
BOARD NOTICE RAADSKENNISGEWING

BOARD NOTICE 74 OF 2009 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

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;
 - (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;
 - (iii) **“levy year”** means the period from 1 April 2009 to 31 March 2010 and, subject to this Notice and any amendment or repeal thereof, such corresponding period in succeeding years, in respect of which levies are imposed;
 - (iv) **“relevant Registrar”** means the Registrar mentioned in a financial services law concerned;
 - (v) **“the Act”** means the Financial Services Board Act, 1990 (Act No. 97 of 1990).

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 pension preservation fund or a provident preservation fund as defined in section 1 of the Income Tax Act, 1962, Act No. 58 of 1962 (the "Income Tax Act"), but excluding a retirement annuity fund as defined in the Income Tax Act, the levy is an amount of R1 053, plus an additional amount of R8,70 per member of such fund and in respect of every other person who receives regular periodic payments from such fund but excluding any member or such person of, whose benefit in the fund remained unclaimed, or R1 744 100, which total amount is the lesser. A pension fund registered as an umbrella scheme (including collective bargaining council funds, union funds and industrial funds), must pay an additional levy of R495, in respect of each participating employer. The maximum levy applies in respect of each participating employer and not in respect of the umbrella scheme as such.
- (2) The calculation of the levy referred to in subitem (1) is based on the number of members and other persons as reflected in the latest statistics furnished to the relevant Registrar in terms of any law, and on file with the Board on 30 June of the levy year. If a transfer of members is in process and not finalised on 30 June of the levy year, 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 after 30 June of the levy year, the levy for the fund is payable in full for the levy year.
- (3) The levies referred to in subitem (1) must be paid not later than 31 August of the levy year.

Levy for Pension Funds Adjudicator

4. 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 pension preservation fund, provident

preservation fund as well as a retirement annuity fund as defined in section 1 of the Income Tax Act, of the levy for the Pension Funds Adjudicator is an amount of R3,35 per member of such fund and any other person who receives regular periodic payments from such fund but excluding any member or such person whose benefit in the fund remained unclaimed. Where the appointment of a liquidator of a fund is approved by the Registrar after 30 June of the levy year, the levy for the fund is payable in full for the levy year.

This levy may be paid with the levy referred to in item 3 and is payable on the date specified in item 3(3).

Levy on retirement annuity funds

5. (1) In respect of a retirement annuity fund referred to in item 3(1), the levy is an amount of R1 053, plus an additional amount equal to 0,0066% of the value of the assets of the fund. Where the appointment of a liquidator of a fund is approved by the Registrar after 30 June of the levy year, the levy for the fund is payable in full for the levy year.
- (2) The value of the assets of a retirement annuity fund is 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" under unmaturing long term policies, as well as any other assets held by the fund to enable it to meet its obligations towards its members. The calculation of the levy referred to in subitem (1) is based on the value of assets as reflected in the latest statistics furnished to the relevant Registrar in terms of any law, and on file with the Board on 30 June of the levy year. If a transfer of members is in process and not finalised on 30 June of the levy year, the transferor must pay the levy in respect of the value of the assets for the members to be transferred.
- (3) 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.
- (4) The levy referred to in subitem (1) which are payable by a retirement annuity fund must be paid not later than 31 August of the levy year.

Levy on friendly societies

6. With effect from 1 April 2006, any friendly society registered or provisionally registered in terms of section 3(2)(a) of the Friendly Societies Act, 1956 (Act No. 25 of 1956), is exempted from the payment of levies.

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 0,107% of the first R60 million gross premium income, including any rebates, plus 0,0247% thereafter, or R10 700, whichever total amount is the greater. The rate in force 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 0,107% of the first R60 million gross premium income plus 0,0247% thereafter, or R10 700, 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 10 July and 30 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 the adjustment referred to in subitem (2) 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 R50 000 plus 0,0066% of the liabilities under unmaturing long-term policies; or
 - (b) enter into an assistance policy only, the levy is an amount of R5 000 plus 0,0066% of the liabilities under unmaturing long-term policies.
- (2) The expression "liabilities under unmaturing long-term policies" in subitems (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 unmaturing policies reflected against the item "Gross policy liabilities" in column 9 of Statement C9 of the Long-term Return (Form LT2008), 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) in accordance with subitem (4); 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 30 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 10 July of the levy year; and
 - (b) the balance of the levy before or on 30 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 0,013% 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, and 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 R95, whichever total amount is the greater.

- (2) The levy referred to in subitem (1), must be paid not later than 30 October of the levy year and shall be based on the total gross premiums on 31 August of each levy year as provided by the South African Insurance Association, subject to a maximum gross premium of R196 583 460, equal to a maximum levy of R25 555.

Levy on collective investment schemes in securities

10. (1) 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 R6 090 352, plus any amount payable in terms of subitem (2) below, for all such schemes administered by a manager 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 10 July, 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 amongst 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.

- (2) If a manager is not a member of The Association for Savings and Investment SA, the amounts payable in terms of subitems (1)(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 shall be payable in four quarterly instalments, each instalment consisting of -

- (a) an amount of R4 130 in respect of each scheme; plus
 - (b) an amount of R2 240 in respect of each portfolio, fund or sub-scheme; plus
 - (c) 0,0000898% of the net amount of assets managed on behalf of South African investors.
- (2) If a manager of an approved foreign collective investment scheme is not an associate member of The Association for Savings and Investment SA, the amounts payable in terms of subitems (1)(a), (b) and (c) are doubled.
- (3) The amounts shall be payable in four quarterly instalments on or before 10 July, 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.
- (4) 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.
- (5) Levies are payable in respect of all months falling within any relevant quarter.

Levy on collective investment schemes in property

12. (1) In respect of a manager of a collective investment scheme in property, as referred to in the Collective Investment Schemes Control Act, 2002, the levy is an amount of R 51 107 on every portfolio.
- (2) The levy referred to in subitem (1) must be paid not later than 10 July of the levy year.

Levy on collective investment schemes in participation bonds

13. (1) In respect of a manager administering a collective investment scheme in participation bonds, registered in terms of section 53 of the Collective Investment Schemes Control Act, 2002, the levy is an amount of R5 366, plus an amount

calculated by multiplying the aggregate amount owing by mortgagors on 31 December 2008, by the figure of 0,0109405%.

- (2) The levy referred to in subitem (1) must be paid not later than 10 July of the levy year.

Levy on exchanges

14. (1) In respect of JSE Limited, an exchange licensed in terms of section 10 of the Securities Services Act, 2004 (Act No. 36 of 2004), the levy is an amount of R5 057 100.
- (2) In respect of the Bond Exchange of South Africa Limited, licensed in terms of section 10 of the Securities Services Act, 2004 (Act No. 36 of 2004), the levy is an amount of R1 965 037.
- (3) The levies referred to in subitem (1) and (2) must be paid not later than 10 July of the levy year.

Levy on authorised financial services providers

15. (1) Subject to subitem (5), a person who is authorised in terms of section 8 of the Financial Advisory and Intermediary Services Act, 2002 (Act No. 37 of 2002), as a Category I or IV financial services provider as defined in the Determination of Fit and Proper Requirements for Financial Services Providers, 2008, excluding any such provider who is also a Category II, IIA or III provider referred to in subitem (3), must pay the levy referred to in subitem (2) on or before 30 October of the levy year.
- (2) The levy, which is subject to a maximum of R1 017 000, is calculated as follows:
 - (a) a base amount of R2 040; and
 - (b) $A \times R364$where-

A = the total number of key individuals of the financial services provider approved by the Registrar plus the total number of representatives appointed by the

financial services provider, less key individuals that are also appointed as representatives, as at 31 August of the levy year.

- (3) Subject to subitem (5), a person who is authorised in terms of section 8 of the Financial Advisory and Intermediary Services Act, 2002, as a Category II, IIA or III financial services provider as defined in the Determination of Fit and Proper Requirements for Financial Services Providers, 2008, must on or before 30 October of the levy year pay a levy which is subject to a maximum of R1 017 000 and which is calculated as follows:

- (a) a base amount of R4 671; and
- (b) $A \times R364$; and
- (c) $B \times 0,000012686$

where-

A = the total number of key individuals of the financial services provider approved by the Registrar plus the total number of representatives appointed by the financial services provider, less key individuals that are also appointed as representatives, as at 31 August of the levy year; and

B = the total value of investments managed on behalf of clients in terms of the authorisation as a financial services provider on 30 June of the levy year: Provided that investments under management held in foreign currency must be included at the exchange rate published in the Press at that date.

- (4) Subject to subitem (5), a person who is authorised in terms of section 8 of the Financial Advisory and Intermediary Services Act, 2002, as a Category I financial services provider as contemplated in subitem (1), who renders financial services only in connection with financial products belonging to Long-term Insurance Category A, referred to in subcategory (1) in Column One of Table A in paragraph 3(1) of the Determination of Fit and Proper Requirements for Financial Services Providers, 2008, must on or before 30 October of the levy year pay a levy subject to a maximum of R1 017 000 and which is calculated as follows:

- (a) a base amount of R2 040; and
- (b) $A \times R130$

where-

A = the total number of key individuals of the financial services provider approved by the Registrar plus the total number of representatives appointed by the financial services provider, less key individuals that are also appointed as representatives, as at 31 August of the levy year.

- (5) Multiple authorised financial services providers who form part of the same legal entity are jointly and severally liable for payment of a single levy as referred to in subitem (2), (3) or (4), as the case may be. For the purpose of such payment, the key individuals and the representatives of such authorised financial services providers are deemed to be the key individuals and representatives of one authorised financial services provider.

Levy for funding of Office of Ombud for Financial Services Providers

16. (1) Subject to subitem (3), a person who is authorised in terms of section 8 of the Financial Advisory and Intermediary Services Act, 2002, as a Category I, II, IIA III or IV financial services provider as defined in the Determination of Fit and Proper Requirements for Financial Services Providers, 2008, must pay the levy referred to in subitem (2) on or before 30 October of the levy year.

- (2) The levy, which is subject to a maximum of R143 880, is calculated as follows:
- (a) a base amount of R528; and
 - (b) $A \times R198$
- where-

A = the total number of key individuals of the financial services provider approved by the Registrar plus the total number of representatives appointed by the financial services provider, less key individuals that are also appointed as representatives, as at 31 August of the levy year.

- (3) Multiple authorised financial services providers who form part of the same legal entity are jointly and severally liable for payment of a single levy as referred to in subitem (2). For the purpose of such payment, the key individuals and the representatives of such authorised financial services providers are deemed to be the key individuals and representatives of one authorised financial services provider.

- (4) Should the levy mentioned in subitem (2) not be paid, the licence of the authorised service provider will be withdrawn as per section 9 of the Act as mentioned in (16) (1).

Levy on central securities depositories

- 17.(1) In respect of Strate Limited, licensed in terms of section 32 of the Securities Services Act, 2004 (Act No. 36 of 2004), the levy is an amount of R1 361 475.
- (2) The levy referred to in subitem (1) must be paid not later than 10 July of the levy year.

Levy on financial markets in respect of market abuse

- 18.(1) The levy for the payment of the costs of performing the functions of the Board and the Directorate of Market Abuse in terms of the Securities Services Act, 2004 (Act No. 36 of 2004), is payable by the exchanges licensed in terms of section 10 of the Securities Services Act, 2004, namely the JSE Limited and the Bond Exchange of South Africa Limited. The total levy for the levy year amounts to R8 400 000.
- (2) The total levy is calculated and payable on the following basis:
- (a) JSE Limited pays the amount of R1 680 000, being 20% of the total levy, before or on 10 July of the levy year.
 - (b) The Bond Exchange of South Africa Limited pays the amount of R840 000, being 10 % of the total levy, before or on 10 July of the levy year.
 - (c) The balance of the total levy, being R5 880 000, is payable in four instalments on a user-pay basis by the exchanges where market abuse investigations were executed. The amount is payable in quarterly instalments on or before 10 July, 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 market abuse 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) Interest will be charged on all overdue accounts at the prime overdraft rate quoted by the Standard Bank of South Africa Ltd.

Application 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 must 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 must set out fully the reasons for the application.
- (3) The application must-
- (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 60 of 2 July 2008 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 the 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.