

BOARD NOTICE 164 OF 2011**FINANCIAL SERVICES BOARD****FINANCIAL ADVISORY AND INTERMEDIARY SERVICES ACT, 2002****(ACT NO. 37 OF 2002)****EXEMPTION OF MORGAN STANLEY BANK, NATIONAL ASSOCIATION, IN RESPECT
OF CERTAIN CLIENTS**

I, German Emmanuel Anderson, Deputy Registrar of Financial Services Providers, hereby exempt under section 44(4) of the Financial Advisory and Intermediary Services Act, 2002 (Act No. 37 of 2002), Morgan Stanley Bank, National Association, to the extent and subject to the conditions set out in the Schedule.

**G E ANDERSON,***Deputy Registrar of Financial Services Providers***SCHEDULE****EXEMPTION OF MORGAN STANLEY BANK, NATIONAL ASSOCIATION, IN RESPECT
OF CERTAIN CLIENTS****Definitions**

- 1 In this Schedule, "the Act" means the Financial Advisory and Intermediary Services Act, 2002 (Act No. 37 of 2002), any word or expression to which a meaning is assigned in the Act shall have that meaning, and unless the context otherwise indicates-

"**bank**", means a 'branch', 'branch of a bank', 'mutual bank' or 'representative office' as defined in section 1(1) of the Banks Act, 1994 (Act No. 94 of 1994);

"**client**", in relation to Morgan Stanley Bank, means-

- (a) a bank;
- (b) a financial services provider who is registered, licensed, recognised, approved or otherwise authorised by-
 - (i) the Registrar of Long-term Insurance to conduct long-term insurance business;
 - (ii) the Registrar of Short-term Insurance to conduct short-term insurance business;
- (c) a person outside the Republic who-

- (i) as a regular feature of the person's business, renders a service similar to a 'financial service' as defined in section 1(1) of the Act; and
 - (ii) is registered, licensed, recognised, approved or otherwise authorised to conduct the business of a bank or a business referred to in paragraph (b) by a foreign regulator, with functions similar to those of the Registrar of Banks or a Registrar referred to in the said paragraph;
- (d) a central bank or other national monetary authority of any country, state or territory;
- (e) any person who is mandated to manage assets and who has confirmed to the satisfaction of Morgan Stanley Bank that the market value of the assets managed by the person will exceed R1 billion at all times of the rendering of financial services to the person;
- (f) any other person included in the definition of 'client' in section 1(1) of the Act, who has confirmed to the satisfaction of Morgan Stanley Bank that the person will have assets of which the net asset value will exceed R20 million at all times of the rendering of financial services to the person, and who is not—
- (i) a natural person;
 - (ii) a pension fund organisation as defined in section 1(1) of the Pension Funds Act, 1956 (Act No. 24 of 1956);
 - (iii) a friendly society referred to in the Friendly Societies Act, 1956 (Act No. 25 of 1956);
 - (iv) a medical scheme as defined in section 1(1) of the Medical Schemes Act, 1998 (Act No. 131 of 1998);

"Morgan Stanley Bank" means Morgan Stanley Bank, National Association, who renders a financial service to a client as a regular feature of its business and belongs to 'Category I' as defined in paragraph 1(1) of Part I of the Determination of Fit and Proper Requirements for Financial Services Providers, 2008, published by Board Notice No. 106 of 2008 in Gazette No. 31514 of 15 October 2008.

Extent of exemption and condition

- 2 Morgan Stanley Bank is exempted until 31 May 2012 from section 7(1) of the FAIS Act, subject to the conditions that it must—
- (a) maintain suitable guarantees, professional indemnity or fidelity insurance cover, quarterly approved by the Registrar; and
 - (b) prior to the rendering of any financial services to a client, informs the client, that it is exempted from the Act.

Amendment and withdrawal of exemption and conditions

- 3 The exemption and conditions mentioned in paragraph 3 are subject to—
- (a) amendment thereof published by the registrar by notice in the *Gazette*; and
 - (b) withdrawal in like manner.

Short title and commencement

- 4** This Exemption is called the Exemption of Morgan Stanley Bank in respect of Certain Clients, 2011, and comes into operation on the date of publication in the *Gazette*.
-