



**FINANCIAL SERVICES BOARD
FINANCIAL ADVISORY AND INTERMEDIARY SERVICES ACT, 2002**

Date: 5 October 2011

**Invitation to comment on the draft amendment of Financial Soundness
Requirements - paragraph 9 of the determination of Fit and Proper
Requirements for Financial Services Providers, 2008**

PURPOSE

The purpose of the proposed amendment is to: clarify some definitions in current requirements relating to financial soundness; bring relieve relating to the current 7 day liquid asset requirements; and assist financial services providers that might have unforeseen problems, for a period of not exceeding 24 months, and therefore need interim relieve from the financial soundness requirements.

COMMENTS ON PROPOSED DRAFT AMMENDMENT

Any interested party is invited to comment on the proposed amendment. Such comments must be submitted to Wendy Hattingh at wendy.hattingh@fsb.co.za by latest 4 November 2011.

NOTICE OF 2011

**AMENDMENT OF DETERMINATION OF FIT AND PROPER REQUIREMENTS
FOR FINANCIAL SERVICES PROVIDERS, 2008**

I, DUBE PHINEAS TSHIDI, the Registrar of Financial Services Providers, after consultation with the Advisory Committee on Financial Services, under section 8(1) of the Financial Advisory and Intermediary Services Act, 2002 (the Act), amend the Determination of Fit and Proper Requirements for Financial Services Providers, 2008, as set out in the Schedule.

DP Tshidi,
Registrar of Financial Services Providers

SCHEDULE

AMENDMENT OF DETERMINATION OF FIT AND PROPER REQUIREMENTS FOR FINANCIAL SERVICES PROVIDERS, 2008

Definitions

1. In this Schedule **“Fit and proper Requirements”** means the Determination of Fit and Proper Requirements for Financial Services Providers, 2008.

Amendment of paragraph 1 of Fit and Proper Requirements

2. Paragraph 1(1) of the Fit and Proper Requirements is amended—
 - (a) by the substitution for the definition of “annual expenditure” of the following definition:

“annual expenditure”, means the expenditure set out in—

 - (a) the latest set of financial statements; or
 - (b) in the case of an applicant commencing business, the budgeted expenditure as expressed in the budget or other accounts; or
 - (c) in the case of an FSP who applied under paragraph 9(7), the latest set of management accounts, less—
 - (i) staff bonuses;
 - (ii) sharing in profits by employees, directors, partners and members;
 - (iii) emoluments of directors, members, partners and a sole proprietor;
 - (iv) other appropriation of profits to directors, members and partners; and

(v) fifty percent of the commission of representatives not forming part of their salary;"; and

(b) by the substitution for the definition of "liquid assets" of the following definition:

"liquid assets", means cash and other assets equivalent to cash that can be liquidated without realising a loss on liquidation: Provided-

(a) 25% of the assets must be capable of being liquidated in seven days;

(b) a further 25% of the assets must be capable of being liquidated in 30 days; and

(c) the remaining 50% of the assets must be capable of being liquidated in 60 days;"; and

(c) by the insertion of the following definition after the definition of "liquid assets"-

"management accounts", means a set of financial statements which-

(a) is prepared from the accounting records contemplated in section 19(1)(a) of the Act;

(b) reflects the financial position of the FSP at month end;

(c) is prepared in accordance with the accounting policies summarised as contemplated in section 19(1)(b)(iv);

(d) fairly represents the state of affairs of the FSP's business; and

(e) refers to any material matter which has affected or is likely to affect the financial affairs of the FSP.".

Amendment of paragraph 9 of Fit and Proper Requirements

3. Paragraph 9 of the Fit and Proper Requirements is hereby amended by-

(a) the substitution for subparagraph (a) of paragraph 9(3), (4) and (5) of the following subparagraph-

“(a) The FSP’s assets (excluding goodwill, intangible assets, investments in related parties and investments with persons to whom financial services are rendered by the FSP) must exceed the FSP’s liabilities (excluding loans subordinated in favour of other creditors);”;

(b) the addition of the following subparagraph:

“(7) (a) An FSP may apply to the Registrar to hold half of the assets in paragraph 9(3), (4) and (5) for not more than 24 months.

(b) The FSP must submit management accounts within 15 days after each month end.

(c) The approval lapses in case of non-compliance with paragraph (b).”.

Short title

4. This is the Determination of Fit and Proper Requirements Amendment, 2011.