



## **FSCA FM Notice 2 of 2025**

### **FINANCIAL MARKETS ACT 19 OF 2012**

#### **DETERMINATION OF REQUIREMENTS RELATING TO EXTERNAL CENTRAL COUNTERPARTY OR EXTERNAL TRADE REPOSITORY LICENCE APPLICATIONS**

The Financial Sector Conduct Authority, under sections 49A(3)(a) and 56A(3)(a) of the Financial Markets Act, 2012 (Act No. 19 of 2012), hereby determines the manner in which an application for an external central counterparty or external trade repository licence must be made, and the information that must be contained in such an application, as per the Schedule below.

**UNATHI KAMLANA  
COMMISSIONER  
FINANCIAL SECTOR CONDUCT AUTHORITY**

**Date of publication: 3 October 2025**

## SCHEDULE

### 1. Definitions

In this Notice “**the Act**” means the Financial Markets Act, 2012 (Act No. 19 of 2012), and “**the Regulations**” means the Regulations published by the Minister of Finance under the Act on 9 February 2018 in *Government Gazette* No. 41433, and any word or expression to which a meaning has been assigned in the Act or the Regulations bears the meaning so assigned to it unless the context indicates otherwise, and

“**Authorities**” means the Authority and Prudential Authority; and

“**durable medium**” means an instrument which enables an applicant for an external central counterparty licence or external trade repository licence to store information in a way that is accessible for future reference for a period of at least 5 years and which allows the unchanged reproduction of the information stored.

### 2. Application for a licence

- 2.1 A person who applies under section 49A(2) of the Act to be licensed as an external central counterparty must submit to the Authority a written application on Form EMI 1 accompanied by the information -
- (a) specified in Annexure 1 to the Schedule; and
  - (b) required in respect of members of the controlling body of the applicant specified in Annexure 3 to the Schedule.
- 2.2 A person who applies under section 56(A)(2) of the Act to be licensed as an external trade repository must submit to the Authority a written application on Form EMI 2 accompanied by the information -
- (a) specified in Annexure 2 to the Schedule; and
  - (b) required in respect of members of the controlling body of the applicant specified in Annexure 3 to the Schedule.

### 3. Address

An application referred to in paragraph 2 must be submitted via mail or email to the Authority at one of the following addresses:

P O Box 35655	41 Matroosberg Road
Menlo Park	Riverwalk Office Park
0102	Block B
	Ashlea Gardens Ext 6
	0081

Email address: [FSCA.ExternalMIApplications@fsca.co.za](mailto:FSCA.ExternalMIApplications@fsca.co.za)

### 4. Short title and Commencement

This Notice is called the Determination of licence requirements for an external central counterparty or external trade repository and comes into operation on the date of publication.

**FORM EMI 1**  
**FINANCIAL MARKETS ACT, 2012 (ACT NO. 19 OF 2012)**

**Application under section 49A(2) of the Financial Markets Act, 2012 (Act No. 19 of 2012) (the Act) for an external central counterparty license.**

To the Authority

1. I \_\_\_\_\_, the chief executive officer of the \_\_\_\_\_ (hereunder) referred to as the applicant), being specifically authorised thereto by the controlling body of the applicant, to apply on behalf of the applicant for an external central counterparty licence under section 49A of the Act.
  
2. The place at which the business of the applicant will be carried on is \_\_\_\_\_

Signed at \_\_\_\_\_ on this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_\_.

\_\_\_\_\_  
Chief Executive Officer

Witnesses:

1. \_\_\_\_\_

2. \_\_\_\_\_

## ANNEXURE 1 TO SCHEDULE

The information which must be contained in an application for an external central counterparty licence, is set out below.

1. The following administrative information must be provided:
  - (a) The postal, physical and electronic mail addresses of the applicant's registered address or head office at which it will receive all documents for the purpose of this application;
  - (b) The telephone numbers of the applicant and the chief executive officer;
  - (c) If the applicant is an external central counterparty functioning as a branch of a foreign company within the Republic, proof of the applicant's local address;
  - (d) If the applicant is an external central counterparty, proof of the applicant's registration as an external company with the Companies and Intellectual Property Commission of South Africa;
  - (e) A list that reflects the full names, addresses, and telephone numbers of persons, if any, who alone or with associates will exercise control over the applicant as contemplated in section 67(2) of the Act;
  - (f) A list that reflects the full names of the members of the controlling body of the applicant, and a statement signed by each member to the effect that he or she knows of no reason why he or she should not serve his or her term of office as a member of the controlling body;
  - (g) A list that reflects the names, physical and postal addresses, telephone numbers, and electronic mail addresses of:
    - (i) the bank;
    - (ii) the auditor; and
    - (iii) the attorney, of the applicant.
2. A copy of the founding documents of the applicant which regulates at least the following:
  - (a) organisational structure of the applicant;
  - (b) objects of the applicant;
  - (c) legal powers of the applicant as well as the powers of the members of the controlling body;
  - (d) composition and functions of the controlling body;
  - (e) procedures for election or appointment of members of the controlling body, their terms of office, and when membership may be terminated;
  - (f) procedures for the calling of meetings of people who hold ownership interests in the applicant;
  - (g) voting powers of persons who hold ownership interests in the applicant;
  - (h) appointment of auditors; and
  - (i) procedures for the dissolution of the applicant.
3. Details of arrangements to be implemented in order to comply with section 62 of the Act.
4. Details of any unregulated business that will be carried on by the applicant in the Republic.
5. Details of the compensation funds insurance, guarantee or other warranty of the applicant:

- (a) The applicant must submit a report of an independent assessment, including the findings of the independent assessment, that was undertaken to determine whether the applicant, in terms of its risk and business model, should have insurance, a guarantee, compensation fund or any other warranty in place to provide compensation to mitigate and address any risk of loss to clients of clearing members, and the findings of the independent assessment;
  - (b) Where the findings of the independent assessment referred to in subparagraph (a) determines, that the applicant should have insurance, a guarantee, a compensation fund or any other warranty in place, or if the Authority, due to the risk profile or business model of the applicant is of the opinion that the applicant needs insurance, a guarantee, compensation fund or other type of warranty to provide compensation to clients of clearing members, the applicant must provide the Authority with:
    - (i) Details of any insurance, guarantee, compensation fund or other warranty that the applicant proposes to put in place to provide compensation to clients of clearing members of the applicant; and
    - (ii) In respect of a compensation fund(s), a copy of the pro forma policy document, the manner of funding, and the rules of the fund (where applicable).
6. Details of the investment strategy and safeguarding of assets.
  7. Details of any outsourcing arrangements in accordance with the requirements prescribed in section 68 of the Act read with Regulation 15 of the Regulations.
  8. Details of the compliance function which has been established.
  9. Details of the internal audit function established as prescribed in the Regulations.
  10. Additional information, which must be contained in an application for an external central counterparty licence are as follows:
    - (a) A copy of the proposed rules, policies, procedures and contracts of the applicant, as approved by the controlling body of the applicant and consistent with section 53 of the Act;
    - (b) The range and type of functions to be provided by the external central counterparty;
    - (c) The range and type of securities in respect of which those functions are to be provided by the external central counterparty;
    - (d) A list of clearing members of the applicant, where applicable;
    - (e) The arrangements in place to ensure integrity of the market and its clearing members;
    - (f) The benefits to clients of clearing members of using the external central counterparty;
    - (g) The arrangements in place for clearing or settlement of transactions in securities or both, where applicable;
    - (h) The arrangements in place for an effective and reliable infrastructure to facilitate the clearing of securities cleared by the applicant;
    - (i) The arrangements in place to manage the material risks associated with the operation of the applicant including a copy of the recovery plan of the applicant, as approved by its controlling body;
    - (j) The arrangements in place for the efficient and effective monitoring of all transactions cleared through the applicant, for the supervision of clearing

- members so as to ensure compliance with the clearing house rules and the Act, and the resources of the applicant available to perform this function;
- (k) The governance arrangements in place that are clear and transparent, promote the safety and efficiency of the central counterparty, and support the stability of the broader financial system, other relevant public interest considerations, and the objectives of relevant stakeholders;
  - (l) The arrangements in place for security and back-up procedures to ensure the integrity of the records of transactions cleared, settled or cleared and settled through the external central counterparty and the maintenance of records;
  - (m) The margin system that establishes margin levels commensurate with the risks and particular attributes of each product, portfolio and market it serves;
  - (n) The arrangements in place for the establishment and maintenance of a default fund to mitigate the risk should there be a default of a clearing member and to ensure, where possible, the obligations of that clearing member continue to be fulfilled:
  - (o) The arrangements in place to maintain initial capital including an appropriate buffer;
  - (p) The arrangements in place to collect, manage and timely liquidate collateral held for the performance of the obligations of the clearing members or clients of clearing members;
  - (q) A clearly defined default waterfall where the obligations of the defaulting clearing member, other clearing members and the external central counterparty are legally and clearly managed;
  - (r) An appropriate segregation and portability regime to protect the positions of clients of a defaulting clearing member;
  - (s) The necessary infrastructure, resources and governance to facilitate its post trade management functions and, in the event of a default of one or more of the clearing members-
    - (i) ensure that sufficient risk policies, procedures and processes are in place; and
    - (ii) have sound internal controls for robust transaction processing and management.
  - (t) A statement by the chief executive officer of an applicant external central counterparty, confirming that:
    - (i) all clearing members of the applicant have been evaluated and, on the information available, are found to be of good character and integrity; and
    - (ii) on the information available, all clearing members of the applicant comply with the minimum capital adequacy requirements determined by the applicant in its rules.
  - (u) A report by the auditor of the applicant confirming that:
    - (i) adequate systems and procedures are in operation relating to risk reduction, particularly by means of processing, physical, logical security, back-up and contingency controls.
    - (ii) the applicant has adequate systems, procedures and policies in place to protect the information, data, records and documents relating to the provision of relevant functions and the affairs of clearing members against any unauthorised access, alteration, destruction or dissemination.
  - (v) A report by an independent party including an external auditor, agreed to by the Authority, confirming that the applicant has appropriate information technology in place to effectively handle the electronic clearing, settlement or clearing and settlement services and communication including:
    - (i) a secure electronic messaging system;
    - (ii) interface specifications;

- (iii) a business continuity plan, a disaster recovery plan, as well as the necessary service level agreements with third parties before the central counterparty commences operations;
  - (iv) adequate disaster recovery hardware and related facilities located off-site.
  - (v) security and back-up procedures to ensure the integrity of the records of transactions cleared, settled or cleared and settled through the external central counterparty.
- (w) Details of interoperability arrangements, addressing:
  - (i) Risk management for interoperability arrangements;
  - (ii) Provision of margins among central counterparties where applicant applies for an external central counterparty licence;
  - (iii) Approval of interoperability arrangements; and
  - (iv) Consideration by the Authority;
- (x) Details of the arrangements made to review models, perform stress testing and back testing, addressing:
  - (i) Model validation
  - (ii) Testing programmes
  - (iii) Back testing
  - (iv) Sensitivity testing and analysis
  - (v) Stress-testing
    - (aa) Stress testing – risk factors to test
    - (bb) Stress testing – total financial resources
    - (cc) Stress testing – liquid financial resources
  - (vi) Maintaining sufficient coverage
  - (vii) Review of models using testing results
  - (viii) Reverse stress test
  - (ix) Testing default procedures
  - (x) Frequency of stress tests?
  - (xi) Time horizons used when performing tests
  - (xii) Information to be publicly disclosed

11. Compliance with the Regulations:

- (a) The applicant for an external central counterparty licence must demonstrate to the satisfaction of the Authorities and the South African Reserve Bank, compliance with the Regulations and compliance with section 49A of the Act ; and
- (b) The information provided evidencing compliance with the Regulations and section 49A of the Act must be provided in a durable medium;

12. The applicant for an external central counterparty licence must supply any other information, which the Authorities and the South African Reserve Bank may reasonably require.

**FORM EMI 2**  
**FINANCIAL MARKETS ACT, 2012 (ACT NO. 19 OF 2012)**

**Application under section 56A(2) of the Financial Markets Act, 2012 (Act No. 19 of 2012) (the Act) for an external trade repository licence.**

To the Authority

1. I \_\_\_\_\_, the chief executive officer of the \_\_\_\_\_ (hereunder) referred to as the applicant), being specifically authorised thereto by the controlling body of the applicant, to apply on behalf of the applicant for an external trade repository licence under section 56A of the Act.

2. The place at which the business of the applicant will be carried on is \_\_\_\_\_

Signed at \_\_\_\_\_ on this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_\_.

\_\_\_\_\_  
Chief Executive Officer

Witnesses:

1. \_\_\_\_\_

2. \_\_\_\_\_



## ANNEXURE 2 TO SCHEDULE

The information which must be contained in an application for an external trade repository licence is set out below.

1. The following administrative information must be provided:
  - (a) The postal, physical and electronic mail addresses of the applicant's registered address or head office at which it will receive all documents for the purpose of this application.
  - (b) The telephone numbers of the applicant and the chief executive officer.
  - (c) A list which reflects the full names, addresses and telephone numbers of persons, if any, who alone or with associates will exercise control over the applicant as contemplated in section 67(2) of the Act.
  - (d) A list that reflects the full names of the members of the controlling body of the applicant, and a statement signed by each member to the effect that he or she knows of no reason why he or she should not serve his or her term of office as a member of the controlling body.
  - (e) A list that reflects the names, physical and postal addresses, telephone and facsimile numbers, electronic mail addresses of:
    - (i) the bank;
    - (ii) the auditor; and
    - (iii) the attorney, of the applicant.
2. A copy of the founding documents of the applicant which regulates at least the following:
  - (a) organisational structure of the applicant;
  - (b) objects of the applicant;
  - (c) legal powers of the applicant as well as the powers of the members of the controlling body;
  - (d) composition and functions of the controlling body;
  - (e) procedures for election or appointment of members of the controlling body, their terms of office, and when membership may be terminated;
  - (f) procedures for the calling of meetings of people who hold ownership interests in the applicant;
  - (g) voting powers of persons who hold ownership interests in the applicant;
  - (h) appointment of auditors; and
  - (i) procedures for the dissolution of the applicant.
3. Details of arrangements to be implemented in order to comply with section 62 of the Act.
4. Details of any unregulated business that will be carried on by the applicant in the Republic.
5. Details of the compensation funds, insurance, guarantee or other warranty of the applicant:
  - (a) The applicant must submit a report of an independent assessment, including the findings of the independent assessment, that was undertaken to determine whether the applicant, in terms of its risk and business model, should have insurance, a guarantee, compensation fund or other warranty in place to

- provide compensation to mitigate and address any identified risks and the findings of the independent assessment;
- (b) Where the findings of the independent assessment referred to in subparagraph (a) determines, that the applicant should have insurance, a guarantee, a compensation fund or any other warranty in place, or if the Authority, due to the risk profile or business model of the applicant is of the opinion that the applicant needs insurance, a guarantee, compensation fund or other type of warranty, the applicant must provide the Authority with:
    - (i) Details of any insurance, guarantee, compensation fund or other warranty that the applicant proposes to put in place ; and
    - (ii) In respect of a compensation fund(s), a copy of the pro forma policy document, the manner of funding, and the rules of the fund (where applicable).
6. Details of any outsourcing arrangements in accordance with the requirements prescribed in section 68 of the Act read with Regulation 15 of the Regulations.
  7. Details of the compliance function which has been established.
  8. Details of the internal audit function established as prescribed in the Regulations.
  9. Additional information, which must be contained in an application for an external trade repository licence are as follows:
    - (a) The governance arrangements in place that are clear and transparent, promote the safety and efficiency of the trade repository, and support the stability of the broader financial system, other relevant public interest considerations, and the objectives of relevant stakeholders;
    - (b) The arrangements in place for security and back-up procedures to ensure the integrity of the records of transactions cleared and settled and reported to the trade repository and the maintenance of such records;
    - (c) A report by the auditor of the applicant confirming that adequate systems and procedures are in operation relating to risk reduction, particularly by means of processing, physical, logical security, back-up and contingency controls.
    - (d) A report by an independent party including an external auditor, agreed to by the Authority, confirming that the applicant has appropriate information technology in place including:
      - (i) a secure electronic messaging system;
      - (ii) interface specifications;
      - (iii) a business continuity plan, a disaster recovery plan, as well as the necessary service level agreements with third parties before the trade repository commences operations;
      - (iv) adequate disaster recovery hardware and related facilities located off-site.
      - (v) security and back-up procedures to ensure the integrity of the records of transactions cleared and settled and reported to the trade repository.
  10. The applicant for an external trade repository licence must demonstrate to the satisfaction of the Authorities, and the South African Reserve Bank, compliance with the FMA Joint Standard 1 of 2018 setting out the Requirements and duties of a trade repository; and section 56A of the Act; and the information provided in support of evidencing compliance with FMA Joint Standard 1 of 2018: Requirements and additional duties of a trade repository must be provided in an instrument which stores information in a durable medium.

11. The applicant for an external trade repository licence must supply any other information, which the Authorities and the South African Reserve Bank may reasonably require.

## **ANNEXURE 3 TO SCHEDULE**

The information required in respect of members of controlling body of the applicant for an external central counterparty or external trade repository licence, respectively is set out below.

- (1) An application for a licence must be accompanied by the following information in respect of members of the controlling body of the applicant:
  - (a) a curriculum vitae in respect of each member of the controlling body indicating the nature and extent of the member's qualifications and experience in the business operated by the applicant and the details of three referees;
  - (b) the information required in terms of the Determination of Fit and Proper Requirements for Market Infrastructures;
  - (c) an indication if proceedings referred to in paragraphs (3)(a) to (t) and paragraph 5 of the Determination of Fit and Proper Requirements for Market Infrastructures are pending; and
  - (d) full details of any fact which may have an impact on the evaluation by the Authority of the good character and integrity of a member of the controlling body.