

## ZAR X (PTY) LTD (“ZAR X”)

### CONFLICTS OF INTEREST ARRANGEMENTS

#### Scope

#### Introduction

The Financial Markets Act No. 19 of 2012 (“the FMA”) requires that market infrastructures take the necessary steps to avoid, eliminate, disclose and otherwise manage possible conflicts of interest that could arise between their regulatory functions and commercial services.

#### Background

ZAR X is a market infrastructure as defined in the FMA and as a licensed exchange, operates as a recognized self-regulatory organisation (“SRO”). As such, ZAR X is required in terms of the FMA to perform certain regulatory functions in respect of its issuers and market participants and the markets in which they operate. Self-regulation of market intermediaries through a system of SROs is one of the core elements of our regulatory framework. Exchanges are primarily responsible for establishing the standards under which their issuers come to market and the manner in which their market participants conduct business. SRO’s are required to monitor their issuers’ and market participants’ compliance with such standards and take action where necessary to enforce compliance.

In recent years, licensed exchanges have faced increased competition with tremendous advances in technology. In addition to competitive challenges, there continues to be inherent conflicts of interests between the Exchange’s regulatory functions and market participants, market operations, issuers, and shareholders. In the past, there have been instances where SROs have favoured one market participant or customer over another; for example, by sharing market data with paying subscribers before releasing such data to the public.

#### Regulatory Requirements

The FMA prescribes the steps that the market infrastructure must take to manage possible conflicts of interest that could arise between their regulatory functions and commercial services. This includes the implementation of documented, publicly available arrangements that comply with the requirements prescribed by the registrar, in Board Notice 1 of 2015 published in *Government Gazette* 38369 of 2 January 2015, viz.:

- (a) Processes to identify potential, perceived or actual conflicts of interest;
- (b) Recording, adoption and implementation of effective and appropriate policies and measures to address potential, perceived or actual conflicts of interest that have been identified, in order to avoid or manage and disclose the conflict, which measures must include –
  - (i) the separation of its commercial services from its regulatory functions;
  - (ii) procedures to prevent inappropriate access to information by employees responsible for either the commercial services or the regulatory functions;
  - (iii) clear guidelines for employees in respect of the security and confidentiality of confidential information;
- (c) A committee comprised of suitably qualified persons to ensure that the market infrastructure complies with (a) and (b);
- (d) Ensuring that the committee is able to independently fulfil its functions and that it does not have a conflicting duty to management or the controlling body of the market infrastructure;
- (e) Setting out the manner in which the market infrastructure will deal with breaches in respect of (a) and (b)

and the sanctions and actions that will be taken by the market infrastructure in the event of such breaches.

### **Purpose**

The purpose of this policy is to discharge the requirements set out in (a) and (b) above and in so doing to provide for avoidance, identification and/ or management and disclosure of new and existing conflicts of interest that have been identified by ZAR X.

### **Application**

This policy applies to all employees, contractors and consultants of ZAR X. This document is subject to and must be read with, the applicable provisions of the Companies Act No. 71 of 2008, the FMA, the International Organization of Securities Commission (“IOSCO”), ZAR X’s Memorandum of Incorporation, ZAR X Operating Rules and Directives, ZAR X Listings Requirements, ZAR X Board Charter, ZAR X Board Committees’ Terms of Reference; and any other applicable law or regulatory provision.

### **The SRO Oversight Committee**

The Self-Regulatory Oversight Committee (“SRO Oversight Committee”) is an independent standing committee of the ZAR X Board and serves as the appointed committee pursuant to the governance requirements prescribed by the registrar in Board Notice 1 of 2015. The purpose of its establishment is to assist in mitigating and managing potential conflicts of interest which may arise between ZAR X’s regulatory and commercial functions.

### **Conflicts of interest Typology**

ZAR X has identified the instances in which conflicts of interest could potentially arise between its commercial activities and regulated functions as follows: –

<p><b><u>Typical Regulatory v Commercial functions:</u></b></p> <ul style="list-style-type: none"> <li>• ZAR X’s business interests and duty to its shareholders to maximize profits may conflict with its duties as a Regulator</li> <li>• ZAR X Directors may face conflicts in reconciling their duties to shareholders of the company with their public interest responsibilities in overseeing their regulatory obligations as part of ZAR X</li> <li>• Funding pressures may result in non-revenue producing areas like market and issuer regulation being sidelined in favour of revenue producing operations.</li> <li>• Regulation of listed companies may be favoured over regulatory responsibilities</li> </ul>
<p><b><u>Markets:</u></b></p> <ul style="list-style-type: none"> <li>• Inadequate resourcing of the market or issuer regulation function in managing ZAR X’s costs.</li> <li>• Inappropriate approval and implementation of ZAR X Operating Rules or Listing Requirements, which could include: <ul style="list-style-type: none"> <li>- failing to implement or enforce rules that are necessary for the effective regulation of the market but which could adversely affect the issuers’ or market participants’ use of ZAR X’s commercial services;</li> <li>- implementing rules that may enhance the commercial objectives of ZAR X but do not achieve an appropriate level of market integrity and investor protection; or</li> <li>- implementing rules that unfairly promote the interests of ZAR X above those of its issuers or market participants.</li> </ul> </li> <li>• An inappropriate approach to the approval of issuers or market participants or the provision of additional regulated services, which could result in an application for listing or authorisation or the provision of additional regulated services being approved, resulting in ZAR X providing commercial services (or additional commercial services) to the applicant despite a failure by the applicant to meet all of the applicable regulatory requirements.</li> </ul>

- Failure to exercise enforcement powers responsibly, which could include:
  - failing to initiate enforcement action against or to appropriately sanction a market participant of ZAR X for misconduct if such enforcement action or sanction could adversely affect the market participant's ongoing use of ZAR X's commercial services; or
  - initiating enforcement action against a market participant or one of its employees with the intention that the penalty imposed will be applied for the commercial benefit of ZAR X.
- Inappropriate conduct of market regulation staff in managing potential conflicts of interest in the performance of their regulatory duties.
- Failure to secure confidential regulatory information resulting in such information being accessed by non-regulatory ZAR X staff.

**Conflicts associated with Self-Regulation:**

- Strict listing requirements may be perceived as a barrier to attracting listings
- High standards of supervision may adversely affect business development and / or relationships with Issuers
- Pressure from larger Issuers may result in bias re listings applications
- Pressure from larger Issuers or influential individuals associated therewith could jeopardise the independence of investigations and / or enforcement actions

**Identification of Conflicts of Interest**

ZAR X facilitates the identification of potential, perceived or actual conflicts of interest through conflicts of interest awareness initiatives, which are addressed as part of every Exco and Board meeting. As ZAR X continues to grow, and operations become more complex, these awareness initiatives will be supplemented by mandatory staff training, the focus of which will be:

- To understand the provisions of this conflict of interest document
- To understand the regulatory requirements underpinning conflicts of interest management for market infrastructure, primarily the FMA and Board Notice 1 of 2015
- An overview of the commercial and regulatory functions of ZAR X and where conflicts may arise

ZAR X is not listed on its own or any other stock exchange and therefore it is not conflicted between its role as a Regulator and that of a listed entity striving for commercial gains for its shareholders. In addition, ZAR X does not provide post-trade services, data is provided to the market at no cost; and ZAR X's relies almost exclusively on fully-automated technology to process and surveil trades.

Members of the public or any other affected or interested party may lodge any conflict of interest concerns directly with ZAR X at email [info@zarx.co.za](mailto:info@zarx.co.za)

**Management of conflicts of interest**

• **Resourcing**

All Departments of ZAR X provide, to the satisfaction of the ZAR X Board and / or the SRO Oversight Committee, the necessary assurance that the respective operational areas are adequately staffed, funded and trained and that ZAR X made all necessary technology and staff resources available to support the effective performance of the operational function.

• **Approval of ZAR X rules and directives**

All new rules and directives and amendments to the prevailing rules and directives of ZAR X are adopted from a ZAR X perspective by a Committee, which comprises the Director: Market Regulation and Director: ZAR X Listings.

- **Approval of applications for listing and authorisation as a market participant and the provision of regulated services**

All successful applications for listing and authorisation as a market participant and the provision of additional regulated services are authorised by the Listing Committee and Markets Committee respectively, which are committees established in terms of the ZAR X Governance Framework and are overseen by the SRO Oversight Committee.

Applications for voluntary de-listing, transfer of listing or termination as a market participant are presented to the respective committees for approval.

- **Enforcement action**

All disciplinary charges are heard by an independent Enforcement Committee, which will be appointed from time to time by the Board.

Any fine imposed on a member or one of its employees for misconduct in terms of ZAR X's disciplinary rules is paid into a ring-fenced ZAR X investor protection fund and not into the general funds of ZAR X.

- **Conduct of the staff**

All staff are required to avoid or manage conflicts of interest, as applicable or permissible and to report any perceived or actual conflicts of interest, market abuse or member misconduct that they may identify as soon as possible.

- **Confidential information**

All staff are bound by the confidentiality provisions as specified in their ZAR X contracts of employment.

Necessary controls have been implemented to safeguard the confidential information held at ZAR X, which includes both physical access controls as well as controls over access to the information stored in the systems used by ZAR X.

### **Register, Assessment and Classification of Conflicts**

ZAR X Exco will convene meetings as and when required to consider each and every conflict reported. Every reported conflict must be logged on ZAR X conflicts register and must be assessed and classified as either potential, perceived or actual, including an explanation for such classification. A full assessment must be documented, including how the conflict will be managed, avoided or disclosed as well as whether disciplinary action will be necessary. These assessments must also be provided in a report at the next sitting of the SRO Committee.

### **Gifts Policy**

All gifts, regardless of value, must be reported to ZAR X Head of Compliance.

No gifts whatsoever may be accepted from any prospective Issuer or Market participant prior to or during the respective application review process.

### **Breach of the Conflicts of Interest Arrangements**

ZAR X encourages employee self-discipline; however, disciplinary action will be instituted where an employee is found to

have acted in bad faith.

**Annual Assessment**

The efficacy of these Arrangements and the attendant processes and measures adopted will be assessed on an annual basis.

An Annual Conflicts of Interest Assessment Report will be submitted to the Registrar and published on [www.zarx.co.za](http://www.zarx.co.za)