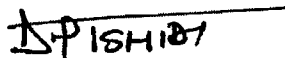


NOTICE 169 OF 2009**FINANCIAL SERVICES BOARD****FINANCIAL ADVISORY AND INTERMEDIARY SERVICES ACT, 2002
(ACT NO. 37 OF 2002)****AMENDMENT OF DETERMINATION OF FIT AND PROPER REQUIREMENTS
FOR FINANCIAL SERVICES PROVIDERS**

I, DUBE PHINEAS TSHIDI, the Registrar of Financial Services Providers, after consultation with the Advisory Committee on Financial Services Providers, hereby under section 8(1) of the Financial Advisory and Intermediary Services Act, 2002 (Act No. 37 of 2002), amend the Fit and Proper Requirements for Financial Services Providers, 2008, as set out in the Schedule.



D P TSHIDI,
Registrar of Financial Services Providers

SCHEDULE**AMENDMENT OF FIT AND PROPER DETERMINATION****Definitions**

1. In this Schedule, 'the Fit and Proper Determination' means the Determination of Fit and Proper Requirements for Financial Services Providers, 2008.

Amendment of Part IV of Schedule to Fit and Proper Determination

2. Part IV of the Schedule to the Fit and Proper Determination is hereby amended by the substitution for the heading to Table B at the end of paragraph 4(2) of the following heading:

TABLE B: CATEGORY II EXPERIENCE REQUIREMENTS FOR FSP AND REPRESENTATIVE		
	COLUMN ONE SUBCATEGORY	COLUMN TWO: MINIMUM EXPERIENCE

Substitution of Part V of Schedule to Fit and Proper Determination

3. The following Part is hereby substituted for Part V of the Schedule to the Fit and Proper Determination:

“PART V QUALIFICATIONS

- 5 (1) Subject to the qualifying criteria, the Registrar must, after consultation with the Advisory Committee, publish in the *Gazette* a list of recognised qualifications in respect of Category I FSP and the subcategories listed in Table A above, Category II FSP and the subcategories listed in Table B above, and Categories IIA, III and IV FSPs.
- (2) A Category I, II, IIA, III or IV FSP (who is a sole proprietor) must have recognised qualification(s), as determined by the Registrar by notice in the *Gazette* as it applies to the applicable Categories or subcategories the FSP is authorised for.
- (3) A key individual of a Category I, II, IIA, III or IV FSP must, at approval, have recognised qualification(s), determined by the Registrar by notice in the *Gazette*, as it applies to the applicable Categories or subcategories the FSP is authorised for.
- (4) A representative of a Category I, II, IIA, III or IV FSP must, on date of appointment, have recognised qualification(s), determined by the Registrar by notice in the *Gazette*, as it applies to the applicable Categories or subcategories the representative is appointed for.
- (5) Subject to subparagraphs (1) to (4), an FSP (who is a sole proprietor), key individual and/or a representative must comply only with the highest qualification required in respect of the subcategories the person is authorised, approved or appointed for.”

Amendment of Part VI of Schedule to Fit and Proper Determination

4. Part VI of the Schedule to the Fit and Proper Determination is hereby amended-

- (a) by the substitution for item 1.1 of Table C at the end of paragraph 6(2)(c) of the following item:

1.1	Long-term Insurance Category A	Applies	Applies (key individual only)
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- (b) by the substitution for items 1.17, 1.18 and 1.19 of Table C at the end of paragraph 6(2)(c) of the following items:

1.17	Long-term Deposits	Applies	Applies
1.18	Short-term Deposits	Applies	Applies
1.19	Friendly Society Benefits	Applies	Applies (key individual only)
	Category IV: Assistance Business FSP	Applies	Applies

Amendment of Part VII of Schedule to Fit and Proper Determination

5. Part VII of the Schedule to the Fit and Proper Determination is hereby amended-

- (a) by the substitution for item 1.1 of Table D at the end of paragraph 7 of the following item:

1.1	Long-term Insurance Category A (key individual only)	15
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- (b) by the substitution for item 1.19 of Table C at the end of paragraph 7 of the following item:

1.19	Friendly Society Benefits (key individual only)	15
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Amendment of Part X of Schedule to Fit and Proper Determination

6. Part X of the of the Schedule to the Fit and Proper Determination is hereby amended-

(a) by the substitution for paragraph 10(1) of the following paragraph:

“10 (1) Subject to the provisions of the Act and Parts I to IX above, the transitional requirements will be applicable to all FSPs, key individuals and representatives authorised, approved or appointed in relation to a specific Category or subcategory prior to and including 31 December 2009 and provides for the transitional arrangements until 31 December 2014.”;

(b) by the substitution for subparagraph (a) of paragraph 10(3) of the following subparagraph:

“(a) All FSPs (who are sole proprietors), key individuals and representatives authorised, approved or appointed during the period 30 September 2004 and 31 December 2007 must comply with the qualification requirements in column two of Table E, applicable to the Categories or subcategories they are authorised, approved or appointed for, by 31 December 2009.”;

(c) by the substitution for subparagraph (e) of paragraph 10(3) of the following subparagraph:

(d) “(e) All FSPs (who are sole proprietors) and representatives authorised or appointed during the period 30 September 2004 to 31 December 2007 must comply with the second level regulatory examinations requirements in column four of Table E, applicable to the Categories or subcategories they are authorised, approved or appointed for, by 31 December 2013.”;

(e) by the substitution for the heading to Table E at the end of subparagraph (e) of paragraph 10(3) of the following heading:

TABLE E: TRANSITIONAL PROVISIONS FOR CATEGORIES I, II, IIA, III AND IV				
	COLUMN ONE CATEGORY	COLUMN TWO QUALIFICATION REQUIREMENTS	COLUMN THREE FIRST LEVEL REGULATORY EXAMINATION	COLUMN FOUR SECOND LEVEL REGULATORY EXAMINATION

(f) by the substitution for items 1.1 and 1.2 of Table E at the end of subparagraph (e) of paragraph 10(3) of the following items:

1.1	Long-term Insurance Category A	Representatives: ABET level 1 or the proven ability to read, write and calculate to the satisfaction of the provider.	Not applicable	Not applicable
		FSPs and key individuals: Recognised qualification on NQF level 2 or a recognised skills	31/12/2013	Not applicable

		programme of 30 credits at level 2 by 31 December 2011.		
1.2	Short-term Insurance Personal Lines	An appropriate NQF level 4 skills programme consisting of a minimum of 30 credits; or an appropriate at NQF level 4 qualification; or	31/12/2011	31/12/2013

(g) by the substitution for item 1.19 of Table E at the end of subparagraph (e) of paragraph 10(3) of the following item:

1.19	Friendly Society Benefits	<u>Representatives:</u> ABET level 1 or the proven ability to read, write and calculate to the satisfaction of the provider.	Not applicable	Not applicable
		<u>FSPs and key individuals:</u> Recognised qualification on NQF level 2 or a recognised skills programme of 30 credits at level 2 by 31 December 2011.	31/12/2013	Not applicable
	Category II	An appropriate qualification at NQF level 5 or NQF level 6.	31/12/2011	31/12/2013
	Category IIA	An appropriate qualification at NQF 6 consisting of a minimum of 360 credits (full business degree/diploma).	31/12/2012	31/12/2013
	Category III	An appropriate NQF level 6 skills programme of 60 credits or an appropriate NQF level 6 qualification.	31/12/2011	31/12/2013
	Category IV	A minimum of an appropriate NQF level 2 skills programme consisting of a minimum of 30 credits; or an appropriate NQF level 2 qualification.	31/12/2011	Not applicable

(h) by the substitution for subparagraph (f) of paragraph 10(3) of the following subparagraph:

"(f) All FSPs (who are sole proprietors), key individuals and representatives authorised, approved or appointed for Category I or IV during the period 1 January 2008 to 31 December 2008 are required to-

(i) meet the following entry level qualification requirements at appointment:

(aa) Matric (Grade 12); or

(bb) an appropriate certificate at NQF level 4; or

(cc) a skills programme referred to in column two of Table E, where the credit value is half of the requirement as set out in column two when 60 credits are required in respect of column two, and 12 credits when the column two requirement is a total of 30 credits:

Provided that in respect of representatives in subcategory 1.1 Long-term Insurance Category A and/or 1.19 Friendly Society Benefits, the entry level qualification requirement is either ABET level 1 or the proven ability to read, write and calculate to the satisfaction of the provider;

(ii) comply with the qualification requirements:

- (aa) in column two of Table E by 31 December 2011, as applicable to the Categories or subcategories they are authorised, approved or appointed for; or
 - (bb) complete a qualification, from the list of recognised qualifications, in accordance with Part V of this Determination, as applicable to the Categories or subcategories they are authorised, approved or appointed for, by 31 December 2013;
 - (iii) meet the experience requirements as determined in paragraph 4(1) and (5) of this Determination.”;
- (i) by the addition of the following subparagraph to paragraph 10(3):
- “(k) All FSPs (who are sole proprietors), key individuals and representatives authorised, approved or appointed for Category II, IIA or III during the period 1 January 2008 to 31 December 2008 are required to-
- (i) meet the following entry level qualification requirements at appointment:
 - (aa) A qualification that is recognised as appropriate in the Determination of Qualifying Criteria and Qualifications for Financial Services Providers, Number 1 of 2008; or
 - (bb) an appropriate skills programme of 30 credits at NQF level 6;
 - (ii) comply with the qualification requirements:
 - (aa) in column two of Table E by 31 December 2011, as applicable to the Categories or subcategories they are authorised, approved or appointed for; or
 - (bb) complete a qualification from the list of recognised qualifications, in accordance with Part V of this Determination, as applicable to the Categories or subcategories they are authorised, approved or appointed for, by 31 December 2013; and
 - (iii) meet the experience requirements:
 - (aa) in paragraph 4(2) of this Determination in respect of Category II;
 - (bb) in paragraph 4(3) of this Determination in respect of Category IIA;
 - (cc) in paragraph 4(4)(a) of this Determination in respect of Category III.”; and
- (j) by the substitution for paragraphs 10(4) to 10(10) of the following paragraphs:
- “(4) All FSPs (who are sole proprietors), key individuals and representatives authorised, approved or appointed during the period 1 January 2009 to 31 December 2009 must comply as follows:
- (a) All FSPs (who are sole proprietors), key individuals and representatives authorised, approved or appointed for Category I or IV during the period 1 January 2009 to 31 December 2009 are required to-
 - (i) meet the following entry level qualification requirements:
 - (aa) Matric (Grade 12); or
 - (bb) an appropriate certificate at NQF level 4; or
 - (cc) a skills programme as indicated in column two of Table E of this Determination, where the credit

value is half of the requirement as set out in column two when 60 credits are required in respect of column two, and 12 credits when the column two requirement is a total of 30 credits:

Provided that in respect of representatives in subcategory 1.1 Long-term Insurance Category A and/or 1.19 Friendly Society Benefits, the entry level qualification requirement is either ABET level 1 or the proven ability to read, write and calculate to the satisfaction of the provider;

- (ii) comply with the qualification requirements:
 - (aa) by completing a qualification from the list of recognised qualifications, in accordance with Part V of this Determination, as applicable to the Category or subcategory they are authorised, approved or appointed for, by 31 December 2013; or
 - (bb) in column two of Table E by 31 December 2011, as applicable to the Category or subcategory they are authorised, approved or appointed for; and
- (iii) meet the experience requirements as determined in paragraph 4(1) and (5) of this Determination.
- (b) All FSPs (who are sole proprietors), key individuals and representatives authorised, approved or appointed during the period 1 January 2009 to 31 December 2009 must meet the requirements relating to the first level of regulatory examinations, as applicable to the Categories or subcategories they are authorised, approved or appointed for, by the date stated in column three of Table E.
- (c) All FSPs (who are sole proprietors), key individuals and representatives authorised, approved or appointed during the period 1 January 2009 to 31 December 2009 must meet the requirements relating to the second level of regulatory examinations, applicable to the Categories or subcategories they are authorised, approved or appointed for, by 31 December 2013.
- (d) All FSPs (who are sole proprietors), key individuals and representatives authorised, approved or appointed for Category II, II A or III during the period 1 January 2009 to 31 December 2009 are required to-
 - (i) meet the following entry level qualification requirements at appointment:
 - (aa) A qualification that is recognised as appropriate in the Determination of Qualifying Criteria and Qualifications for Financial Services Providers, Number 1 of 2008; or
 - (bb) an appropriate skills programme of 30 credits at NQF level 6;
 - (ii) comply with the qualification requirements:
 - (aa) in column two of Table E by 31 December 2011, as applicable to the Categories or subcategories they are authorised, approved or appointed for; or
 - (bb) complete qualification, from the list of recognised qualifications, in accordance with Part V of this Determination, as applicable to the Categories or

- subcategories they are authorised, approved or appointed for, by 31 December 2013; and
- (iii) meet the experience requirements as determined:
- (aa) in Table B of this Determination in respect of Category II;
- (bb) in paragraph 4(3)(a) to (c) of this Determination in respect of Category IIA;
- (cc) in paragraph 4(4)(a) and (b) of this Determination in respect of Category III.
- (5) All FSPs (who are sole proprietors), key individuals and representatives authorised, approved or appointed during the period 30 September 2004 to 31 December 2009 must comply with the continuous professional development requirements, as described in Part VII of this Determination, from the date of completion of the applicable requirements as set out in paragraphs 2, 3 and 4 above.
- (6) All FSPs (who are sole proprietors), key individuals and representatives authorised, approved or appointed during the period 30 September 2004 to 31 December 2009 who have met the applicable experience requirements as provided for in the Determination of Fit and Proper Requirements for Financial Services Providers, 2006, are not required to render financial services under supervision while they complete their qualifications or obtain the relevant regulatory examinations.
- (7) This Part X (Transitional Provisions) does not apply to any applicants, key individuals or representatives authorised, approved or appointed on or after 1 January 2010 in respect of the experience and qualification requirements. All FSPs (who are sole proprietors), and key individuals authorised or approved during the period 1 January 2010 to 31 December 2010-
- (a) have until 31 December 2012 to meet the requirements for the relevant first level regulatory examination and until 31 December 2014 to meet the requirements for the relevant second level regulatory examination as applicable to the Categories or subcategories they are authorised or approved; and
- (b) must comply with the continuous professional development requirements, as described in Part VII of this Determination, from the date of completion the applicable requirements as set out in paragraphs (a) above.
- (8) All FSPs and key individuals authorised or approved on or before 31 December 2008 must meet the operational ability requirement in paragraph 8(3) to (8) within 12 months from such date.
- (9) All FSPs authorised on or before 31 December 2008 must meet the financial soundness requirements as required in paragraph 9(2), (3)(b) and (c), (4)(b) and (c), and (5)(b) and (c) within 24 months from such date, provided that the assets of the FSP (excluding goodwill and other intangible assets) must exceed the FSP's liabilities (excluding loans validly subordinated in favour of all other creditors).
- (10) All FSPs authorised for Category 1.3 Long-term Insurance Category B and Category 1.4 Long-term Insurance Category C between 2004 and 31 December 2008, that render financial services in respect of retirement annuity policies and policies issued in respect of preservation funds, have until 31 October 2009 to amend the restrictions on their licences to include categories 1.5 Retail Pension Benefits.

- (11) All FSPs that amend the restrictions on their licences to include Category 1.5 Retail Pension Benefits in terms of requirements of paragraph 10(9), are exempt from complying with the qualification requirement for Category 1.5 Retail Pension Benefits, but are required to complete the second level regulatory examination in respect of Category 1.5 Retail Pension Benefits by 31 December 2013.
- (12) All Category I FSPs authorised for Long-term Insurance Category A between 2004 and 2008, that render financial services in respect of the administration of assistance policies, have until 31 October 2009 to amend the restrictions on their licences to include Category IV.”.

Short title and commencement

- 7. This Notice is called the Amendment Determination of Fit and Proper Requirements for Financial Services Providers, 2009, and comes into operation on date of publication thereof in the *Gazette*.