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BOARD NOTICE RAADSKENNISGEWING

BOARD NOTICE 54 OF 2004

FINANCIAL SERVICES BOARD

FINANCIAL SERVICES BOARD ACT, 1990

LEVIES ON FINANCIAL INSTITUTIONS

The Financial Services Board referred to in section 2 of the Financial Services Board Act, 1990 (Act No. 97 of 1990), hereby under section 15A of the said Act imposes the levies set out in the Schedule on financial institutions.

By order of the Financial Services Board.



A M SITHOLE

Deputy Chairperson: Financial Services Board

SCHEDULE

Definitions

1. In this Notice any word or expression to which a meaning has been assigned in any financial services law, has the meaning so assigned to it and, unless the context indicates otherwise -
 - (i) **"Board"** means the Financial Services Board referred to in the Act;
 - (iv)
 - (ii) **"financial services law"** means the Act, and any other act referred to in paragraph (a) of the definition of "financial institution" in section 1 of the Act ; (v)
 - (iii) **"levy year"** means the period from 1 April 2004 to 31 March 2005 and, subject to this Notice and any amendment or repeal thereof, such corresponding period in succeeding years, in respect of which levies are imposed; (iii)

- (iv) **“relevant Registrar”** means the Registrar mentioned in a financial services law concerned; (i)
- (v) **“the Act”** means the Financial Services Board Act, 1990 (Act No. 97 of 1990). (ii)

Imposition of levies

2. The levy specified in an item of this Notice is hereby imposed in respect of the financial institution referred to in that item and in respect of the levy year.

Levy on pension funds

3. (1) In respect of a pension fund registered or provisionally registered in terms of the Pension Funds Act, 1956 (Act No. 24 of 1956) (including a preservation fund), excluding a retirement annuity fund as defined in section 1 of the Income Tax Act, 1962 (Act No. 58 of 1962), the levy is an amount of R591, plus an additional amount of R4,88 per member of such fund and R4,88 in respect of every other person who receives regular periodic payments from such fund, or R978,436, which total amount is the lesser. A pension fund registered under an umbrella scheme must pay an additional levy of R153 in respect of each registered participating employer. The maximum levy applies in respect of every participating employer and not in respect of the umbrella scheme as such.
- (2) In the case of a pension fund that is not exempted in terms of section 2(3)(a) of the Pension Funds Act, 1956, read with regulation 1 of the regulations published by Government Notice No. R.98 of 26 January 1962, the calculation of the levy referred to in subitem (1) is based on the number of members and other persons referred to in that subitem, as that number is reflected in the latest statistics furnished to the relevant Registrar in terms of any law, and on file with the Board on 31 August 2004. If a transfer of members is in process and not finalised on 31 August 2004, the transferor must pay the levy in respect of the members to be transferred. Where the appointment of

a liquidator of a fund is approved by the Registrar during the levy year, the levy for the fund is payable for the full levy year and no further levy will thereafter be payable.

- (3) In the case of a pension fund that is exempted in terms of section 2(3)(a) of the Pension Funds Act, 1956, read with regulation 1 of the regulations published by Government Notice No. R.98 of 26 January 1962, the calculation of the levy referred to in subitem (1) is based on the number of members and other persons referred to in that subitem, as that number is reflected in the latest statistics furnished to the relevant Registrar in terms of any law –

(a) on the date of publication of this Notice for the purpose of provisional payment of the levy; and

(b) on file with the Board on 30 June 2004 for the purpose of final payment of the levy.

If a transfer of members is in process and not finalised on 30 June 2004, the transferor must pay the levy in respect of the members to be transferred. Where the appointment of a liquidator of a fund is approved by the Registrar during the levy year, the levy for the fund is payable for the full levy year and no further levy will thereafter be payable.

- (4) In the case of a pension fund that is exempted in terms of section 2(2) of the Pension Funds Act, 1956, from the provisions, other than sections 3 and 4(1) and (2), of that Act, the calculation of the levy referred to in subitem (1) is based on the number of members and other persons referred to in that subitem who are South African citizens, resident in the Republic, as that number is reflected in the latest statistics furnished to the relevant Registrar in terms of any law, and on file with the Board on 31 August 2004. Where the appointment of a liquidator of a fund is approved by the Registrar during the levy year, the levy for the fund is payable for the full levy year and no further levy will thereafter be payable.

- (5) The levies referred to in subitem (1), which are payable by a pension fund referred to in -
- (a) subitems (2) and (4), must be paid not later than 31 October of the levy year; and
- (c) subitem (3), must, in the case of the provisional payment, be paid not later than 31 May 2004 and the balance not later than 30 days after the date of the final invoice.

Levy for Pension Funds Adjudicator

4. In respect of a pension fund registered or provisionally registered in terms of the Pension Funds Act, 1956, including a retirement annuity fund as defined in section 1 of the Income Tax Act, 1962, the levy for the Pension Funds Adjudicator is an amount of R1,18 per member of such fund and any other person who receives regular periodic payments from such fund. This levy may be paid with the levy referred to in item 3(1), where applicable, and is payable on the date specified in item 3(5).

Levy on retirement annuity fund

5. (1) In respect of a retirement annuity fund referred to in item 3(1), the levy is an amount of R591 plus an additional amount equal to 0.0059 % of the value of the assets of the fund. Where the appointment of a liquidator of a fund is approved by the Registrar during the levy year, the levy for the fund is payable for the full levy year and no further levy will thereafter be payable. The value of the assets of a retirement annuity fund is for the purposes of this subitem -
- (a) in the case of a fund not exempted in terms of section 2(3)(a) of the Pension Funds Act, 1956, read with regulation 1 of the regulations published by Government Notice No. R.98 of 26 January 1962, the value of those assets of the fund determined at the time of the valuation thereof by the insurer for the purpose of

determining its liabilities excluded in item 8(2)(b) from the definition of "liabilities", as well as any other assets held by the fund to enable it to meet its obligations towards its members; and

(b) in the case of a fund exempted in terms of section 2(3)(a) of the Pension Funds Act, 1956, read with regulation 1 of the regulations published by Government Notice No. R. 98 of 26 January 1962, the value of those assets of the fund determined at the time of the valuation thereof by the insurer for the purpose of determining its liabilities excluded in item 8(2)(b) from the definition of "liabilities".

- (2) The calculation of the value of the assets of a retirement annuity fund must include the value of a contract, if any, in which a long-term insurer, in return for the payment of a premium, undertakes to provide policy benefits for the purpose of funding in whole or in part the liability of a retirement annuity fund to provide benefits to its members in terms of its rules.
- (3) The levy referred to in subitem (1) which are payable by a retirement annuity fund referred to in -
- (a) subitem 1 (a), must be paid not later than 31 October of the levy year; and
- (b) subitem 1 (b), must, in the case of the provisional payment, be paid not later than 31 May 2004 and the balance not later than 30 days after the date of the final invoice.

Levy on friendly societies

6. (1) In respect of a friendly society registered or provisionally registered in terms of section 3(2)(a) of the Friendly Societies Act, 1956 (Act No. 25 of 1956), the levy is an amount of R85 plus an additional amount of 75c per member of such society (excluding a person who receives policy benefits under a contract which relates exclusively to such particular person and is issued by a long-term insurer registered or

deemed to be registered in terms of the Long-term Insurance Act, 1998), or R1 800, which total amount is the lesser.

- (2) The calculation of the levy referred to in subitem (1) is based on the number of members who contribute to the society, as that number is reflected in the latest available statistics on file with the Board on 31 August 2004 and furnished to the relevant Registrar in terms of any law.
- (3) The levy referred to in subitem (1) must be paid not later than 31 October of the levy year.

Levy on short-term insurers and underwriters at Lloyd's

- 7. (1) In respect of an insurer registered in terms of the Short-term Insurance Act, 1998 (Act No. 53 of 1998), to carry on short-term insurance business, the levy shall be based on estimated gross premium income, including any rebates, for the insurer's financial year ending during the period from 1 July to 31 March of the current levy year or ending during the period from 1 April to 30 June of the following levy year, adjusted after the end of its financial year in accordance with its actual audited gross premium income, including any rebates. Irrespective of the length of the financial period of the insurer, the levy shall be an amount equal to 0,0959% of the first R60 million gross premium income, including any rebates, plus 0,0221% thereafter, or R9 590, whichever total amount is the greater. The rate in force as at the end of the financial period of the insurer shall be applicable for the whole of the period ending on such date.
- (2) In respect of a person appointed in terms of section 57(1) of the Short-term Insurance Act, 1998, the levy shall be based on estimated gross premium income for the calendar year ending on 31 December of the levy year, but adjusted annually after 31 December in accordance with the gross premium income which was received on behalf of underwriters at Lloyd's in the Republic for the previous calendar year as published in the Annual Report of the Registrar of Short-term

Insurance. The levy shall be an amount equal to 0,0959% of the first R60 million gross premium income plus 0,0221% thereafter, or R9 590, whichever total amount is the greater.

- (3) A short-term insurer which was registered or deemed to be registered in terms of the Short-term Insurance Act, 1998, on any day of the levy year, must pay the full levies referred to in subitem (1).
- (4) The levy based on estimated premium income shall be paid in two instalments before or on 31 May and 31 October of the levy year. The adjustment referred to in subitem (1) shall be combined with the first or second payment after the end of the insurer's financial year. In the case of Lloyd's it shall be combined with the October payment.

Levy on long-term insurers

- 8. (1) In respect of a long-term insurer which is registered or deemed to be registered in terms of the Long-term Insurance Act, 1998, (Act No. 52 of 1998), and authorised to –
 - (a) enter into one or more than one disability policy, fund policy, health policy, life policy or sinking fund policy or one or more of those policies and an assistance policy, the levy is an amount of R33 100 plus 0,0059% of the liabilities under unmaturing long-term policies; or
 - (b) enter into an assistance policy only, the levy is an amount of R3 310 plus 0,0059% of the liabilities under unmaturing long-term policies.
- (2) The expression "liabilities under unmaturing long-term policies" in sub-items (1)(a) and (b) –
 - (a) means the liabilities as determined at the end of the long-term insurer's financial year which ended in the calendar year preceding the levy year, and the value of such liabilities are

the gross liabilities under unmatured policies reflected against the item "Gross policy liabilities" in column 9 of Statement C9 of Form LT2000, or means, if the long-term insurer had no financial year which ended in the calendar year preceding the levy year, the gross liabilities as reflected at the end of the long-term insurer's financial year which ended in the calendar year preceding the previous levy year;

- (b) excludes the liabilities under a contract, in terms of which the long-term insurer, in return for the payment of a premium, undertakes to provide policy benefits for the purpose of funding in whole or in part the liability of a friendly society, as defined in section 1 of the Friendly Societies Act, 1956, or a pension fund organisation, as defined in section 1 of the Pension Funds Act, 1956, to provide benefits to its members in terms of its rules: Provided that such excluded liabilities do not include liabilities under a contract relating exclusively to a particular member of a friendly society or a pension fund organisation, or to the surviving spouse, children, dependants or nominees of a particular member of such friendly society or pension fund organisation.

- (3) A long-term insurer which was registered or deemed to be registered in terms of the Long-term Insurance Act, 1998, -

- (a) on 1 April of the levy year, must pay the full levies referred to in subitems (1)(a) and (b); or
- (b) after 1 April but not after 1 October of the levy year, must pay half the levies referred to in subitems (1)(a) and (b) in one amount as the only payment, before or on 31 October of the levy year.

- (4) The levies referred to in subitem (3)(a) must be paid in two instalments, namely -

- (a) 50% of the levy or, if the actual amount is not available, a reasonable estimate of such levy based on a reasonable estimate of the value of the liabilities referred to in subitem (2), before or on 31 May of the levy year; and
- (b) the balance before or on 31 October of the levy year; and
- (c) if the payment was based on an estimate as referred to in subitem (4)(a), an adjustment in accordance with the actual value of the liabilities referred to in subitem (2) must be combined with the next levy payment after such actual value has been determined and furnished to the Board.

Levy on intermediaries

9. (1) In respect of an agent, broker or other person referred to in section 45 of the Short-term Insurance Act, 1998, the levy is an amount equal to 0,02646% of the total gross premiums as reported on by an auditor or accounting officer, as the case may be, in terms of regulation 4.4 under the said Act, which was received by such agent, broker or other person during his most recent financial year on behalf of registered insurers, and underwriters at Lloyd's, or R75, whichever total amount is the greater.
- (2) The levy referred to in subitem (1), must be paid not later than 30 September of the levy year and shall be based on the total gross premiums on 31 July of each levy year as provided by the South African Insurance Association, subject to a maximum of R1.89 billion.

Levy on collective investment schemes in securities

10. In respect of collective investment schemes in securities, as referred to in the Collective Investment Schemes Control Act, 2002 (Act No. 45 of 2002), the levy is a total amount of R4 275 000, plus any amount payable in terms of the proviso hereto, for all such schemes registered in terms of section 42 of

the said Act at any time during the levy year. The amount shall be payable in four quarterly instalments on or before 30 June, 30 September, 31 December and 31 March of the levy year. The quarterly amounts are paid on the basis of statistics as at the end of the preceding quarter and are apportioned amongst all managers registered at that date. The calculation of levies due is as follows:

- (a) 10% apportioned equally between all managers;
- (b) 60% apportioned according to the number of portfolios administered by each manager; and
- (c) 30% apportioned in proportion to the total assets administered by each manager:

Provided that if a registered manager is not a member of the Association of Collective Investments of South Africa, a company registered under section 21 of the Companies Act, 1973 (Act No. 61 of 1973), the amounts payable in terms of paragraphs (a), (b) and (c) are doubled.

Levy on foreign collective investment schemes

11. (1) In respect of foreign collective investment schemes approved in terms of section 65 of the Collective Investment Schemes Control Act, 2002, the levy is paid in four quarterly instalments, each instalment consisting of -
- (a) R3 287,00 in respect of each scheme; plus
 - (b) R1 692,00 in respect of each portfolio, fund or sub-scheme; plus
 - (c) 0,000170% of the nett amount of assets managed on behalf of South African investors:

Provided that if an approved foreign collective investment scheme is not an associate member of The Association of Collective Investments of South Africa, the amount payable in terms of paragraph (b) is doubled.

- (2) The amounts shall be payable in four quarterly instalments on or before 30 June, 30 September, 31 December and 31 March of the levy year. The amounts are calculated on the basis of statistics as at the end of the preceding quarter, which statistics must be furnished to the Registrar within 30 days after such quarter end.
- (3) For the purposes of subitem (2) the statistics to be furnished to the relevant Registrar must contain details of all sales and redemptions or buy-backs in South Africa.
- (4) Levies are payable in respect of all months falling within any relevant quarter.

Levy on collective investment schemes in property

- 12. In respect of a manager of a collective investment scheme in property registered in terms of section 48 of the Collective Investment Schemes Control Act, 2002, the levy is an amount of R44 266 on every portfolio of such scheme, payable by such manager not later than 31 May of the levy year.

Levy on collective investment schemes in participation bonds

- 13. (1) In respect of a manager of a collective investment scheme in participation bonds registered in terms of section 53 of the Collective Investments Schemes Control Act, 2002, the levy is an amount of R4 404 plus an amount calculated by multiplying the aggregate amount owing by mortgagors on 31 December of the year preceding the levy year, by the figure of 0,00921%.
- (2) The levy referred to in subitem (1) must be paid not later than 31 May of the levy year.

Levy on stock exchanges

14. (1) In respect of the JSE Securities Exchange South Africa licensed in terms of the Stock Exchanges Control Act, 1985 (Act No. 1 of 1985), the levy is an amount of R4 143 575.
- (2) The levy referred to in subitem (1), must be paid not later than 31 May of the levy year.

Levy on financial exchanges

15. (1) In respect of the Bond Exchange of South Africa, licensed in terms of the Financial Markets Control Act, 1989 (Act No. 55 of 1989), the levy is an amount of R1 641 613.
- (2) The levy referred to in subitem (1) must be paid not later than 31 May of the levy year.

Levy on investment managers

16. (1) A person, or a person who falls within a category of persons (hereinafter referred to as an investment manager), who has been approved in terms of section 4 of the Stock Exchanges Control Act, 1985, or section 5 of the Financial Markets Control Act, 1989, on or before 31 December of the year preceding the levy year, must pay on or before 31 May of the levy year, a levy calculated as follows:
- (a) a base amount of R3 410; and
- (b) $A \times 0,00001$
where $A =$ the total value of investments managed as contemplated in section 4 of the Stock Exchanges

Control Act, 1985, or section 5 of the Financial Markets Control Act, 1989, as the case may be, on 31 December of the year preceding the levy year subject to a maximum of R29 917,08 billion: Provided that investments under management held in a foreign currency, must be included at the exchange rate published in the Press as at that date.

- (2) An investment manager approved between 1 January of the year preceding the levy year and 30 June of the levy year (both days included), must pay on or before 31 October of the levy year, a levy calculated as follows:

(a) a base amount of $0,5 \times R3\,410$; and

(b) $0,5 \times [A \times 0,00001]$

where A = the total value of investments managed as contemplated in section 4 of the Stock Exchanges Control Act, 1985, or section 5 of the Financial Markets Control Act, 1989, as the case may be, on 30 June of the levy year, subject to a maximum of R14 958,54 billion: Provided that investments under management held in a foreign currency, must be included at the exchange rate published in the Press as at that date.

Levy on central securities depositories

17. (1) In respect of STRATE Ltd., registered in terms of section 9 of the Custody and Administration of Securities Act, 1992 (Act No. 85 of 1992), the levy is an amount of R1 147 954.
- (2) The levy referred to in subitem (1) must be paid not later than 31 May of the levy year.

Levy on financial markets in respect of insider trading

18. (1) The levy for the payment of the costs of performing the functions of the Board and the Insider Trading Directorate in terms of the Insider Trading Act, 1998 (Act No 135 of 1998), is payable by the exchanges of South Africa, namely the JSE Securities Exchange South Africa and the Bond Exchange of South Africa. The total levy for the levy year amounts to R6 498 000.
- (2) The total levy is calculated and payable on the following basis:
- (a) The JSE Securities Exchange South Africa pays the amount of R1 299 600, being 20% of the total levy, before or on 31 May of the levy year.
 - (b) The Bond Exchange of South Africa pays the amount of R649 800, being 10 % of the total levy, before or on 31 May of the levy year.
 - (c) The balance of the total levy, being R4 548 600, is payable in four instalments on a user-pay basis by the exchanges where insider trading investigations were executed. The amount is payable in quarterly instalments on or before 30 June, 30 September, 31 December and 31 March of the levy year.
- (3) In addition to the total levy referred to in subitem (1), the legal costs actually incurred by the Board in respect of insider trading litigation are payable quarterly in arrears by the relevant exchange.

GENERAL**Payment of levies**

19. (1) The levies and interest (if any) referred to in this Notice shall, subject to the provisions of this Notice, be payable by a financial institution concerned to the

Board by means of a cheque, postal order or money order, or a money transfer.

- (2) On amounts of overdue levies, interest will be charged at a rate equal to the *prevailing prime overdraft rate of the Standard Bank of South Africa Ltd.*
- (3) The levies referred to in this Schedule include VAT.

Applications for exemption

20. (1) An application by any financial institution for the granting under section 15A (4) of the Act of exemption from a provision of this Notice shall be submitted in writing to the Executive Officer, Financial Services Board, P O Box 35655, Menlo Park, 0102, on a date at least one month before the date on which the exemption is in accordance with the application to take effect.
- (2) Such application shall contain full particulars of the financial institution, the authorisation of the persons signing the application and the date on which the exemption is to take effect, if granted, and shall set out fully the reasons for the application.
- (3) The application shall-
- (a) contain an affirmation by the financial institution concerned to provide, on receipt of any such request, the Executive Officer of the Board forthwith with any other or further information or particulars which the Board may require in connection with the institution or application concerned; and
 - (b) contain particulars of the address at which the institution will accept service by the Board of any notice contemplated in section 15A(4)(b)(ii) of the Act.
- (4) A notice referred to in section 15A(4)(b)(ii) of the Act shall on the authority of the Board be served by the Executive Officer by registered post at the

address furnished by the financial institution in accordance with subitem (3)(b) in its application for exemption.

Consolidated payments

21. Where in any particular levy year a body regarded by the Board as fully representative of a category of financial institutions, offers to make a consolidated payment of levies on behalf of that category in terms of an agreement concluded between such category and the body, the Board may accept such offer if the payment is made in accordance with the provisions of this Notice: Provided that if for any reason such consolidated payment is not so made on the relevant dates of payment, every individual financial institution concerned shall remain fully responsible for the individual payment payable by it, plus interest (if any) on that amount calculated in accordance with item 19 (2).

Withdrawal of notices and saving

22. (1) Board Notice 47 of 27 May 2003 and Board Notice 90 of 12 September 2003 is, subject to subitem (2), withdrawn.
- (2) If on the date of coming into operation of this Notice a financial institution has not yet fully paid a levy and interest due thereon, as imposed in terms of a provision of a notice mentioned in subitem (1), any such provision, together with any other provision of such notice which relates to the first-mentioned provision, shall be deemed in respect of the institution concerned and the relevant due amount not to be withdrawn by subitem (1) until such debt is fully discharged.