



Financial Sector
Conduct Authority

FSCA FAIS Notice 15 of 2021

FINANCIAL ADVISORY AND INTERMEDIARY SERVICES ACT, 2002

EXEMPTION OF JURISTIC REPRESENTATIVES FROM SECTION 13(1)(c) OF THE ACT, 2021

The Financial Sector Conduct Authority, under section 44(4) of the Financial Advisory and Intermediary Services Act, 2002 ("the Act"), read with section 281(3)(b) of the Financial Sector Regulation Act, 2017, hereby exempts juristic representatives from section 13(1)(c) of the Act, to the extent and subject to the conditions set out in the Schedule.

A handwritten signature in black ink, appearing to be "OB Makhubela", with a stylized flourish at the end.

**OB Makhubela
Commissioner
Financial Sector Conduct Authority**

Date of publication: 26 February 2021

SCHEDULE

EXEMPTION OF JURISTIC REPRESENTATIVES FROM SECTION 13(1)(c) OF THE ACT, 2021

1. Definitions

In this Schedule, “**the Act**” means the Financial Advisory and Intermediary Services Act, 2002 (Act No. 37 of 2002), and any word or expression to which a meaning is assigned in the Act shall have that meaning, and unless the context otherwise indicates-

“**insurer**” means a long-term insurer as defined in section 1 of the Long-term Insurance Act and a short-term insurer as defined in section 1 of the Short-term Insurance Act, as the case may be;

“**juristic representative**” means a person that-

- (a) is a company or a close corporation as defined in section 1 of the Companies Act, 2008 (Act No. 71 of 2008);
- (b) is appointed as a representative of only one particular FSP; and
- (c) has a written mandate from the FSP referred to in (b) to render a specific financial service on behalf of that FSP;

“**Long-term Insurance Act**” means the Long-term Insurance Act, 1998 (Act No. 52 of 1998);

“**particular FSP**” means a Category I or Category IV authorised financial services provider that-

- (a) is also an insurer;
- (b) is satisfied and able to demonstrate that the specific financial service rendered on behalf of the FSP by its juristic representative will not-
 - (i) materially increase the risk to the particular FSP;
 - (ii) materially impair the quality of the governance framework of the particular FSP, including its ability to manage its risks and meet its legal and regulatory obligations;
 - (iii) impair the ability of the relevant regulators to monitor the particular FSP’s compliance with regulatory obligations; and
 - (iv) compromise the fair treatment of or continuous and satisfactory service to clients, and
- (c) monitors, manages and regularly reviews the level and standard of service rendered by the juristic representative to clients, as well as the juristic representative’s performance under and compliance with the mandate;

“**Short-term Insurance Act**” means the Short-term Insurance Act, 1998 (Act No. 53 of 1998);

“**specific financial service**” means the collection, receiving or holding of or to in any other manner deal with a premium on behalf of a particular FSP in respect of a financial product issued by that FSP as an insurer.

2. Extent of exemption and conditions

- (1) A juristic representative is exempted from section 13(1)(c) of the Act when rendering a specific financial service on behalf of a particular FSP subject to the conditions that-

- (a) the juristic representative must-
 - (i) at all times, have a written mandate from the particular FSP to render the specific financial service;
 - (ii) annually obtain written confirmation from the particular FSP referred to in (i) that the FSP meets the criteria set out in the definition of “particular FSP”; and
 - (iii) comply with sections 5(g) and 15(6) of the General Code of Conduct for Authorised Financial Services Providers and Representatives, 2003, insofar it relates to the disclosure of the exemption referred to in this paragraph (1); and
 - (b) the mandate referred to in (a)(i) provides that any payment of a premium to the juristic representative shall be deemed to be payment to the particular FSP.
- (2) Failure by –
- (a) a juristic representative to comply with any condition referred to in subparagraph (1); or
 - (b) the particular FSP of the representative referred to in subparagraph 2(a)-
 - (i) to meet any of the criteria set out in the definition of “particular FSP”; or
 - (ii) to provide the confirmation referred to in subparagraph (1)(a)(ii),will result in the exemption not being applicable to that juristic representative.
- (3) This exemption expires on 31 December 2023.

3. Amendment and withdrawal of exemption

The exemption and conditions referred to in paragraph 2 are subject to –

- (1) amendment thereof published by the Authority by notice on the website of the Authority; and
- (2) withdrawal in like manner.

4. Repeal

The Exemption of Juristic Representatives from section 13(1)(c) of the Act, 2017, published by FAIS Notice 124 of 2017, as amended by FAIS Notice 139 of 2017 and FSCA FAIS Notice 88 of 2019, is repealed with immediate effect.

5. Short title and commencement

This Exemption is called the Exemption of Juristic Representatives from section 13(1)(c) of the Act, 2021, and comes into effect on 1 March 2021.