

Directive by the FSCA and Prudential Authority

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by Hilah Laskov, Senior Associate and Chelsea Roux, Candidate Attorney
Reviewed by Shayne Krige, Director and head of the Investment Funds & Private Equity practice

The FSCA and the Prudential Authority have jointly issued a Directive to financial institutions regarding appropriate precautionary measures when performing essential financial services during the Lockdown Period.

Directive under the regulations of the Disaster Management Act^[1]

The Regulations to the Disaster Management Act^[2] (the “**Regulations**”) set out various categories of people and businesses who provide essential goods and services and allows them to continue operating. Essential financial services include services necessary to maintain the functioning of the financial system, such as the banking environment, payments environment, financial markets, insurance environment, savings and investments environment, pension fund administration and medical schemes administration^[3].

On 9 April 2020, the Financial Services Conduct Authority (the “**FSCA**”) and the South African Reserve Bank’s Prudential Authority (collectively referred to as the “**Authorities**”) issued a joint directive that all financial institutions^[4] take precautionary measures when performing Essential financial services.

1. The Directive

1.1 A head of a financial institution must determine whether staff is essential to carrying out the Essential financial service and must attempt to limit the number of employees to the bare minimum necessary to operate effectively and attempt to enable remote working.

1.2 A financial institution must take the following precautionary measures to reduce the risk of exposure, transmission and spread of COVID-19:

1. replace face-to-face contact with virtual communications where possible;
2. implement a social distance of at least one and a half meters between employees’ workstations, as well as interactions in cafeterias or break rooms;
3. where physical meetings are necessary, arrange meeting rooms in such a way that a social distance of at least one and a half meters is adhered to; and
4. provide employees and visitors to the business premises with sufficient protective supplies, including tissues and hand sanitizers and where possible, require the use of surgical masks.

1.3 A financial institution must implement the following necessary procedures in the workplace:

1. establish necessary protocols for temperature screening of all persons entering and leaving the business premises;
2. take all reasonable steps to ensure employees with COVID-19 symptoms, whether mild or severe, are identified, tested and required to stay at home;
3. maintain a register of the names and contact details of all employees working, and persons visiting, the business premises for at least one month to assist with contact tracing;
4. establish procedures for employees who are or become sick at work, including the identification of a room or area where an employee who presents with COVID-19 symptoms can be safely isolated and planning procedures for that employee to leave for home as soon as possible;
5. require that an employee who has come into contact with a confirmed COVID-19 case self-quarantine at home for 14 days while being monitored for symptoms and comply with the Department of Health’s guidelines and directives;
6. encourage respiratory etiquette;
7. educate employees on how to reduce the spread of COVID-19 such as the importance of social distancing and practising good hygiene;
8. discourage employees from using other employees’ phones, desks, office or other work equipment;
9. ensure that hand soap and running water are available or, where this is not possible, alcohol-based hand sanitisers containing at least 70% alcohol;
10. promote the use of regular hand washing or the use of alcohol-based hand sanitizers;
11. provide the workplace with surface disinfectants and disposable towels for employees to disinfect their hands and work surfaces; and
12. regularly clean and disinfect frequently touched surfaces.

1.4 A financial institution must develop and implement an infectious disease preparedness and response plan inclusive of plans and policies aimed at compliance with the Directive.

1.5 A financial institution must identify a workplace coordinator who will be responsible for COVID-19 related issues, their impact on the workplace and timeously responding to the Authorities upon request for information.

2. Commencement and duration

2.1 The Directive is effective as of 9 April 2020 and will remain effective during the Lockdown Period and any extension thereof.

2.2 The Directive only applies to financial institutions that are rendering Essential financial services during the Lockdown Period, however, we anticipate that many of the measures will be more generally applied thereafter.

3. Breach of the Directive

The Directive is binding and any individual or financial institution who is in breach of its provisions shall be guilty of an offence and, on conviction, liable to a fine or to imprisonment for a period not exceeding six months or to both such fine and imprisonment.^[5]

Werksmans is ready and happy to assist with compliance to the Directive or any issues related thereto.

^[1] Act 57 of 2002.

^[2] Regulations made under section 27(2) of Act 57 of 2002 (published by Government Notice No. 318 of 18 March 2020, as amended by Government Notices Nos. R. 398 of 25 March 2020, R.419 of 26 March 2020 and R.446 of 2 April 2020).

^[3] Item B.3.1 of Annexure B to the Regulations.

^[4] As defined in section 1 of Act 9 of 2017.

^[5] Regulation 11G made under section 27(2) of Act 57 of 2002.



Shayne Krige

Head of Investment Funds

[View Profile](#)



Hilah Laskov

Director

[View Profile](#)