

FINANCIAL SERVICES BOARD



FINANCIAL ADVISORY AND INTERMEDIARY SERVICES ACT, 2002 (“FAIS ACT”)

FAIS CIRCULAR 11/2011

Updating FAIS Circular 11/2011 of 28 November 2011

DATE: 20 January 2012

Replacement Circular on the exemption regarding audited financial statement requirements

1. Background:

The Office of the Registrar of Financial Services Providers has received numerous queries regarding the submission of audited financial statements. As a result the “Exemption of FSPs from audited financial statement requirements” was revised and published as Board Notice 193 of 2011, dated 28 November 2011.

2. Information regarding the applicability of the exemption

Section 19(1) of the FAIS Act requires an authorised FSP to maintain proper accounting records and prepare the conventional financial statements. This remains in force, and all FSPs must still maintain accounting records and prepare conventional financial statements.

Section 19(2)(a) provides that the financial statements prepared in terms of section 19(1) must be audited. The Registrar is satisfied that the requirement for all FSPs to provide financial statements that are audited could cause undue hardship to some FSPs. The exemption thus relates to the requirement to submit audited financial statements. This exemption only applies to category I FSPs and is not applicable to category II, III and IV FSPs.

3. Who must prepare audited financial statements?

- 3.1 All Category II, IIA, III and IV FSPs
- 3.2 All FSPs that receive premiums or client funds or hold assets on behalf of clients are required to prepare audited financial statements, except:
 - 3.2.1 FSPs that collect premiums in terms of Long-term Insurance subcategory A or friendly society benefits provided by a friendly society contemplated in paragraph (d)(ii) of the definition of 'financial product' in section 1(1) of the Act who must appoint an accounting officer.

4. Who is exempted?

All FSPs in respect of category I only, who do not collect premiums or client funds or hold assets on behalf of clients and that, are not required by another law to submit audited financial statements.

5. What are exempted FSP required to do?

- 5.1 Existing FSPs who are exempted FSPs are required to register with the registrar within **six months** after publication of the Notice.
- 5.2 New applicants are required to indicate upon application for authorisation that they wish to apply for this exemption.
- 5.3 The registration form is available on the FSB website:
 - 5.3.1 Category I sole proprietors who do not receive client funds and / or premiums and who are not required to appoint an accounting officer (Complete section A, C)
 - 5.3.2 All Category I FSPs who are Close Corporations or Companies who do not receive client funds and / or premiums and who are required to appoint an accounting officer (Complete section A, B, C)
 - 5.3.3 Category I FSP's limited by product who receive client funds and / or premiums are required to appoint an accounting officer (Complete Section A, B, C)
 - 5.3.4 Exempted FSPs that are required to appoint an accounting officer must submit the details of the accounting officer.
 - 5.3.5 The appointment, change and termination of an accounting officer must be done in the same manner as the appointment, change or termination of an auditor.
- 5.4 The accounting officer must:
 - 5.4.1 Certify and report on the financial statements, in accordance with the practices of the accounting officer's profession.

5.4.2 Report any irregularities in terms of section 19(4) of the FAIS Act.

6. Arrangements regarding sole proprietors

6.1 FSPs in respect of category I who are sole proprietors (natural persons) and do not receive premium or client funds or hold client assets are not required to:

- submit audited financial statements; or
- appoint an accounting officer;
- **However, they must**
 - register for the exemption (see 5.3.1 above)
 - submit annual financial statements that they may draw up themselves.
 - Examples and guidelines for financial statements are available on the FSB website, on the FAIS page.

7. Enquiries

Enquiries and exemption applications can be sent to faisfins4@fsb.co.za

REGISTRAR FINANCIAL SERVICES PROVIDERS