

---

## BOARD NOTICE

---

### BOARD NOTICE 101 OF 2011

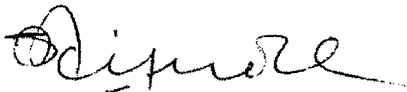
#### FINANCIAL SERVICES BOARD

#### FINANCIAL SERVICES BOARD ACT, 1990

#### LEVIES ON FINANCIAL INSTITUTIONS

The Financial Services Board imposes under section 15A of the Financial Services Board Act, 1990, on financial institutions the levies in the Schedule.

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 and, unless the context indicates otherwise-

“**Board**” means the Financial Services Board referred to in the Act;

“**financial services law**” means the Act and any other law referred to in paragraph (a) of the definition of “financial institution” in section 1 of the Act;

“**levy year**” means the period from 1 April 2011 to 31 March 2012 and such corresponding period in succeeding years, in respect of which levies are imposed;

“**Registrar**” means the Registrar mentioned in a financial services law concerned;

“**the Act**” means the Financial Services Board Act, 1990.

##### Imposition of levies

2. The levy specified in an item of this Notice is 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) (a) In respect of a pension fund registered or provisionally registered in terms of the Pension Funds Act, 1956, including a pension preservation fund or a provident preservation fund as defined in section 1 of the Income Tax Act, 1962 ("the Income Tax Act"), but excluding a retirement annuity fund as defined in section 1 of the Income Tax Act, the levy is R1 229, plus an additional-

- (i) R10,15 per member of such fund, every other person who receives regular periodic payments from such fund (excluding any member or such person, whose benefit in the fund remained unclaimed) and beneficiary in a beneficiary fund; or
- (ii) R2 034 320,

which total amount is the lesser.

(b) A pension fund registered as an umbrella scheme (including collective bargaining council funds, union funds and industrial funds) must pay an additional levy of R575 in respect of each participating employer, except where an umbrella fund has been exempted by the Registrar from the payment of the levy for 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 is based on the number of members and other persons as reflected in the latest statistics furnished to the Registrar as at 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 must be paid not later than 31 August of the levy year.

**Levy on administrators**

4. (1) In respect of an administrator approved in terms of section 13B of the Pension Funds Act, 1956, the levy is R5 523 plus an additional R430 per fund under the administration of the administrator and R0,51 per member, every other person who receives regular periodic payments from the fund (excluding any member or such person, whose benefit in the fund remained unclaimed) and beneficiary in a beneficiary fund.

- (2) The levy must be paid not later than 31 August of the levy year.

#### **Levy on retirement annuity funds**

5. (1) (a) In respect of a retirement annuity fund referred to in item 3(1) the levy is R1 229 plus an additional amount equal to 0,00886% of the value of the assets of the fund.

(b) 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) (a) The value of the assets of a retirement annuity fund is the value of the assets of the fund determined at the time of the valuation thereof by the insurer for determining its liabilities excluded in item 9(2)(b) as well as any other assets held by the fund to enable it to meet its obligations towards members.

(b) The calculation of the levy is based on the value of assets as reflected in the latest statistics furnished to the Registrar as at 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 in which a long-term insurer, in return for the payment of a premium, undertakes to provide policy benefits for the funding in whole or in part the liability of a retirement annuity fund to provide benefits to members.

- (4) The levy must be paid not later than 31 August of the levy year.

#### **Levy for Pension Funds Adjudicator**

6. (1) In respect of a pension fund registered or provisionally registered in terms of the Pension Funds Act, 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, the levy for the Pension Funds Adjudicator is R4,16 per member of the fund and any other person who receives regular periodic payments from such fund (excluding any member or such person whose benefit in the fund remained unclaimed).

(2) 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) 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 friendly societies**

7. From 1 April 2006, any friendly society registered or provisionally registered in terms of the Friendly Societies Act, 1956, is exempted from the payment of levies.

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

8. (1) In respect of an insurer registered in terms of the Short-term Insurance Act, 1998, the levy is based on estimated gross premium income, including any rebates, for the insurer's financial year ending during 1 July to 31 March of the current levy year or ending during 1 April to 30 June of the following levy year, adjusted after the end of its financial year in accordance with audited gross premium income, including any rebates. Irrespective of the length of the financial period of the insurer, the levy is an amount equal to 0,15395% of the first R60 million gross premium income, including any rebates, plus 0,03554% thereafter, or R16 000, whichever amount is the greater. The rate at the end of the financial period of the insurer is 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 is based on estimated gross premium income for the calendar year ending on 31 December of the levy year, adjusted annually after 31 December in accordance with the gross premium income 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 is an amount equal to 0,15395% of the first R60 million gross premium income plus 0,03554% thereafter, or R16 000, whichever amount is the greater.

(3) A short-term insurer 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.

(4) The levy based on estimated premium income must be paid in two instalments before or on 10 June and 28 October of the levy year. The adjustment referred to in subitem (1) must 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 in subitem (2) must be combined with the October payment.

#### **Levy on long-term insurers**

9. (1) In respect of a long-term insurer registered or deemed to be registered in terms of the Long-term Insurance Act, 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 R80 000 plus 0,00886% of the liabilities under unmatured long-term policies; or
- (b) enter into an assistance policy only, the levy is R8 000 plus 0,00886% of the liabilities under unmatured long-term policies.

(2) The expression "liabilities under unmatured long-term policies" in subitem (1)—

(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. The value of such liabilities are—

- (i) the gross liabilities under unmatured policies reflected against the item "Gross policy liabilities" in column 9 of Statement C9 of the Long-term Return (set out in Annexure A of the Schedule to Board Notice 81 of 2008, *Gazette* 31207 of 5 September 2008 as amended by Board Notice 387 of 2009, *Gazette* 32078 of 7 April 2009 and Board Notice 294 of 2010, *Gazette*, 33113 of 16 April 2010); or
- (ii) 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 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 members in terms of its rules: Provided 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 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 in accordance with subitem (4); or
  - (b) between 1 April and 1 October of the levy year, must pay half the levies in one amount as the only payment, before or on 28 October of the levy year.
- (4) The levies must be paid in two instalments:
  - (a) 50% of the levy or if the actual amount is not available, a reasonable estimate of the levy based on a reasonable estimate of the value of the liabilities in subitem (2), before or on 10 June of the levy year; and
  - (b) the balance of the levy before or on 28 October of the levy year; and
  - (c) if the payment was based on an estimate in subsubitem (a), an adjustment in accordance with the actual value of the liabilities 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**

10. (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 0,0153725% of the gross premiums as reported on by an auditor or accounting officer, and which was received by such agent, broker or other person during the most recent financial year on behalf of registered insurers and underwriters at Lloyd's, or R113, whichever amount is the greater.

(2) The levy must be paid not later than 31 October of the levy year and must be based on the 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 539 275, equal to a maximum levy of R30 213.

**Levy on collective investment schemes in securities**

11. (1) (a) In respect of a collective investment scheme in securities referred to in the Collective Investment Schemes Control Act, 2002, the levy is R10 962 630 plus any amount payable in terms of subitem (2), for schemes administered by a manager registered in terms of section 42 of the said Act at any time during the levy year.

(b) The levy is payable in four quarterly instalments on or before 25 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.

(c) The calculation of levies:

- (i) 10% apportioned equally amongst all managers;
- (ii) 60% apportioned according to the number of portfolios administered by each manager; and
- (iii) 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 levy is doubled.

**Levy on foreign collective investment schemes**

**12.** (1) In respect of a foreign collective investment scheme approved in terms of section 65 of the Collective Investment Schemes Control Act, 2002, the levy is payable in four quarterly instalments, each instalment consisting of-

- (a) an amount of R7 433 in respect of each scheme; plus
- (b) an amount of R4 031 in respect of each portfolio, fund or sub-scheme; plus
- (c) 0, 00020579% 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 levy is doubled.

(3) The levy is payable in four quarterly instalments on or before 25 June, 30 September, 31 December and 31 March of the levy year. The levy is 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 subitem (3) the statistics to be furnished to the Registrar must contain details of 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**

**13.** (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 R 67 461 on every portfolio.

(2) The levy must be paid not later than 25 June of the levy year.



**Levy on collective investment schemes in participation bonds**

14. (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 R7 083 plus an amount calculated by multiplying the aggregate amount owing by mortgagors on 31 December 2010, by 0,0144415%.

(2) The levy must be paid not later than 25 June of the levy year.

**Levy on exchanges**

15. (1) In respect of JSE Ltd, the levy is R8 266 459.

(2) The levy must be paid not later than 10 June of the levy year.

**Levy on authorised financial services providers**

16. (1) Subject to subitem (5), a person authorised as a Category I 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 31 October of the levy year.

(2) The levy, subject to a maximum of R1 193 250, is calculated as follows:

(a) a base amount of R2 741, and

(b)  $A \times R430$

where-

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

(3) Subject to subitem (5), a person authorised 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 31 October of the levy year pay a levy which is subject to a maximum of R1 193 250, calculated as follows:

- (a) a base amount of R5 523;
- (b)  $A \times R430$ ; and
- (c)  $B \times 0,0000150012$

where-

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

B = the 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 investments under management held in foreign currency are included at the exchange rate published in the Press at that date.

(4) Subject to subitem (5), a person authorised 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 31 October of the levy year pay a levy subject to a maximum of R1 193 250, calculated as follows:

- (a) a base amount of R2 741; and
- (b)  $A \times R250$

where-

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

(5) 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). For such payment, the key individuals and the representatives of authorised financial services providers are deemed to be the key individuals and representatives of one authorised financial services provider.

(6) Where a licence is suspended on 31 August 2011 the authorised financial services provider is liable to pay the levy as referred to in sub item (2),(3) or (4) within 30 days from lifting of the suspensions.

(7) Should the levy not be paid, the licence of the financial services provider may be withdrawn.

#### **Levy for funding of Office of Ombud for Financial Services Providers**

17. (1) Subject to subitem (3), a person authorised 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 in subitem (2) on or before 31 October of the levy year.

(2) The levy, subject to a maximum of R170 138, is calculated as follows:

(a) a base amount of R625; and

(b)  $A \times R234$

where-

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

(3) 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 authorised financial services providers are deemed to be the key individuals and representatives of one authorised financial services provider.

(4) Where a licence is suspended on 31 August 2011 the authorised financial services provider is liable to pay the levy as referred to in sub item (2) within 30 days from lifting of the suspensions.

(5) Should the levy not be paid the licence of the financial services provider may be withdrawn.

**Levy on central securities depositories**

18. (1) In respect of Strate Ltd, the levy is R1 602 727.

(2) The levy must be paid not later than 10 June of the levy year.

**Levy on financial markets in respect of market abuse**

19. (1) The levy for performing the functions of the Board and the Directorate of Market Abuse in terms of the Securities Services Act, 2004, is R13 500 000.

(2) The levy is payable by the JSE Ltd in four quarterly instalments of R3 375 000 on or before 10 June, 30 September, 31 December and 31 March of the levy year.

(3) In addition to the levy, the legal costs incurred by the Board in respect of market abuse litigation are payable quarterly in arrears by the JSE Ltd.

**GENERAL****Payment of levies**

20. (1) The levies and interest are payable to the Board by means of a cheque, postal order, money order or money transfer.

(2) Interest is charged on overdue accounts at the prime overdraft rate quoted by the Standard Bank of South Africa Ltd.

**Application for exemption**

21. (1) An application by a financial institution for the granting under section 15A(4) of the Act of exemption from this Notice must be submitted to the Executive Officer, Financial Services Board, P O Box 35655, Menlo Park, 0102, at least one month before the date on which the exemption is to take effect.

(2) The application must contain particulars of the financial institution, the authorisation of the persons signing the application and the date on which the exemption is to take effect, and must set out the reasons for the application.

(3) The application must contain-

- (a) an affirmation by the financial institution to provide on request the executive officer forthwith with information the Board may require in connection with the institution or application; and
- (b) particulars of the address at which the institution will accept service by the Board of any notice in section 15A(4)(b)(ii) of the Act.

(4) A notice 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.

#### **Consolidated payments**

22. When a body regarded by the Board as representative of a category of financial institutions offers to make a consolidated payment of levies on behalf of the category in terms of an agreement concluded between the category and the body, the Board may accept the offer: Provided if for any reason the consolidated payment is not made on the dates of payment, every financial institution remains responsible for the individual payment payable by it, plus interest (if any).

#### **Withdrawal of notices and saving**

23. (1) Board Notice 75 of 28 May 2010 is withdrawn.

(2) If on the date of coming into operation of this Notice a financial institution has not fully paid a levy and interest in terms of the Notice in subitem (1), the Notice is deemed not to be withdrawn until such debt is discharged fully.