


BOARD NOTICE 82 OF 2010**FINANCIAL SERVICES BOARD****FINANCIAL ADVISORY AND INTERMEDIARY SERVICES ACT, 2002
(ACT NO. 37 OF 2002)****DETERMINATION OF INTERIM COMPLIANCE REPORT FOR CATEGORY III
AUTHORISED FINANCIAL SERVICES PROVIDERS, 2010**

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 interim 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, by completing the schedule attached hereto, or by completing electronically, online the schedule on the web site of the Financial Services Board (www.fsb.co.za), must be submitted by 31 January 2011
- (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) "Developmental area" means any control, process or compliance issue that has been identified during the monitoring of compliance as an area in respect of which the need for improvement of such control, process or compliance issue has been identified by the provider, and plans are in place to effect such improvements within a reasonable time;
 - (iv) "FSP" and "financial services provider" means an authorised financial services provider, and includes, where applicable, any representative of the provider;
 - (v) "Regulations" means the Financial Advisory and Intermediary Services Regulations, 2003;

- (i) "reporting date" means 31 December 2010
- (vi) "reporting period" means the period from the latter of-
 - (aa) the date of authorisation as financial services provider in terms of section 8 of the Act;
 - (bb) the first day of the month following the reporting period for the previous compliance report submitted; or
 - (cc) date of appointment of the compliance officer of the FSP, until the reporting date.

This Determination is called the Determination of Interim Compliance Report for Category III Financial Services Providers, 2010, and comes into operation on the date of publication thereof.



D P TSHIDI,
Registrar of Financial Services Providers

SCHEDULE

Interim 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 30 December 2010

Scope

In accordance with section 17(4) of the Act, I/we (the approved Compliance Officer(s) of the Financial Services Provider 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 30 December 2010

		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 the Registrar <i>Section 8(4) (a) and (5)(b) of the Act</i>						
1.1	Does the FSP have procedures in place to ensure that it can comply with condition 1 of the licensing conditions requiring the FSP to update its business information as provided during the application stage within 15 days of any change/s occurring?					
2. Operational ability and Financial soundness Parts VIII and IX of the Determination of Fit and Proper Requirements						
2.1	Did the FSP comply with the solvency requirements as required in terms of paragraph 9 of the Fit and Proper requirements at all times during the reporting period?					

Question	Column				
	1	2	3	4	5
	Yes	No	Not applicable	Develop - mental area	Note No. Comment/ Annexure
2.2 Does the FSP prepare monthly accounting records in terms of section 19 of the Act?					
2.3 Did you (compliance officer) have unrestricted access to view the accounting records of the FSP at all times during the reporting period?					
2.3.1. <i>If the answer to question 2.3 is NO -</i> In a separate annexure, give an explanation as to the reasons for the FSP denying access to the accounting records. Indicate the annexure number in column 5.					
2.4 Does the FSP have internal procedures and controls in place to ensure that the requirements as described in section 8(3) of the Determination of Fit and Proper Requirements are complied with?					
2.4.1. <i>If the answer to question 2.4 is NO -</i> In a separate annexure, indicate the steps that will be taken to ensure that the relevant controls and procedures are put in place. Indicate the annexure number in column 5.					
SECTION 2 – ADMINISTRATIVE FSPs					
3. Particular duties/obligations relating to administrative FSPs					
3.1 Prohibitions and duties of administrative FSPs <i>Section 3 of the Code of Conduct for Administrative FSPs, 2003</i>					
3.1.1. Does the FSP have procedures in place to ensure that it does not, directly or indirectly engage in the netting of transactions?					
3.1.2. Does the FSP have procedures in place to ensure that it does not, directly or indirectly, sell any financial products owned by the FSP to any client, or buy for own account, any financial product owned by any client?					

Question	Column				
	1	2	3	4	5
	Yes	No	Not applicable	Develop - mental area	Note No. Comment/ Annexure
3.1.3. Did the FSP exercise a vote in a ballot conducted by a collective investment scheme on behalf of clients?					
3.2 General Functions <i>Section 4 of the Code of Conduct for Administrative FSPs, 2003</i>					
3.2.1 Does the FSP have procedures in place to ensure that prior to accepting instructions from a person who is providing intermediary services on behalf of a client, that such person is an authorised financial services provider?					
3.2.2 Does the FSP offer wrap funds?					
3.2.2.1 <i>If the answer to question 3.2.2 is YES -</i> In a separate annexure, provide full details of the funds and the underlying assets in the wrap fund. Indicate the annexure number in column 5.					
3.2.3 Does the FSP offer structured funds on its platform?					
3.2.3.1 <i>If the answer to question 3.2.3 is YES --</i> Please provide full details of the funds and underlying assets in the structured fund in a separate annexure. Indicate the annexure number in column 5.					
3.2.4 Does the FSP offer hedge funds on its platform?					
3.2.4.1 <i>If the answer to question 3.2.4 is YES --</i> Please provide full details of the fund as well as the underlying assets of the fund in a separate annexure. Indicate the annexure number in column 5.					
3.2.5 Does the FSP have procedures in place to ensure that the FSP verifies in all instances that any other FSP that it receives an instruction from is authorised to render the specific financial services without any restrictions in its license in relation the specific financial product?					

Question	Column				
	1	2	3	4	5
	Yes	No	Not applicable	Developmental area	Note No. Comment/Annexure
3.3 Relationship with clients <i>Sections 5 and 6 of the Code of Conduct for Administrative FSPs, 2003</i>					
3.3.1 Did the Registrar approve all specimen application form/s and specimen mandates used by the FSP?					
3.3.2 Did the FSP amend any of its application forms and/or mandates during the reporting period?					
3.3.3 If the answer to question 3.3.2 is YES – Did the Registrar approve all substantial/material amendments before it was used?					
3.3.4 Does the FSP have procedures in place to ensure that it only deals with clients in respect of whom application forms (which comply with section 5 of the said Code) have been obtained?					
3.3.5 Does the FSP have procedures in place to ensure that it notifies clients of an increase in costs within 14 days of the receipt of the notification from the product supplier?					
3.3.6 Does the FSP have procedures in place to deal with the termination of a relationship with a client as contemplated in section 6 of the said code?					
3.4 Record keeping <i>Section 7 of the Code of Conduct for Administrative FSPs, 2003</i>					
3.4.1 Are client records maintained to identify the specific financial product owned per client?					
3.5 Independent Nominee <i>Section 9 of the Code of Conduct for Administrative FSPs, 2003</i>					
3.5.1 Does the FSP ensure that the independent nominee is approved in terms of the Requirements imposed by the Financial Services Board for Nominees to operate in South Africa (Board Notice 63 of 2007)?					

		Column				
Question		1	2	3	4	5
		Yes	No	Not applicable	Develop - mental area	Note No. Comment/ Annexure
3.5.2	Did the Registrar approve the written agreement between the FSP and the independent nominee as required by regulation 8 of the Regulations?					
3.5.3	Does the FSP have procedures in place to ensure that all bank and unit reconciliations are up to date?					
3.5.4	Did the Nominee hold fidelity guarantee at the reporting date? If YES, the Statistical Information Sheet (Section 4) must be completed.					
3.5.5	Did the Nominee hold professional indemnity insurance at the reporting date? If YES, the Statistical Information Sheet (Section 4) must be completed					
3.5.6	Is the nominee structured in such a way that clients' investments are at all times protected from its creditors or those of the administrative FSP and any one else, as required in the Regulations?					
3.5.7	Are regular board or trustee meetings held by the directors or trustees of the independent nominee?					
3.5.8	Are more than 50 percent of the directors, trustees or other persons responsible for management and control of the independent nominee, independent from the administrative FSP, as well as from companies within the same group of the FSP?					
3.6	Reporting to clients Section 10 of the Code of Conduct for Administrative FSPs, 2003					
3.6.1	Does the FSP have procedures in place to ensure that the FSP send the client reports as required within the period as stipulated by the said section 10?					
3.7	Information systems					
3.7.1	Does the FSP have a business continuity plan in place?					

Question	Column				
	1	2	3	4	5
	Yes	No	Not applicable	Develop - mental area	Note No. Comment/ Annexure
3.7.2 Did the FSP have any system developments and/or changes that affected bank and asset holding reconciliations in any way?					
3.7.3 Does the FSP have access controls to information systems in place?					
3.7.4 Does the FSP have anti-virus software in place?					
3.7.5 Does the FSP have a firewall in place to protect the network?					
3.8 Assets under administration					
3.8.1 Did the FSP have assets under administration on reporting date? If YES, the Statistical Information Sheet (Section 4) must be completed.					
3.8.2 If separate accounts are held in the name of the clients, indicate whether or not such accounts are audited.					
3.8.3 If separate accounts are not held, indicate in a separate annexure in whose names the assets are held. Indicate the annexure number in column 5.					

SECTION 3 – ATTACHMENTS		
Question number	Comments	Additional Information attached Annexure reference no

SECTION 4 – STATISTICAL INFORMATION SHEET

4.1 ADMINISTRATIVE FSP – INDEPENDENT NOMINEE			
TYPE OF INFORMATION REQUIRED	QUESTION NUMBER IT RELATES TO	CURRENCY	EXTENT OF COVER (NUMERICAL AMOUNT)
Extent of fidelity guarantee held by independent nominee	3.5.4		
Extent of professional indemnity insurance held by nominee	3.5.5		

4.2 ADMINISTRATIVE FSP – ASSETS UNDER ADMINISTRATION			
TYPE OF INFORMATION REQUIRED	QUESTION NUMBER IT RELATES TO	CURRENCY	EXTENT OF ASSETS UNDER ADMINISTRATION
Amount of assets under administration at reporting date	3.8.1		

To be completed and signed by the compliance officer

Name of compliance officer of FSP

ID number of the compliance officer

Name of the compliance practice (If applicable)

Reference number of compliance officer/practice

Signature of the compliance officer

Date

Address

Telephone number

Fax number

E-mail address

To be completed and signed by one of the key individuals of the FSP In the case of a juristic entity, or the sole proprietor in the case of a natural person to acknowledge that they are aware that the report will be forwarded to the Registrar

Name of the FSP

FSP Number

Name of key Individual

ID number of the key Individual

Date appointed as key Individual

Signature

Date

Please note that all reports that have not been signed by BOTH the Compliance Officer and one of the Key Individuals in the case of a juristic entity, or the sole proprietor in the case of a natural person, will be regarded as "Not Submitted"

DECLARATION TO BE SIGNED BY THE COMPLIANCE OFFICER

Compliance Report in terms of section 17(4) of the Financial Advisory and Intermediary Act, 2002 (Act No 37 of 2002) by Compliance Officers/Financial Services Providers for the reporting period _____ (insert date) and _____ (insert reporting date).

In accordance with section 17(4) of the Act, I/we _____ (being the approved Compliance Officer(s) of the Financial Services Provider hereby report as follows as regards compliance by _____ (insert full names of FSP and FSP number) and any representatives and/Key Individuals of the FSP with the Act, for the reporting period _____.

Having completed the attached annual compliance report for the abovementioned FSP, I/we hereby confirm without any reservations that, to the best of my/our knowledge and ability all the information contained in the attached annual compliance report is both true and correct in all respects/aspects.

I/we are aware that the information contained in the attached annual compliance report may be subject to verification by the Registrar of Financial Services Providers at any time, and should I/we in my/our capacity as compliance officer knowingly submit false, incorrect or misleading information to the Registrar, this may impact on my/our compliance with the fit and proper requirements with regard to personal character qualities of honesty and integrity as determined by section 8(1) of the Act.

Signed on this the _____ day of _____ (month) _____ (year).

Name of compliance officer: _____

Signature: _____