



FSCA COMMUNICATION 36 OF 2020 (FM)

IMPACT OF COVID-19 ON COMPLIANCE WITH REQUIREMENTS OF THE FINANCIAL MARKETS ACT, 2012, (ACT NO. 19 OF 2012) (“FMA”)

26 June 2020

1. BACKGROUND

- 1.1 As communicated before, the Financial Sector Conduct Authority (“the Authority”) acknowledges the economic impact of COVID-19 and the nationwide lockdown on South Africa in general and the financial services industry specifically. As a result, the Authority considered and granted regulatory relief in various instances. The Authority has also considered the impact of the pandemic on the listed property market and therefor hereby communicates arrangements in respect of extending the period to comply with requirements contained in the Listing Requirements made in terms of the FMA.
- 1.2 Property companies have been particularly impacted by the volatility and economic uncertainty of the current market conditions. The pandemic has had multiple impacts on Real Estate Investment Trusts (“REITs”) and the property sector, including:
- (a) Inability to accurately forecast cash flows. This has resulted from:
 - (i) non-payment of rentals by existing tenants, as well as unresolved disputes and negotiations with others (i.e. large national retailers as one example). Even in instances where, for example, April rental had been paid, some tenants are now requesting refunds and are claiming *force majeure*. These disputes are likely to take several months to be resolved; and
 - (ii) no clarity from either banks or debt capital markets in terms of the ability to refinance and / or provide new loans to property companies. This means that property entities are unable to accurately assess the likelihood and manner of debt refinancing that is due to take place this year.
 - (b) The majority of institutional shareholders have called for preservation of cash and a withholding of dividends during the crisis, until such time that further clarity is available in terms of the operating environment.
- 1.3. A property-owning company listed on the JSE which has been granted REIT status has specific continuing obligations, one of which is an obligation to comply with the distribution provision set out in section 13.49(a) of the Listing Requirements. For an issuer to maintain its REIT status it must:
- (a) distribute at least 75% of its distributable profits within four months of its year end; and

(b) ensure that those subsidiaries within its Group that are property entities (as defined in the Listing Requirements) distribute at least 75% of their distributable profits as a distribution within four months of their respective financial year ends.

1.4. Failure to comply with paragraph 13.47 may result in the JSE removing a company's REIT in terms of paragraph 13.53 of the Listing Requirements. This may have severe negative implications for both the issuer and investors.

1.5. In these circumstances, the Authority decided to use the powers afforded to it by section 279 (1) of the Financial Sector Regulation Act, 2017 to grant REITs an extension, for a limited period of time, within which to pay their distributions. Such an extension will allow REITs time to gather more reliable information about the future and to plan accordingly to ensure they still have viable businesses after they make the distributions, and it will allow them to maintain their status which is important for investors who have invested in this sector.

2. EXTENSION OF PERIOD TO COMPLY WITH VARIOUS TIMEFRAMES REFERRED TO IN THE JSE LISTING REQUIREMENTS MADE UNDER SECTION 11 OF THE FMA

2.1 The Authority has by notice in FSCA FMA Notice 6 of 2020 extended the periods for compliance with the specified timeframes contained in the JSE Listings Requirements as stipulated in the table below:

Requirement		Abbreviated description
JSE Listings Requirements	Paragraph 13.47	Distribution of profits

2.2 The timeframes contained in the above listing requirements will be extended for a period of two months in respect of issuers with the following financial year ends: 29 February 2020, 31 March 2020, 30 April 2020, 31 May 2020, 30 June 2020, 31 July 2020, 31 August 2020 and 30 September 2020. This will apply irrespective of any extensions that may already have been granted to individual issuers by the JSE.

3. CONTACT

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