

## Code of Conduct | 2014



# CODE OF CONDUCT (the Code): Batseta Council for Retirement Funds of South Africa NPC

## 1. DEFINITIONS

In the Code, unless the context clearly indicates otherwise, the following terms have the meanings indicated below:

**Communication:** A written, electronic, or oral communication issued by a member with respect to a Fiduciary's services rendered –

- in a statutory role;
- within the scope of the professional standards of practice issued by the Batseta;
- for the member's principal, concerning a matter and in circumstances where the principal reasonably believes that the conclusion, result, opinion or recommendation is being given in accordance with professional requirements governing impartiality, expertise as a fiduciary.

**Fiduciaries services:** Professional services provided to a principal by an individual acting in a fiduciary role and as a member of Batseta. Such services include the rendering of advice, recommendations, findings, contributions during a debate and opinions.

**Fiduciary:** A Trustee, Principal Officer, employee, service provider or adviser of a retirement fund.

**Confidential information:** Information not in the public domain of which a member becomes aware as a result of providing Fiduciary services to a principal. It includes information of a proprietary nature and information that is legally restricted from circulation.

**Directives:** Any document emanating from a relevant source setting out standards of practice in respect of the functions performed in the industry, although it may not have a statutory nature.

***Disciplinary Code:*** The disciplinary code of Batseta, as set out in the relevant policy document.

***Law:*** Statutes, regulations, judicial decisions, and other statements having legally binding authority.

***Member:*** Any person or organisation who or which has been admitted to the designated membership provided for in the Memorandum of Incorporation of Batseta.

***Principal:*** A client or employer of the member.

## **2. APPLICATION**

2.1 Batseta is a professional body that seeks to enhance and protect the status of the fiduciaries of retirement funds in order that the public interest is served. In order to achieve this, it is essential that members maintain proper standards of governance and professionalism. Batseta therefore establishes and maintains a Code of Conduct to govern the conduct of its members.

2.2 The Code applies to all members.

2.3 The Code sets out the minimum standards of what it requires of a member of Batseta to adhere to good governance measures. It identifies the responsibilities that members have to the public, to their clients, employers and to the retirement funds that they serve.

## **3. PURPOSE**

2.1 The purpose of the Code is to require members to adhere to the high standards of conduct, practice and qualifications required of fiduciaries, thereby supporting the retirement funds in fulfilling their responsibilities.

2.2 Any member who commits a breach of the Code shall be subject to Batseta's disciplinary code.

#### **4. AUTHORITY**

In addition to the Code, members must be and remain familiar with the legislative and other regulatory provisions that apply to the areas in which they render services. The Code, law and directives comprise a member's professional responsibilities.

#### **5. MEMBERSHIP-GOVERNING PRINCIPLES**

5.1 To ensure the trust of our stakeholders, Batseta strives to attract fiduciaries who comply with the requirements of fitness and probity as set out in law.

5.2 Members of the Batseta shall in addition be considered to be fit and proper if the person essentially is of good character, competent, honest, financially sound, reputable, reliable, discharges or is likely to discharge duties fairly and possesses the necessary academic qualifications and/or training and experience.

#### **6. PROFESSIONAL INTEGRITY**

6.1 Members will behave in an ethical manner with regard to the role they fulfil in the profession.

6.2 Members shall perform professional services with the highest standards of integrity, competence and care. They shall fulfil their professional responsibilities to their clients and/or employers.

6.3 A member must take responsibility for the professional conduct of his or her duties and is responsible for compliance with applicable standards of practice.

- 6.4 A member shall not provide fiduciary services for any principal if the member has reason to believe that such services may be used to violate or evade the law or to mislead another party, or in a manner that would be detrimental to the profession of Fiduciary.
- 6.5 In accordance with the requirements set by the Batseta on continuing professional development, all members have a continuing duty to maintain knowledge and skills at a level required to ensure that a principal receives the advantage of competent professional services, based on legislation, directives and generally accepted practices and techniques.
- 6.6 A member who is in doubt as to what constitutes appropriate professional conduct in a particular situation must seek guidance on the interpretation and application of this Code from the Secretariat, or obtain legal or other relevant professional advice, and take the appropriate action required in the circumstances.
- 6.7 A member who reasonably believes that another member may have committed a breach of this Code must consider it his or her duty to make a complaint in accordance with the rules of the disciplinary scheme.
- 6.8 A member shall perform Fiduciary services only when the member is qualified to do so having the relevant qualifications and continuing education and experience.
- 6.9 The absence of applicable qualification standards for a particular type of assignment or for the areas in which a member renders Fiduciary services does not relieve the member of the responsibility to perform such services.
- 6.10 A member who fulfils an assignment for an overseas principal automatically agrees to adhere to any applicable code of that country in addition to this Code.

## **7. CONFLICTS OF INTEREST**

A member shall not perform Fiduciary services knowing that an actual or potential conflict of interest exists unless:

- a) there has been disclosure of the conflict to all prospective principals whose interests could be affected by the conflict; and
- b) all such principals have expressly agreed to the performance of the Fiduciary services by the member in spite of such actual or potential conflict.

## **8. COMMUNICATIONS AND DISCLOSURE**

- 8.1 A member who issues a communication shall take appropriate steps to ensure that the communication is clear, appropriate to the circumstances and its intended audience and satisfies applicable standards of practice.
- 8.2 A member shall make appropriate and timely disclosure to a principal of the sources of all direct and indirect compensation that the member or the member's firm has received, or may receive, from another party in relation to Fiduciary services for that principal.
- 8.3 A member who is not financially and organisationally independent concerning any matter related to the performance of Fiduciary services should disclose to the principal any pertinent relationship.
- 8.4 A member must have proper regard for the trust that is implicit in the relationship between member and principal. The member must take reasonable steps to ensure that the information used and the result of any professional services provided remain confidential and that the principal is made aware if there is a breach of confidentiality. A member shall not disclose to another party any confidential information unless authorised to do so by the principal or required to do so by law.

## **9 COURTESY AND COOPERATION**

- 9.1 A member shall perform Fiduciary services with courtesy and professional respect and shall cooperate with others in the interests of the principal and the public.
- 9.2 Observations made by a member to a principal on the work of another fiduciary, should be conducted confidentially, objectively and with courtesy and respect.
- 9.3 A principal has a right to choose a professional advisor. A member may provide services to any principal who requests it, even though such principal is being or has been served by another member on the same matter.
- 9.4 A member in the course of an engagement or employment may encounter a situation where the best interests of the principal would be served by the member's setting out an alternative opinion to one expressed by another member, together with an explanation of the factors that lend support to the alternative opinion. Nothing in the Code should be construed as preventing a member from expressing such an alternative opinion to the principal.

## **10. PUBLICITY**

- 10.1 A member shall make use of membership titles and designations of Batseta only in a manner that conforms to the practices authorized by Batseta.
- 10.2 "Designation" refers to a specific reference to membership status within such organisation.

## **11. BREACH OF THE CODE**

- 11.1 A member who has knowledge of a prima facie breach of the Code by another member shall disclose such apparent breach to the Batseta within a reasonable time.
- 11.2 A breach of the Code is deemed to be material if it may harm the profession of fiduciaries. A breach is deemed not to be material if it is trivial or is merely one of form.
- 11.3 A member is not expected to discuss such apparent breach of the Code with another member.
- 11.4 A member shall respond promptly, truthfully, and fully to any request for information by, and cooperate fully with the Batseta in connection with any disciplinary or other proceeding. The member's responsibility to respond shall be subject to applicable law.