure, the meaning assigned to it in respect of the Act.

2. Purpose

- 2.1. The purpose of this Directive is to direct MIs to interoperate with each other as required to ensure the implementation and administration of the Act, compliance with the Act as well as achieving of the objects of the Act.
- 2.2. This directive is directed to all MIs to implement interoperability arrangements specific to their purpose and service to be provided.
- 2.3. Furthermore, the Act requires the Registrar to give measure to international developments relating to oversight and global developments in order to support the objects of the Act and broader regulatory, supervisory and oversight framework.

3. Interoperability arrangements

A MI must conclude an interoperability arrangement(s) with another MI, and in doing so, a MI must have due regard to the following standards prescribed by the Registrar which are:

When establishing any interoperability arrangement for the purpose of providing services to or receiving services from another MI, a MI must-

- (i) make non-discriminatory access available, to ensure the data that one MI needs for the performance of its functions complies with the operational and technical requirements established by the other MI;

put in place adequate computer systems to be able to perform its functions and meet its obligations in a timely manner;
- (ii) agree on its respective rights and obligations governing their relationships;
- (iv) clearly indicate the dispute resolution mechanism for resolving disputes arising from the interoperability arrangement;
- (v) clearly define the conditions and procedures for the termination of the interoperability arrangement;
- (vi) ensure fair and open access and that denial or restrictions on entering into an interoperability arrangement are based on risk grounds only;
- (vii) contain comprehensive information on the operations of the interoperating MIs, including the potential reliance on third parties as critical service providers,
- (viii) inform the interoperable MI of any change to the rules and or listings requirements of the other MIs; and
- (ix) undertake appropriate due diligence in respect of risks associated with entering into interoperability arrangements and have controls, measures and processes in place to mitigate exposure and risks associated with granting access to another MI.

4. Duty to report

- a) Once an interoperability arrangement has been concluded, such arrangement, and any subsequent amendments thereto, must be reported to the Registrar for consideration and approval;
- b) The contracting MIs must ensure that the proposed interoperability arrangement(s) is reported to the Registrar within 60 days of conclusion of the arrangement;
- c) The MIs must report to the Registrar all cancellations or suspensions of any interoperability arrangement(s) and state the reason(s) therefore; and

- d) The MIs may review the interoperability arrangement(s) annually and ensure that it is still appropriate and clearly defines the responsibilities of the MIs and report its findings to the Registrar.

5. Approval of interoperability arrangements

- (a) An interoperability arrangement is subject to the prior approval of the Registrar.
- (b) Subject to the minimum standards as set out above, the Registrar may grant approval of the interoperability arrangement only where the MIs:
 - (i) have been licensed in terms of the Act; and
 - (ii) meet all the applicable standards as set out in this document; and
- (c) the technical conditions under the terms of the arrangement allow for a smooth and orderly functioning of financial markets and the arrangement does not undermine the effectiveness of supervision.

6. Explanatory Memorandum

This Directive is accompanied by an Explanatory Memorandum which must be considered when formulating interoperability arrangements.

The Registrar looks forward to receive your comments by **11 April 2016**. Please send your comments to the following e-mail addresses: Michael.Kabai@fsb.co.za or Kgomotso.Molefe@fsb.co.za.

DP TSHIDI
REGISTRAR OF SECURITIES SERVICES