



**FAIS NOTICE 124 OF 2017**

**FINANCIAL SERVICES BOARD**

**FINANCIAL ADVISORY AND INTERMEDIARY SERVICES ACT, 2002  
(ACT NO. 37 OF 2002)**

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

I, Caroline Dey da Silva, Deputy Registrar of Financial Services Providers, under section 44(4) of the Financial Advisory and Intermediary Services Act, 2002 (Act No. 37 of 2002), hereby exempt juristic representatives to the extent and subject to the conditions set out in the Schedule.

  
**CD da Silva,**  
*Deputy Registrar of Financial Services Providers*

**SCHEDULE**

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

**Definitions**

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

“**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;
- (c) has a written mandate from the FSP referred to in (b) to render a specific financial service on behalf of that FSP; and
- (d) has entered into and maintains a guarantee policy or a contract as contemplated in Part 4 of the Short-term Insurance Regulations;

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

- (a) is also a registered insurer as contemplated in the Short-term Insurance Act, 1998 (Act No. 53 of 1998), or the Long-term Insurance Act, 1998 (Act No. 52 of 1998);

- (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 Regulations”** means the Regulations under the Short-term Insurance Act, 1998, issued under section 70 of the Short-term Insurance Act, 1998 (Act No. 53 of 1998);

**“specific financial service”** means-

- (a) 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 a registered insurer.

#### **Extent of exemption, duration and conditions**

- 2. (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) must provide 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) The exemption expires on 31 December 2019.

### **Amendment and withdrawal of exemption and conditions**

3. The exemption and conditions referred to in paragraph 2 are subject to-
  - (a) amendment thereof published by the Registrar by notice on the official web site of the Financial Services Board; and
  - (b) withdrawal in a like manner.

### **Short title and commencement**

4. This Exemption is called the Exemption of Juristic Representatives from section 13(1)(c) of the Act, 2017, and comes into effect on 1 October 2017.

**DATE OF NOTICE: 21 September 2017**