



FAIS NOTICE 123 OF 2017

FINANCIAL SERVICES BOARD

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

**EXEMPTION OF PARTICULAR FSPs FROM SECTION 19(3)
AUDIT REPORT AND LIQUIDITY REQUIREMENTS**

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 particular FSPs 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 PARTICULAR FSPs FROM SECTION 19(3)
AUDIT REPORT AND LIQUIDITY REQUIREMENTS**

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-

“Fit and Proper Requirements” means the Determination of Fit and Proper Requirements for FSPs, 2008;

“insurer” means a person that-

- (a) is a registered short-term insurer or a long-term 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), respectively;
- (b) is satisfied and able to demonstrate that the delegation of the specific financial service to a particular FSP will not -
 - (i) materially increase the risk to the insurer;

- (ii) materially impair the quality of the governance framework of the insurer, including the insurer's ability to manage its risks and meet its legal and regulatory obligations;
 - (iii) impair the ability of the relevant regulators to monitor the insurer's compliance with the regulatory obligations; and
 - (iii) compromise the fair treatment of or continuous and satisfactory service to clients; and
- (c) monitors, manages and regularly reviews the level and standard of the specific financial service rendered by the particular FSP to clients, as well as the particular FSP's performance under and compliance with the written mandate to render the specific financial service;

“particular FSP” means an authorised Category I financial services provider that -

- (a) renders a specific financial service; and
- (b) does not collect, account receive or hold premiums or monies relating to a financial product other than premiums contemplated in the definition of 'specific financial service';

“specific financial service” means the collection, accounting, receiving, holding of premiums or to in any other manner deal with premiums, in terms of a written mandate, on behalf of an insurer in respect of a financial product issued by that insurer.

Extent of exemption, duration and conditions

2. (1) A particular FSP that renders a specific financial service is exempted from section 19(3) of the Act and section 9(3)(b) and (c) of the Fit and Proper Requirements subject to the conditions that-
- (a) the particular FSP must-
 - (i) at all times comply with section 9(3)(a) of the Fit and Proper Requirements;
 - (ii) at all times have a written mandate from the insurer to render the specific financial service;
 - (iii) annually obtain written confirmation from the insurer referred to in (ii) that –
 - (aa) the insurer meets the criteria set out in the definition of 'insurer'; and
 - (bb) the mandate referred to in (ii) is in force and effect and the period for which it is and will remain in force and effect;
 - (iv) annually submit the confirmation referred to in (iii) to the Registrar simultaneously with its financial statements;
 - (v) 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; and
 - (b) the mandate referred to in (a) must provide that any payment of a premium to the particular FSP shall be deemed to be payment to the insurer.
- (2) Failure by-
- (a) a particular FSP to comply with any condition referred to in subparagraph (1);
 - (b) an insurer referred to in subparagraph (1)(a)(ii)-
 - (i) to meet any of the criteria set out in the definition of “insurer”; or
 - (ii) to provide the confirmation referred to in subparagraph (1)(a)(iii),
 will result in the exemption not being applicable to that particular FSP.
- (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 Particular FSPs from section 19(3) Audit Report and Liquidity Requirements, 2017, and comes into effect on 1 October 2017.

DATE OF NOTICE: 21 September 2017