

BOARD NOTICE 49 OF 2009**FINANCIAL SERVICES BOARD****FINANCIAL ADVISORY AND INTERMEDIARY SERVICES ACT, 2002
(ACT NO. 37 OF 2002)****DETERMINATION OF COMPLIANCE REPORT FOR CATEGORY III
AUTHORISED FINANCIAL SERVICES PROVIDERS, 2009**

In terms of section 17(4) of the Financial Advisory and Intermediary Services Act, 2002 (Act No. 37 of 2002) ("the Act"), I, Dube Phineas Tshidi, Registrar of Financial Services Providers, by this notice with its schedule, determine the manner in which the compliance report of Category III Financial Services Providers must be submitted, and the matters which it must have regard to. This determination was made after consultation with the Advisory Committee on Financial Services Providers.

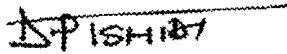
- (a) A written report for the reporting period, conforming to the schedule attached hereto, or in the prescribed electronic format determined by the Registrar, must be submitted by 31 October 2009.
- (b) Answers should not be provided in columns that are shaded in grey in the schedule.
- (c) In this Notice and the schedule, unless the context indicates otherwise –
 - (i) any word or expression shall have the meaning that it was assigned in the Act (including any measure contemplated in the definitions of "this Act" as defined in section 1(1) of the Act);
 - (ii) "Code of Conduct" means any Code published under section 15 of the Act;
 - (iii) "Determination of Fit and Proper Requirements" means the Determination of Fit and Proper Requirements for Financial Services Providers, 2008;
 - (iv) "FICA" means the Financial Intelligence Centre Act, 2001 (Act No. 38 of 2001);
 - (v) "Forex Investment Business Code of Conduct" means the Code of Conduct for Authorised Financial Service Providers, and their Representatives, involved in Forex Investment Business, 2004;
 - (vi) "FSP" and "financial services provider" means an authorised financial services provider, and includes, where applicable, any representative of the provider;
 - (vii) "General Code of Conduct" or "General Code" means the Code of

Conduct for Authorised Financial Services Providers and their Representatives, 2003;

- (viii) "Regulations" means the Financial Advisory and Intermediary Services Regulations, 2003;
- (ix) "reporting date" means 31 August 2009;
- (x) "reporting period" means the period from-
 - (aa) the date of authorisation as financial services provider in terms of section 8 of the Act; or
 - (bb) the first day of the month following the reporting period for the 2008 compliance report,

whichever is the later date, until the reporting date.

This Determination is called the Determination of Compliance Report for Category III Financial Services Providers, 2009, and comes into operation on the date of publication thereof.



D P TSHIDI,
Registrar of Financial Services Providers

SCHEDULE

**Compliance Report in terms of section 17(4) of the
Financial Advisory and Intermediary Services Act, 2002 (Act No 37 of 2002) ("the Act")
by Compliance Officers of Category III Financial Services Providers for reporting period ended 31 August 2009**

Scope

In accordance with section 17(4) of the Act, I/we (the approved Compliance Officer(s) of the Financial Services Provider ("the FSP")) hereby report as follows as regards compliance with the Act by (full name of the FSP and the FSP Number) and any representatives of the FSP, for the reporting period (date reporting period started) to 31 August 2009.

		Column				
Question		1	2	3	4	5
		Yes	No	Not applicable	Develop mental area	Note No. Comment/ Annexure
SECTION 1 – GENERAL						
1. Conditions and restrictions imposed, made, given or issued by Registrar	Section 8(4)(a) and 8(5)(b) of the Act					
1.1	Does the FSP have procedures in place to ensure that it can comply with condition 1 of the licensing conditions?					
1.2	Did the FSP change its legal status as an entity (e.g. from CC to (Pty) Ltd) since obtaining its licence?					
1.3	If the answer to Question 1.2 is YES – Did the FSP obtain a new licence as contemplated in section 8 of the Act?					
1.4	Does the FSP verify in all instances that any other FSP that it receives an instruction from is authorised to render financial services without any restrictions in its license in relation to the specific financial product?					

	Question	Column				
		1	2	3	4	5
		Yes	No	Not applicable	Develop - mental area	Note No Comment/ Annexure
1.5	Financial products in respect of which FSP renders financial services <i>Condition 5 imposed by the Registrar in terms of section 8(4) of the Act</i>					
1.5.1.	Is the FSP regulated in terms of any other Act (locally or overseas)? (Please note that this does not include membership of professional bodies).					
1.5.2.	<i>If the answer to Question 1.5.1 is YES -</i> Provide details of the Regulators (Name of Regulator and registration and/or licensing number with Regulator, if applicable) in a separate annexure and indicate the annexure number in column 5.					
1.5.3.	Does the FSP render financial service on any financial product that is not specifically defined in the Act or regulated in terms of any other legislation?					
1.5.4.	<i>If the answer to Question 1.5.3 is YES -</i> Provide details of the financial products concerned in a separate annexure and indicate the annexure number in column 5.					
1.6	Financial products in respect of which FSP renders financial services <i>Authorisation in terms of the licence of the FSP</i>					
1.6.1.	Does the FSP have procedures in place to ensure that the rendering of financial services are done within the limitation on categories and sub-categories for which the licence is issued?					
1.6.2.	Did any non-compliance occur in respect of the limitation on categories and sub-categories during the reporting period?					
1.6.3.	<i>If the answer to Question 1.6.2 is YES -</i> Provide details of any non-compliance in a separate annexure and indicate the annexure number in column 5.					
2.	Group structure					
2.1	Does the FSP form part of a group of companies and/or have service level agreements with other financial services providers within the group? Provide full details of the group (organogram or diagram as well as relation to one another) in a separate annexure and indicate the annexure number in column 5.					

Question	Column				
	1	2	3	4	5
	Yes	No	Not applicable	Develop - mental area	Note No. Comment/ Annexure
3. Key individuals <i>Section 8(1) and 8(4)(b) of Act and Determination of Fit and Proper Requirements for Financial Services Providers.</i>					
3.1 Are all people involved in a managing/overseeing function relating to the rendering of financial services, appointed as key individuals?					
3.2 In a separate annexure, provide information on the structure with regards to key individuals (what is their position in the organisation, where are they situated). Indicate the annexure number in column 5.					
3.3 Does the FSP have procedures in place to ensure that it complies with section 8(4) (b) of the Act in the case of replacement of key individuals?					
3.4 Fit and Proper Requirements for key individuals <i>Determination of Fit and Proper Requirements for Financial Services Providers</i>					
3.4.1. Did any changes occur in the personal circumstances of any key individual during the reporting period that adversely affected the Fit and Proper Requirements of the person?					
3.4.2. If the answer to Question 3.4.1 is YES - Provide full details thereof in a separate annexure and indicate the annexure number in column 5.					
3.4.3. Do all the key individuals meet the Table E Column 2 requirements on reporting date?					
3.4.4. If the answer to Question 3.4.3 is NO - In a separate annexure, provide full details of procedures that the FSP have in place to assist key individuals to meet the Table E Column 2 requirements within the timeframe specified in the Fit and Proper Requirements. Indicate the annexure number in column 5.					
4. Representatives <i>Sections 13 and 14 of the Act</i>					
4.1 Does the FSP have representatives? If YES, questions 4.2 to 4.7 must be answered.					
4.2 Provide the number of representatives in column 5.					

Question		Column				
		1	2	3	4	5
		Yes	No	Not applicable	Develop - mental area	Note No. Comment/ Annexure
4.3	Does the FSP have any juristic representatives?					
4.3.1	<i>If the answer to Question 4.3 is YES -</i> Does the FSP have an agreement with each juristic representative?					
4.3.2	Are all employees of the juristic representative that are rendering financial services on behalf of the provider, appointed as representatives of the provider in terms of section 13 of the Act?					
4.4	Does the FSP have procedures in place (including documentation) to enable representatives to provide clients with confirmation, as certified by the provider, of their status as representative as provided for in section 13(1) (b) (i) of the Act?					
4.5	Competency of representatives <i>Section 13(2)(a) of the Act</i>					
4.5.1.	Does the FSP have procedures in place to ensure that representatives, and key individuals of representatives are competent in terms of their personal character qualities of honesty and integrity, as well as competence to render financial services to clients?					
4.5.2.	Does the FSP have procedures in place to ensure that juristic representatives are competent in terms of their competence to render financial services to clients?					
4.5.3.	Does the FSP have representatives that, on the reporting date, are rendering financial services under supervision as contemplated in paragraph 3 of the <i>Exemption of Financial Services Providers</i> as regards Representatives, Board Notice 104 of 2008?					
4.5.4.	<i>If the answer to question 4.5.3 is YES -</i>					
4.5.4.1.	Provide the number of representatives in column 5 that, on the reporting date, are rendering services under supervision as contemplated in paragraph 3 of the <i>Exemption of Financial Services Providers</i> as regards Representatives, Board Notice 104 of 2008.					

	Question	Column				
		1	2	3	4	5
		Yes	No	Not applicable	Developmental area	Note No. Comment/Annexure
4.5.4.2	Provide the number of key individuals and representatives that acted as supervisors in respect of services under supervision on reporting date in column 5.					
4.5.4.3.	Does the FSP have procedures in place to monitor the compliance of supervisors with paragraph 4(7)(a)-(f) of the Exemption mentioned in Question 4.5.4.1? Attach a copy of the procedure as an annexure and indicate the annexure number in column 5					
4.5.4.4.	Does the FSP have procedures in place to ensure that there is a supervision plan in place for representatives that are rendering services under supervision?					
4.5.4.5.	Does the FSP have procedures in place to ensure that it is disclosed to clients that a representative is rendering financial services under supervision?					
4.5.4.6.	If any non-compliance in terms of services under supervision was found, submit full details of such non-compliance in a separate annexure and indicate the annexure number in column 5.					
4.6	Representatives' compliance with the Code of Conduct <i>Section 13(2)(b) of the Act and Section 5(f) of the General Code of Conduct</i>					
4.6.1.	Does the FSP have procedures in place to determine whether representatives adhered to the requirements stipulated in the Codes of Conduct applicable to the FSP?					
4.6.2.	If the answer to Question 4.6.1 is YES – In a separate annexure, describe the procedures that the FSP have in place to determine whether the representatives adhered to the said requirements. Indicate the annexure number in column 5.					
4.7	Debarment of representatives <i>Section 14 of the Act</i>					
4.7.1.	Does the FSP have procedures in place to debar a representative, if necessary?					

Question	Column				
	1	2	3	4	5
	Yes	No	Not applicable	Develop- mental area	Note No. Comment/ Annexure
5. Insurance cover <i>Sections 5(e) and 13 of the General Code of Conduct</i>					
5.1 Does the FSP have professional indemnity cover? If yes, provide the extent (numeric amount) of the cover in column 5.					
5.2 Does the FSP have fidelity insurance cover? If yes, provide the extent (numeric amount) of the cover in column 5.					
5.3 Does the FSP have guarantees in place as contemplated in section 13 of the General Code of Conduct? If yes, provide the extent (numeric amount) of the guarantees in column 5.					
5.4 Does the FSP disclose to clients in terms of section 5(e) of the General Code of Conduct whether it holds guarantees or professional indemnity or fidelity insurance cover?					
6. Compliance function <i>Section 17 of the Act and Chapter IV of the Regulations</i>					
6.1 Is the compliance function established as part of the risk management framework of the business of the FSP in compliance with section 17(3) of the Act and Regulation 5?					
6.2 Do you (compliance officer) provide written reports on the compliance monitoring and recommendations relating to the FSP on a regular basis in terms of regulation 5(3) of the Regulations?					
6.3 In the case where you (compliance officer) are not in the full time employ of the FSP, indicate in column 5 the number of visits to the FSP in order to perform monitoring procedures during the reporting period					
6.4 Do you (compliance officer) have any issues that are not covered by this report that you would want to bring to the attention of the Registrar? Attach a written copy of your comments as an annexure and indicate the annexure number in column 5.					
7. Maintenance of records <i>Section 18 of the Act and the General Code of Conduct</i>					
7.1 Does the FSP have appropriate procedures and systems in place to record the information contemplated in section 18 of the Act and section 3(2) of the General Code of Conduct?					

Question	Column				
	1	2	3	4	5
	Yes	No	Not applicable	Develop- mental area	Note No. Comment/ Annexure
7.2 Can all documents be inspected by the Registrar within seven days from the date of request?					
7.3 Are all records stored in a manner that reasonably ensures that it will be safe from destruction?					
7.4 Does the FSP have a process in place to ensure that records are kept for a period of five years, after termination of the product concerned or, in any other case, after the rendering of the financial service concerned?					
7.5 Does the FSP have electronic back-ups of all electronic records?					
8. General Code of Conduct					
8.1 General provisions					
<i>Section 3 of the General Code of Conduct</i>					
8.1.1. Does the FSP have an internal policy/policies with regard to conflict of interest (as described in section 3 of the General Code of Conduct)?					
8.1.2. <i>If the answer to Question 8.1.1 is NO -</i> As a separate annexure, provide details on the steps that will be taken to put a policy/policies in place. Indicate the annexure number in column 5.					
8.1.3. Did the FSP or any of its employees receive non-cash incentives and other indirect considerations in terms of the internal policy/policies from product suppliers?					
8.1.4. Did the FSP disclose to its clients any non-cash incentives and other indirect considerations received where applicable in terms of the internal policy/policies?					
8.2 Disclosure requirements					
<i>Sections 4, 5 and 7 of the General Code of Conduct</i>					
8.2.1. Is the FSP authorised for Category 1? If the answer is YES , questions 8.2.2 to 8.2.4 must be answered.					

Question	Column				
	1	2	3	4	5
	Yes	No	Not applicable	Develop-mental area	Note No. Comment/Annexure
8.2.2. Does the FSP have procedures in place to ensure that the disclosure documentation complies with sections 4 and 5 of the General Code of Conduct?					
8.2.3. Does the FSP have procedures in place to ensure that the disclosure documentation complies with section 7 of the General Code of Conduct?					
8.2.4. Does the FSP disclose the following information in terms of section 7(1) (c) of the General Code of Conduct to the client in writing:					
8.2.4.1 The name, class or type of financial product concerned;					
8.2.4.2 The nature, extent and frequency of any incentive, remuneration, consideration, commission, fee or brokerage which will or may become payable to the provider, directly or indirectly, by any product supplier or any other person as a result of the financial service concerned;					
8.2.4.3 Any material or investment risk associated with the product concerned;					
8.2.4.4 Extent of monetary obligations assumed by the client, the frequency thereof and consequences of non-compliance concerned.					
8.3 Direct marketing Section 15 of the General Code of Conduct					
8.3.1. Is the FSP authorised for Category 1? If the answer is YES , Question 8.3.2 must be answered.					
8.3.2. Does the FSP act as a direct marketer as defined in the General Code of Conduct?					
8.3.3. If the answer to Question 8.3.2 is YES - 8.3.3.1. Does the FSP have recording systems in place to record all telephonic conversations with clients in the course of direct marketing?					

Question		Column				
		1	2	3	4	5
		Yes	No	Not applicable	Develop - mental area	Note No. Comment/ Annexure
8.3.3.2.	Does the FSP have appropriate procedures and systems in place to store and retrieve recordings?					
8.3.3.3.	Does the FSP have procedures in place to ensure that it complies with section 15 (read together with sections 4, 5 and 7) of the General Code of Conduct?					
8.3.3.4.	<i>If the answer to Question 8.3.3.3 is NO -</i> In a separate annexure, provide details on how such procedures will be put in place. Indicate the annexure number in column 5.					
8.4.	Furnishing of advice and record of advice <i>Section 8 and 9 of the General Code of Conduct</i>					
8.4.1.	Is the FSP licensed to furnish advice?					
8.4.2.	Did the FSP render advice as a regular feature of its business during the reporting period?					
8.4.3.	<i>If the answer to Question 8.4.2 is YES -</i>					
8.4.3.1.	Does the FSP have procedures in place to ensure that an analysis of the client's financial situation and objectives are performed before advice is furnished?					
8.4.3.2.	<i>If the answer to Question 8.4.3.1 is NO -</i> In a separate annexure, provide details on how these procedures will be put in place. Indicate the annexure number in column 5.					
8.4.3.3.	Does the FSP have procedures in place to ensure compliance with section 8(1)(d) of the General Code of Conduct relating to replacement products?					
8.4.3.4.	Does the FSP keep a record of advice and provide it to its clients in accordance with section 9 of the General Code of Conduct? Provide details of non-compliance in a separate annexure and indicate the annexure number in column 5.					

		Column				
		1	2	3	4	5
Question		Yes	No	Not applicable	Develop - mental area	Note No. Comment/ Annexure
8.5	Custody of financial products and funds <i>Section 10 of the General Code of Conduct</i>					
8.5.1.	Does the FSP receive or hold financial products or funds of or on behalf of clients when rendering financial services?					
8.5.2.	If the answer to Question 8.5.1 is YES –					
8.5.2.1.	Has the FSP notified the Registrar of the details of the approved auditor or accounting officer in terms of section 19 of the Act?					
8.5.2.2.	Has the FSP changed auditors during the reporting period?					
8.5.2.3.	<i>If the answer to Question 8.5.2.2 is YES -</i> Did the FSP inform the Registrar of the change of auditors?					
8.5.2.4.	Does the FSP issue written confirmation of receipts to clients when funds and/or premiums are received from clients without the mediation of a bank?					
8.5.3.	Does the FSP collect short term insurance premiums from clients in accordance with section 45 of the Short-term Insurance Act, 1998 (Act No. 53 of 1998)?					
8.5.4.	Does the FSP have IGF Guarantee in terms of Section 45 of the Short-term Insurance Act?					
8.5.5.	If the answer to Question 8.5.4 is YES-					
8.5.5.1.	Provide a copy of the IGF cover schedule as a separate annexure and indicate the annexure number in column 5.					
8.5.6.	Does the FSP have procedures in place to ensure that the client's financial products can be readily distinguished from private assets of the FSP?					

		Column				
		1	2	3	4	5
Question		Yes	No	Not applicable	Developmental area	Note No. Comment/Annexure
8.6	Risk management <i>Sections 11 and 12 of the General Code of Conduct</i>					
8.6.1.	Does the FSP have and employ appropriate risk management resources, procedures, systems and controls as described in sections 11 and 12 of the General Code of Conduct?					
8.6.2.	Does the FSP have a documented Risk Management Plan?					
8.6.3.	In a separate annexure, provide an explanation as to how the Risk Management Plan is monitored. Indicate the annexure number in column 5.					
8.7	Advertising <i>Section 14 of the General Code of Conduct</i>					
8.7.1.	Does the FSP advertise its financial services?					
8.7.2.	If the answer to Question 8.7.1 is YES-					
8.7.2.1.	Does the FSP have procedures in place to ensure that all advertisements and advertising communications and/or material comply with section 14 of the General Code of Conduct?					
8.7.2.2.	If the FSP advertised any of its financial services by telephone during the reporting period, did the FSP maintain an electronic, voice logged record of all communications?					
8.7.2.3.	Is a reference to the fact that a license is held contained in all advertisements that were placed during the reporting period?					
8.8	Complaints <i>Sections 16 to 19 of the General Code of Conduct</i>					
8.8.1.	Does the FSP have a complaints policy and resolution system in place that complies with sections 16 to 19 of the General Code of Conduct?					
8.8.2.	Provide the following details on complaints referred to the Ombud during the reporting period: number of complaints referred to the Ombud, type of complaint (what the complaint was about) as well as the outcome of the complaint. Indicate the annexure number in column 5.					

		Column				
Question		1	2	3	4	5
		Yes	No	Not applicable	Develop- mental area	Note No. Comment/ Annexure
8.9	Termination of agreement or business <i>Section 20 of the General Code of Conduct</i>					
8.9.1.	Does the FSP have procedures in place to ensure that it complies with section 20 of the General Code of Conduct?					
8.9.2.	Does the FSP have a business continuity plan and procedures in place to ensure that the clients will be serviced if the business is terminated for any reason?					
8.10	Waiver of rights <i>Section 21 of the General Code of Conduct</i>					
8.10.1.	Does the FSP have procedures in place to ensure that it does not request or induce a client to waive any right or benefit conferred on the client by, or in terms of, any provision of the General Code of Conduct? Provide details of any non-compliance as a separate annexure and indicate the annexure number in column 5.					
8.10.2.	Does the FSP have procedures in place to ensure that it complies with the provisions of Section 21 of the General Code of Conduct?					
9.	Money laundering control procedures					
9.1	Is the FSP an accountable institution in terms of Schedule 1 of FICA?					
9.2	If the answer to question 9.1 is YES, Questions 9.3 to 9.8 must be answered –					
9.3	Does the FSP have in place all the necessary policies, procedures and systems to ensure full compliance with FICA and other applicable anti-money laundering or terrorist financing legislation as required in terms of paragraph 8(1)(e) of the Determination for Fit and Proper Requirements for Financial Services Providers, 2008?					
9.4	Does the FSP obtain client information as required in terms of FICA in all instances?					