

BOARD NOTICE 90 OF 2011**FINANCIAL SERVICES BOARD****FINANCIAL ADVISORY AND INTERMEDIARY SERVICES ACT, 2002****COMPLIANCE REPORT FOR CATEGORY IV FSPs, 2011**

In terms of section 17(4) of the Financial Advisory and Intermediary Services Act, 2002 ("the Act"), I, Dube Phineas Tshidi, the Registrar of Financial Services Providers, determine the manner in which the compliance report for Category IV FSPs 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 October 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;
 - (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) "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;
 - (v) "FICA" means the Financial Intelligence Centre Act, 2001;
 - (vi) "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;

- (vii) "FSP", "financial services provider" or "provider" means an authorised financial services provider, and includes, where applicable, any representative of the provider;
- (viii) "General Code of Conduct" or "General Code" means the Code of Conduct for Authorised Financial Services Providers and their Representatives, 2003;
- (ix) "Regulations" means the Financial Advisory and Intermediary Services Regulations, 2003;
- (x) "reporting date" means 31 August 2011;
- (xi) "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 2010 compliance report; or
 - (cc) where a compliance officer is appointed, the date of appointment,

until the reporting date.

This Determination is called the Compliance Report for Category IV FSPs, 2011, and comes into operation on the date of publication thereof.

DP TSHIDI

D P TSHIDI,
Registrar of Financial Services Providers

SCHEDULE

Compliance Report for Category IV FSPs for reporting period ended 31 August 2011

Scope

In accordance with section 17(4) of the Act, I/we (the approved compliance officer(s) of 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 (reporting date).

Question		Column				
		1	2	3	4	5
		Yes	No	Not applicable	Develop-mental area	Note No. Comment/Annexure
	SECTION 1 – GENERAL					
1	Conditions and restrictions by Registrar Sections 7, 8(4) (a) and (5) (b) of Act					
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 business information as provided during the application stage within 15 days of any change occurring?					
1.2	Did the FSP change legal status (e.g. from CC to (Pty) Ltd) as an entity since obtaining its licence?					
1.3	<i>If the answer to Question 1.2. is YES -</i> 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 gives an instruction to, or receives an instruction from, is authorised to render the specific financial services without any restrictions in its licence in relation to the specific financial product/s?					

Question		Column				
		1	2	3	4	5
		Yes	No	Not applicable	Develop - mental area	Note No. Comment/ Annexure
1.5	<i>If the answer to Question 1.4 is NO –</i> In a separate annexure, provide detail (names and contact details) of the entities that were not verified. Indicate the annexure number in column 5.					
1.6	Financial products in respect of which FSP renders financial services Condition 5 imposed by Registrar in terms of section 8(4) of Act					
1.6.1	Is the FSP regulated in terms of any other law (within or outside South Africa)? (Please note that this does not include membership of professional bodies.)					
1.6.2	<i>If the answer to Question 1.6.1 is YES -</i> Provide details of the Regulator (Name of Regulator and registration and licensing numbers, if applicable) in a separate annexure and indicate the annexure number in column 5.					
1.6.3	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 (i.e. hedge funds, depending on the structure)?					
1.6.4	<i>If the answer to Question 1.6.3 is YES –</i> Provide details of the financial products concerned in a separate annexure and indicate the annexure number in column 5.					
1.7	Financial products in respect of which FSP renders financial services <i>Authorisation in terms of licence of FSP</i>					
1.7.1	Does the FSP have procedures in place to ensure that the rendering of financial services are done within the limitation on Categories and subcategories for which the licence is issued?					
1.7.2	Did any non-compliance occur in respect of the limitation on Categories and subcategories during the reporting period?					

Question		Column				
		1	2	3	4	5
		Yes	No	Not applicable	Develop - mental area	Note No. Comment/ Annexure
1.7.3	<i>If the answer to Question 1.7.2 is YES -</i> Provide details of any such non-compliance as well as steps taken to reasonably ensure that such non-compliance does not occur again in a separate annexure and indicate the annexure number in column 5.					
1.8	Functions performed by FSP					
1.8.1	Is the FSP authorised to render financial services in respect of short-term insurance personal lines and Short -term insurance commercial lines?					
1.8.2	<i>If the answer to question 1.8.1 is YES -</i> Did the FSP render financial services as an underwriting manager during the reporting period?					
1.8.3	Is the FSP also a licensed credit provider in terms of the National Credit Act, 2005?					
2	Group structure					
2.1	Does the FSP form part of a group of companies and/or have service level agreements in place with other financial service providers within the group? If yes, provide full details of the group (including an organogram or diagram as well as such FSP's relation to the group of companies) in a separate annexure and indicate the annexure number in column 5.					
3	Key individuals Section 8(1) and (4)(b) of Act and <i>Determination of Fit and Proper Requirements</i>					
3.1	Are all people involved in a managing/overseeing function in respect of 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 compliance with section 8(4)(b) of the Act in the case of replacement of key individuals?					

Question		Column				
		1	2	3	4	5
		Yes	No	Not applicable	Develop - mental area	Note No. Comment/ Annexure
3.4	Fit and proper requirements for key individuals <i>Determination of Fit and Proper Requirements</i>					
3.4.1	Did any changes occur in the personal circumstances of any key individual during the reporting period that adversely affected the fitness and propriety of the person, as it relates to Part II of the Determination of Fit and Proper Requirements?					
3.4.2	<i>If the answer to Question 3.4.1 is YES -</i> Provide full details thereof in a separate annexure and indicate the annexure number in column 5.					
4	Representatives <i>Sections 13 and 14 of Act</i>					
4.1	Does the FSP have representatives? If YES, the Statistical Information Sheet (Section 4) must be completed.					
4.2	<i>If the answer to question 4.1 is YES, questions 4.3 to 4.9 must be answered</i>					
4.3	Does the FSP have any juristic representatives?					
4.4	<i>If the answer to Question 4.3 is YES- questions 4.4.1 to 4.4.3 must be answered</i>					
4.4.1	Does the FSP have an agreement with each juristic representative? If YES attach a copy of an agreement as a separate annexure and indicate the annexure number in column 5.					
4.4.2	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?					
4.4.3	Does the FSP have procedures in place to ensure that juristic representatives have the necessary operational ability to render financial services to clients?					
4.5	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 representatives as provided in section 13(1)(b)(i) of the Act?					

Question		Column				
		1	2	3	4	5
		Yes	No	Not applicable	Develop - mental area	Note No. Comment/ Annexure
4.6	Is the key individual able to maintain the operational ability to fulfill the responsibilities imposed by the Act on FSPs, including oversight of the financial services rendered by the representative of the FSP?					
4.7	Competency of representatives <i>Section 13(2)(a) of Act, Parts II, III and VI of Determination of Fit and Proper Requirements and Board Notice 151 of 2008</i>					
4.7.1	Does the FSP have procedures in place to ensure that representatives comply with the personal character qualities of honesty and integrity and the competency requirements as set out in Parts II and III of the Determination of Fit and Proper Requirements?					
4.7.2	Have any representatives of the FSP passed the First Level Regulatory Exam (RE1)? If YES, the Statistical Information Sheet (Section 4) must be completed.					
4.7.3	Does the FSP have representatives who, on the reporting date, render financial services under supervision as contemplated in paragraph 3 of the Exemption of Services under Supervision in terms of Requirements and Conditions, 2008?					
4.7.4	If the answer to question 4.7.3 is YES – questions 4.7.4.1 to 4.7.4.5 must be answered					
4.7.4.1	Confirm the number of representatives working under supervision as well as the number of supervisors, as at the reporting date, on the Statistical Information Sheet (Section 4).					
4.7.4.2	Does the FSP have procedures in place to monitor the compliance of supervisors with paragraph 4(7) (a)-(f) of the Exemption of Services under Supervision in terms of Requirements and Conditions, 2008?					
4.7.4.3	Does the FSP have procedures in place to ensure that there is a formal documented supervision plan in place for representatives who render financial services under supervision?					
4.7.4.4	Does the FSP have procedures in place to ensure that the fact that a representative renders financial services under supervision is disclosed to clients?					
4.7.4.5	If any non-compliance in terms of representatives under supervision was found, submit					

Question		Column				
		1	2	3	4	5
		Yes	No	Not applicable	Develop - mental area	Note No. Comment/ Annexure
	full details of such non-compliance as well as steps that will be taken to reasonably ensure that such non-compliance does not occur again in a separate annexure. Indicate the annexure number in column 5.					
4.8	Representatives' compliance with Code of Conduct <i>Section 13(2)(b) of Act, Board Notice 58 of 2010 and General Code of Conduct</i>					
4.8.1	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?					
4.8.2	If the answer to Question 4.8.1 is YES – questions 4.8.2.1 to 4.8.2.4 must be answered					
4.8.2.1	In a separate annexure, describe the procedures that the FSP has in place to determine whether the representatives adhered to the said requirements. Indicate the annexure number in column 5.					
4.8.2.2	During the reporting period did any representative of the FSP receive any financial interest for giving preference to the quantity of business secured for the provider to the exclusion of the quality of financial service rendered to clients?					
4.8.2.3	During the reporting period did any representative of the FSP receive any financial interest for giving preference to a specific product supplier, where the representative may have recommended more than one product supplier to a client?					
4.8.2.4	During the reporting period did any representative of the FSP receive any financial interest for giving preference to a specific product of a product supplier, where the representative was able to recommend more than one product of that product supplier to the client?					
4.9	Debarment of representatives <i>Section 14 of Act</i>					
4.9.1	Does the FSP have procedures in place to debar a representative if the representative does not comply with the personal character qualities of honesty and integrity and the qualifications as set out in Parts II and V of the Determination of Fit and Proper					

Question		Column				
		1	2	3	4	5
		Yes	No	Not applicable	Develop - mental area	Note No. Comment/ Annexure
	Requirements, if necessary?					
4.9.2	Has the FSP taken steps to debar representatives in respect of non-compliance with Column Two of Table E of the Determination of Fit and Proper Requirements?					
4.9.2.1	If the answer to question 4.9.2 is YES – In a separate annexure, provide full details thereof. Indicate the annexure number in column 5.					
5	Insurance cover <i>Sections 5(e) and 13 of General Code of Conduct and Board Notice 123 of 2009</i>					
5.1	Does the FSP have professional indemnity cover? If yes, the Statistical Information Sheet (Section 4) must be completed.					
5.2	Does the FSP have fidelity insurance cover? If yes, the Statistical Information Sheet (Section 4) must be completed.					
5.3	Does the FSP have guarantees in place as contemplated in section 13 of the General Code of Conduct? If yes, the Statistical Information Sheet (Section 4) must be completed.					
5.4	Does the FSP disclose to clients in terms of section 5(e) of the General Code of Conduct whether the FSP holds guarantees or professional indemnity or fidelity insurance cover?					
5.5	If the FSP holds guarantees, professional indemnity cover or fidelity insurance cover, attach the latest copy of the insurance schedule in a separate annexure and indicate the annexure number in column 5.					
5.6	Did the FSP have any claims against their professional indemnity cover, fidelity insurance cover or guarantees during the reporting period that were as a result of financial services rendered?					
6	Compliance function <i>Section 17 of Act, Chapter IV of Regulations and Board Notice 127 of 2010</i>					
6.1	Is the compliance function established as part of the risk management framework of the					

Question		Column				
		1	2	3	4	5
		Yes	No	Not applicable	Develop - mental area	Note No. Comment/ Annexure
	business of the FSP in compliance with section 17(3) of the Act and Regulation 5?					
6.2	Has the FSP appointed a compliance officer in terms of section 17 of the Act?					
6.3	<i>If the answer to question 6.2 is YES – questions 6.3 to 6.9 must be answered</i>					
6.3.1	Are you appointed as an external compliance officer of the FSP?					
6.3.2	Are you appointed as an internal compliance officer of the FSP?					
6.3.2.1	<i>If the answer to question 6.3.2 is YES-</i> Are you also the appointed internal compliance officer for any other FSPs? If YES in a separate annexure, provide details of the FSPs. Indicate the annexure number in column 5.					
6.4.	Do you provide written reports on the compliance monitoring and recommendations relating to the FSP on a regular basis? If YES, the Statistical Information Sheet (Section 4) must be completed.					
6.5	Did you conduct regular visits to the business premises, business units and / or branches of the FSP? If YES, the Statistical Information Sheet (Section 4) must be completed.					
6.6	Did you conduct regular visits to the business premises, business units and / or branches of the representatives of the FSP? If YES, the Statistical Information Sheet (Section 4) must be completed.					
6.7	Are you also the compliance officer appointed in terms of section 43(b) of FICA? If the answer is NO, the Statistical Information Sheet (Section 4) must be completed.					
6.8	Do you 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.					
6.9	Did you indicate any aspect in this report as a "Developmental Area" (Column 4) that was also indicated as a developmental area in the compliance report for the previous reporting period?					

Question		Column				
		1	2	3	4	5
		Yes	No	Not applicable	Develop - mental area	Note No. Comment/ Annexure
6.9.1	<i>If the answer to question 6.9 is YES – In a separate annexure, provide details thereof, the reasons for continued non-compliance, and corrective actions taken. Indicate the annexure number in column 5.</i>					
7	Maintenance of records <i>Section 18 of Act and 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?					
7.2	Can all documents be inspected by the Registrar within 7 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?					
7.5.1	<i>If the answer to question 7.5 is YES - Does the FSP have procedures (e.g. disaster recovery procedures) in place to ensure that back-ups are tested on a sample basis to reasonably ensure that records can be retrieved in a proper manner?</i>					
7.5.1.1	<i>If the answer to question 7.5.1 is YES – In a separate annexure, indicate the last time such back-ups were tested and the result of the test. Indicate the annexure number in column 5.</i>					
8	General Code of Conduct					
8.1	General provisions <i>Section 3 of General Code of Conduct and Board Notice 58 of 2010</i>					

Question		Column				
		1	2	3	4	5
		Yes	No	Not applicable	Develop - mental area	Note No. Comment/ Annexure
8.1.1	Has the FSP adopted, maintained and implemented a conflict of interest management policy? If YES a copy of the policy must be attached and indicate the annexure number under column 5.					
8.1.2	Are the employees, representatives and, where appropriate, associates aware of the conflict of interest management policy?					
8.1.3	Has appropriate training and educational material been provided to the employees, representatives and where appropriate, associates?					
8.1.4	Has the conflict of interest management policy been published in appropriate media and is the policy easily accessible for public inspection at all reasonable times?					
8.1.5	During the reporting period did the FSP or any employees receive any immaterial financial interest from a product supplier which exceeded an aggregate of R1 000? If the answer is YES – the Statistical Information Sheet (Section 4) must be completed.					
8.1.6	If applicable, did the FSP and / or their representative(s) disclose to clients in writing any conflict of interest in respect of the client?					
8.1.7	Does the FSP pay or receive any fees or remuneration for the rendering of a service to a third party (as defined)?					
8.1.7.1	<i>If the answer to Question 8.1.7 was YES- Is a written agreement in place in respect of the rendering of the services?</i>					
8.1.8	Does the FSP have procedures and internal controls in place to ensure that it does not disclose any confidential information acquired from clients without obtaining written consent from the clients, unless it is required in terms of any other legislation?					
8.2	Disclosure requirements <i>Sections 4, 5 and 7 of General Code of Conduct</i>					
8.2.1	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?					
8.2.2	Does the FSP have procedures in place to ensure that the disclosure documentation					