

FINANCIAL SERVICES BOARD

NO. 603

18 SEPTEMBER 2015

ADVERTISING, CANVASSING AND MARKETING RULES IN TERMS OF SECTION 24(1) OF THE CREDIT RATING SERVICES ACT, 2012 (ACT NO. 24 OF 2012)

I, Dube Phineas Tshidi, Registrar of Credit Ratings Agencies, hereby under section 24(1)(h) of the Credit Ratings Services Act, 2012 (Act No. 24 of 2012), publish for consultation, the draft advertising, canvassing and marketing Rules for credit rating agencies.

All interested persons are invited to submit written comments on the proposed Rules by 23 October 2015, to the Financial Services Board at:

FSBcreditratings.advertising@FSB.co.za. or

Riverwalk Office Park,

41 Matroosberg Street,

Ashley Gardens, Pretoria for attention of Mpho Mosing.

The Rules for fraudulent and misleading advertising, canvassing and marketing for credit rating agencies are available on the Financial Services Board's web site at <http://www.fsb.co.za>.


DP TSHIDI

REGISTRAR OF CREDIT RATING AGENCIES

Draft Notice on proposed Rules for Advertising, Canvassing and Marketing in terms of section 24(1)(h) of the Credit Rating Services Act, 2012 (Act No.2 of 2012).

SCHEDULE
FINANCIAL SERVICES BOARD

**ADVERTISING, CANVASSING AND MARKETING RULES IN CREDIT
RATINGS RELATED MATTERS, 2015.**

CREDIT RATING SERVICES ACT

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PART I

DEFINITIONS

1. Definitions

In these Rules, "the Act" means the Credit Rating Services Act, 2012 (Act No. 24 of 2012) and any word or expression to which a meaning has been assigned in the Act, bears, subject to context, that meaning-

"advertisement, brochure or similar communication" means any direct or indirect visual or oral communication transmitted by any medium, or any representation or reference written, inscribed, recorded, encoded upon or embedded within any medium, by any means of which the rating agency and or a person with whom the rating agency has an arrangement, seeks to create public interest or solicit business for rating services or credit ratings for the business of the rating agency, this includes printed and published material, audio material, audio visual material, and descriptive literature of a credit rating agency used in direct mail, newspapers, magazines, radio and television script, billboards or similar displays, or web sites and social media;

"canvassing" means solicitation of opinions or sales, clients in the business of credit ratings means conduct which involves direct contact with prospective clients verbally or by, among others, distributing letters, pamphlets, circulars or other means of communication including printed or electronic communication, in which attention is drawn to a credit rating agency's qualities, superior knowledge, quality of service, professional guarantees or best practice in order to secure prospective clients;

"comparative advertising" is advertising that compares the advertiser's products or services, and the products or services of one or more identifiable rating agencies or of the marketplace as a whole; and

"marketing" means the action or business of promoting and selling credit rating

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services, including advertising and canvassing, this includes identification, selection and development of a product or service, determination of product or service price, selection of a distribution channel to reach the customers, and development and implementation of a promotional strategy.

PART II

OBJECTS OF THE RULES

2. Objectives

The Rules aim to-

- (a) provide a legal framework within which a credit rating agency may advertise, canvass and market its credit ratings services;
- (b) protect investors from deceptive, misleading, unfair or fraudulent conduct by registered credit rating agencies through advertising and marketing material;
- (c) encourage fair competition and advertisements;
- (d) promote the use of plain and understandable language in respect of any information provided or displayed by credit rating agencies.

3. Application

The Rules apply to the advertisements, canvassing, marketing material and communication of credit rating agencies.

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PART III

GENERAL PRINCIPLES APPLICABLE TO ALL ADVERTISEMENTS, CANVASSING AND MARKETING

4. Factually correct advertising, canvassing and marketing

- (a) No person may in any manner, directly or indirectly, advertise or canvass in the Republic to render credit rating services, or to issue credit ratings, unless that person is a registered credit rating agency.
- (b) A credit rating agency must ensure that its advertisements, canvassing and marketing material-
 - (i) are accurate and factually correct;
 - (ii) do not mislead or exaggerate the facts;
 - (iii) where statistics, achievements or awards are referenced, discloses the source of the statistics and the date of publication of the statistics;
 - (iv) provide a balanced presentation of key information with limitations clearly defined;
 - (v) use plain and understandable language and that terms are defined to eliminate and avoid misunderstanding.
- (c) Each word on the advertisement, canvassing, marketing brochure or similar communications must be prominent and proximate enough to read.

5. Comparative advertising

- (a) Comparative advertising of a crediting rating agency must be:
 - (i) fair and factual comparison of similar products or services;
 - (ii) products or services must not be unfairly discredited or ridiculed by a claim specifically made in an advertisement;

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- (iii) products or services must not be unfairly discredited or disparaged through the general impression conveyed by an advertisement; and
- (iv) statements about compared products or services delivered through a testimonial or by a spokesperson should be clearly presented as an individual opinion

6. Identification of credit rating agency

A credit rating agency must ensure that its advertisements-

- (a) clearly and prominently identify the name and registration number of the credit rating agency;
- (b) do not use the group or parent company name to create the impression that any entity other than the credit rating agency registered in the Republic is responsible for the advertisement.

7. Repeal

This Notice repeals the definition of "advertising" under paragraph 1 and Part VIII of Board Notice 228 of 2013 published in *Government Gazette* number 37014 of 15 November 2013.

8. Short title

This Notice is called the advertising, canvassing and marketing Rules for credit rating agencies.