

BOARD NOTICE 92 OF 2012**FINANCIAL SERVICES BOARD****FINANCIAL ADVISORY AND INTERMEDIARY SERVICES ACT, 2002****COMPLIANCE REPORT FOR CATEGORY IV FSPs, 2012**

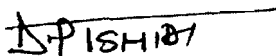
In terms of section 17(4) of the Financial Advisory and Intermediary Services Act, 2002 ("the Act"), I, Dube Phineas Tshidi, the Registrar of Financial Services Providers, determine the manner in which the compliance report for Category IV FSPs must be submitted, and the matters which such reports must 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 2012.
- (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) **"Exemption of Services under Supervision"** means the Exemption of Services under Supervision in terms of Requirements and Conditions, 2008,
 - (vi) **"FICA"** means the Financial Intelligence Centre Act, 2001;
 - (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) **“key individual”** means a key individual as defined in the Act, including sole proprietors as defined in the Determination of Fit and Proper Requirements;
- (x) **“Regulations”** means the Financial Advisory and Intermediary Services Regulations, 2003;
- (xi) **“reporting date”** means 31 August 2012;
- (xii) **“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 2011 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, 2012, and comes into operation on the date of publication thereof.



D P TSHIDI,
Registrar of Financial Services Providers

SCHEDULE

Compliance Report for Category IV FSPs for the reporting period ended 31 August 2012

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 31 August 2012.

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 and 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 its business information as provided during the application stage within 15 days of any change occurring?					
1.2	Did the FSP change its legal status as an entity (e.g. from CC to (Pty) Ltd) 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 specific financial services without any licence restriction in relation to a specific financial product?					

Question		Column				
		1	2	3	4	5
		Yes	No	Not applicable	Develop - mental area	Note No. Comment/ Annexure
1.5	Financial products in respect of which an FSP renders financial services <i>Condition 5 imposed by Registrar in terms of section 8(4) of Act</i>					
1.5.1	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.)					
1.5.2	<i>If the answer to Question 1.5.1 is YES -</i> Provide details of the Regulator (Name of Regulator and registration and licensing number/s with the Regulator, if applicable) in a separate annexure and indicate the annexure number in column 5.					
1.5.3	Does the FSP render financial services on any financial product that is not specifically defined in the Act or regulated in terms of any other legislation (e.g. a hedge fund, depending on the structure)?					
1.5.4	<i>If the answer to Question 1.5.3 is YES –</i> Provide details of the financial products concerned in a separate annexure and indicate the annexure number in column 5.					
1.6	Financial products in respect of which FSP renders financial services <i>Authorisation in terms of licence of FSP</i>					
1.6.1	Does the FSP have procedures in place to ensure that the rendering of financial services is done within the limitation on Categories and subcategories for which the licence was issued?					
1.6.2	Did any non-compliance occur in respect of the limitation on Categories and subcategories during the reporting period?					
1.6.3	<i>If the answer to Question 1.6.2 is YES -</i> Provide full details of such non-compliance as well as steps taken to reasonably ensure that such non-compliance does not occur again, in a separate annexure. Indicate the annexure number in column 5.					

Question		Column				
		1	2	3	4	5
		Yes	No	Not applicable	Develop - mental area	Note No. Comment/ Annexure
1.7	Functions performed by FSP					
1.7.1	Did the FSP render financial services as a short-term insurance underwriting manager during the reporting period?					
1.7.2	During the reporting period did the FSP render services as a pension fund administrator in terms of section 13B of the Pension Funds Act, 1956?					
1.7.3	Did the FSP act as an asset consultant (advisor) to a pension fund during the reporting period?					
1.7.4	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? If YES, provide full details of the group (including an organogram or diagram as well as the FSPs relation to the group of companies) in a separate annexure and indicate the annexure number in column 5.					
2.2	If the answer to question 2.1 is YES – Does the FSP have service level agreements in place with other FSPs within the group?					
3	Key individuals <i>Section 8(1) and (4)(b) of Act and Determination of Fit and Proper Requirements</i>					
3.1	Are all people involved in a managing/overseeing function in relation to 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 their position is 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 it complies with section 8(4) (b) of the Act in the case of replacement of key individuals?					

		Column				
Question		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.					
3.4.3	Does the key individual have the operational ability to fulfill the responsibilities imposed by the Act on FSPs, including (where applicable) oversight of the financial services rendered by the representative of the FSP?					
3.4.4	Have all approved key individuals enrolled for or passed the first level regulatory examination?					
3.4.5	A list of all approved key individuals must be provided as a separate annexure and it must be indicated whether the key individual has passed, failed, enrolled for or not yet enrolled for the first level regulatory exam. Indicate the annexure number in column 5.					
4	Operational ability and financial soundness <i>Parts VIII and IX of Determination of Fit and Proper Requirements and section 19 of Act</i>					
4.1	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?					
4.2	Does the FSP prepare monthly accounting records in terms of section 19 of the Act?					
4.3	Did the FSP prepare audited financial statements, irrespective of the type of legal entity?					
4.4	Did you (compliance officer) have unrestricted access to view the accounting records of the FSP at all times during the reporting period?					
4.4.1	<i>If the answer to question 4.4 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.					

Question		Column				
		1	2	3	4	5
		Yes	No	Not applicable	Develop - mental area	Note No. Comment/ Annexure
4.5	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?					
4.5.1	<i>If the answer to question 4.5 is NO -</i> In a separate annexure, indicate the steps that will be taken to ensure that relevant controls and procedures are put in place. Indicate the annexure number in column 5.					
	SECTION 2 – GENERAL CODE OF CONDUCT					
5	General Code of Conduct					
5.1	General provisions <i>Section 3 of General Code of Conduct and Board Notice 58 of 2010</i>					
5.1.1	Has the FSP adopted, maintained and implemented a conflict of interest management policy?					
5.1.2	<i>If the answer to Question 5.1.1 was YES – Questions 5.1.3 to 5.1.7 must be answered</i>					
5.1.3	Was this reporting period the FSP's first year of business?					
5.1.3.1	<i>If the answer to question 5.1.3. is YES –</i> Provide a copy of the conflict of interest management policy of the FSP as a separate annexure. Indicate the annexure number in column 5.					
5.1.4	If this reporting period was not the FSP's first year of business, did the FSP amend or revise the conflict of interest management policy during the reporting period?					
5.1.4.1	<i>If the answer to question 5.1.4 is YES –</i> Provide a copy of the amended conflict of interest management policy as a separate annexure. Indicate the annexure number in column 5.					

Question		Column				
		1	2	3	4	5
		Yes	No	Not applicable	Develop - mental area	Note No. Comment/ Annexure
5.1.5	Are the employees, representatives and, where appropriate, associates aware of the conflict of interest management policy?					
5.1.6	Has appropriate training and educational material been provided to the employees, representatives and, where appropriate, associates?					
5.1.7	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?					
5.1.8	If applicable, did the FSP and any representative disclose to clients in writing any conflict of interest in respect of the client?					
5.1.9	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?					
6	Insurance cover <i>Sections 5(e) and 13 of General Code of Conduct and Board Notice 123 of 2009</i>					
6.1	Does the FSP have professional indemnity cover? If yes, the Statistical Information Sheet (Section 8) must be completed.					
6.1.1	<i>If the answer to Question 6.1 is YES –</i> Attach a copy of the latest insurance schedule in a separate annexure and indicate the annexure number in column 5.					
6.2	Does the FSP have fidelity insurance cover? If yes, the Statistical Information Sheet (Section 8) must be completed.					
6.2.1	<i>If the answer to Question 6.2 is YES –</i> Attach a copy of the latest insurance schedule in a separate annexure and indicate the annexure number in column 5.					
6.3	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 8) must be completed.					

Question		Column				
		1	2	3	4	5
		Yes	No	Not applicable	Develop - mental area	Note No. Comment/ Annexure
6.3.1	<i>If the answer to Question 6.3 is YES – Attach a copy of the latest guarantee in a separate annexure and indicate the annexure number in column 5.</i>					
6.4	Does the FSP disclose to clients in terms of section 5(e) of the General Code of Conduct whether it holds guarantees or professional indemnity or fidelity insurance cover?					
6.5	Did the FSP have any claims against the FSP's professional indemnity cover, fidelity insurance cover or guarantees during the reporting period that were as a result of financial services rendered?					
7	Disclosure requirements <i>Sections 4, 5 and 7 of General Code of Conduct</i>					
7.1	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?					
7.2	Does the FSP have procedures in place to ensure that the disclosure documentation complies with section 7 of the General Code of Conduct?					
7.3	Does the FSP disclose the following information in terms of section 7(1)(c) of General Code of Conduct to the client in writing:					
7.3.1	The name, class or type of financial product concerned;					
7.3.2	The nature, extent and frequency of any incentive, remuneration, consideration, commission, fee or brokerage which will or may become payable to the provider, directly or indirectly, by any product supplier or any other person as a result of the financial service concerned;					
7.3.3	Any material risk and where applicable investment risk associated with the product concerned;					
7.3.4	Extent of monetary obligations assumed by the client, the frequency thereof and consequences of non-compliance concerned.					

Question		Column				
		1	2	3	4	5
		Yes	No	Not applicable	Develop - mental area	Note No. Comment/ Annexure
8	Direct marketing <i>Section 15 of General Code of Conduct</i>					
8.1	Does the FSP act as a direct marketer as defined in the General Code of Conduct?					
8.2	If the answer to Question 8.1 is YES – questions 8.2.1 to 8.2.3 must be answered					
8.2.1	Does the FSP have recording systems in place to record all telephonic conversations with the clients in the course of direct marketing?					
8.2.2	Does the FSP have appropriate procedures and systems in place to store and retrieve recordings?					
8.2.3	Does the FSP have procedures in place to ensure that the FSP complies with section 15 (read together with sections 4, 5 and 7) of the General Code of Conduct?					
8.2.3.1	If the answer to Question 8.2.3 is NO – In a separate annexure, provide details on how and when (provide a specific time frame) such procedures will be put in place. Indicate the annexure number in column 5.					
9	Furnishing of advice and record of advice <i>Sections 8 and 9 of General Code of Conduct</i>					
9.1	Is the FSP licensed to furnish advice?					
9.2	Did the FSP furnish advice as a regular feature of its business during the reporting period?					
9.3	If the answer to question 9.2 is YES – questions 9.3.1 to 9.3.4 must be answered					
9.3.1	Does the FSP have procedures in place to ensure that an analysis of the client's financial situation and objectives is performed before advice is furnished?					
9.3.1.1	If the answer to Question 9.3.1 is NO – In a separate annexure, provide details on how these procedures will be put in place. Indicate the annexure number in column 5.					

Question		Column				
		1	2	3	4	5
		Yes	No	Not applicable	Develop - mental area	Note No. Comment/ Annexure
9.3.2	Does the FSP have procedures in place, to ensure compliance with section 8(1)(d) of the General Code of Conduct relating to replacement products?					
9.3.3	Does the FSP keep a record of advice and provide it to clients in accordance with section 9 of the General Code of Conduct? Provide details of all instances of non-compliance found 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.					
9.3.4	Did the FSP do any new financial transactions during the reporting period where the client did not provide all information requested by the provider, or where the provider was unable to conduct an analysis because of the circumstances surrounding the case, or where there wasn't reasonable sufficient time to do so [section 8(4)(a) of the General Code of Conduct]? If the answer is YES, the Statistical Information Sheet (Section 8) must be completed.					
10	Custody of financial products and funds <i>Section 10 of General Code of Conduct</i>					
10.1	Does the FSP receive or hold financial products or funds of or on behalf of clients when rendering financial services?					
10.2	<i>If the answer to question 10.1 is YES - questions 10.2.1 to 10.2.3 must be answered</i>					
10.2.1	Has the FSP notified the Registrar of the details of the approved auditor in terms of section 19 of the Act?					
10.2.2	Has the FSP changed auditors during the reporting period?					
10.2.2.1	<i>If the answer to Question 10.2.2 is YES –</i> Did the FSP submit a profile change request to the Registrar in respect of the change of auditors?					
10.2.3	Does the FSP issue written confirmation of receipts to clients when funds and/or premiums are received from clients without the mediation of a bank?					

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PART 2 OF 2

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Question		Column				
		1	2	3	4	5
		Yes	No	Not applicable	Develop - mental area	Note No. Comment/ Annexure
10.3	Do any representatives of the FSP receive or hold financial products or funds, belonging to clients, on behalf of the FSP?					
10.4	Does the FSP have procedures in place to ensure that the client's funds and/or premiums can be readily/clearly distinguished from private assets or funds of the FSP?					
11	Risk management <i>Sections 11 and 12 of General Code of Conduct</i>					
11.1	Does the FSP have and effectively employ risk management resources, procedures, systems and controls as described in sections 11 and 12 of the General Code of Conduct?					
11.2	Does the FSP have a documented Risk Management Plan?					
12	Advertising <i>Section 14 of General Code of Conduct</i>					
12.1	Does the FSP advertise its financial services?					
12.2	<i>If the answer to Question 12.1 is YES – questions 12.2.1 to 12.2.3 must be answered</i>					
12.2.1	Does the FSP have procedures in place to ensure that all advertisements and advertising communications and material comply with section 14 of the General Code of Conduct?					
12.2.2	If the FSP advertised any of its financial services by telephone during the reporting period, did the FSP maintain an electronic, voice logged record of all communications?					
12.2.3	Was reference to the fact that a licence is held contained in all advertisements that were placed during the reporting period?					
13	Complaints <i>Section 16 to 19 of General Code of Conduct</i>					
13.1	Does the FSP have a complaints policy and resolution system in place that complies with sections 16 to 19 of the General Code of Conduct?					

		Column				
Question		1	2	3	4	5
		Yes	No	Not applicable	Develop - mental area	Note No. Comment/ Annexure
13.2	Were any complaints against the FSP referred to the FAIS Ombud during the reporting period?					
13.2.1	<i>If the answer to Question 13.2 is YES – Provide the following details: number of complaints referred to the FAIS Ombud, type of complaint (what the complaint was about) as well as outcome of the complaint. Indicate the annexure number in column 5.</i>					
14	Maintenance of records <i>Section 18 of Act and General Code of Conduct</i> <i>Section 22 of FICA</i>					
14.1	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?					
14.2	Can all documents be inspected by the Registrar within 7 days from the date of request?					
14.3	Are all records stored in a manner that reasonably ensures that it will be safe from destruction?					
14.4	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?					
14.5	Does the FSP have electronic back-ups of all electronic records?					
14.6	<i>If the answer to Question 14.5 is YES – questions 14.6.1 and 14.6.2 must be answered</i>					
14.6.1	Does the FSP have procedures (e.g. disaster recovery procedures) in place to ensure that back-ups are tested on a sample basis in order to reasonably ensure that records can be retrieved in a proper manner?					
14.6.2	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.					

Question		Column				
		1	2	3	4	5
		Yes	No	Not applicable	Develop - mental area	Note No. Comment/ Annexure
15	Termination of agreement or business <i>Section 20 of General Code of Conduct</i>					
15.1	Does the FSP have procedures in place to ensure that it complies with section 20 of the General Code of Conduct?					
15.2	Does the FSP have a business continuity plan and procedures in place to ensure that their clients will be serviced if the business is terminated for any reason?					
15.2.1	<i>If the answer to Question 15.2 is NO –</i> In a separate annexure, provide an explanation as to what steps will be taken to put a plan in place (include time frame as well). Indicate the annexure number in column 5.					
16	Waiver of rights <i>Section 21 of General Code of Conduct</i>					
16.1	Does the FSP have procedures in place to ensure that the FSP does not request or induce a client to waive any right or benefit conferred on the client under the General Code of Conduct? Provide full details of any non-compliance found as well as steps taken to reasonably ensure that such non-compliance does not occur again as a separate annexure. Indicate the annexure number in column 5.					
16.2	Does the FSP have procedures in place to ensure that it complies with section 21 of the General Code of Conduct?					
	SECTION 3 - REPRESENTATIVES					
17	Representatives <i>Sections 13 and 14 of Act and section 8(8) of Determination of Fit and Proper Requirements</i>					
17.1	Does the FSP have representatives? If YES, the Statistical Information Sheet (Section 8) must be completed.					

Question		Column				
		1	2	3	4	5
		Yes	No	Not applicable	Develop - mental area	Note No. Comment/ Annexure
17.2	If the answer to Question 17.1 is YES, questions 17.3 to 17.9 must be answered					
17.3	Does the FSP have any juristic representatives?					
17.4	If the answer to Question 17.3 is YES – questions 17.4.1 to 17.4.3 must be answered					
17.4.1	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.					
17.4.2	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?					
17.4.3	Does the FSP have procedures in place to ensure that juristic representatives have the necessary operational ability to render financial services to clients?					
17.5	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 representative as provided for in section 13(1)(b)(i) of the Act?					
17.6	Is the key individual/s able to maintain the operational ability to fulfill the responsibilities imposed by the Act on FSPs, including oversight of the financial services provided by the representative of the FSP?					
17.7	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>					
17.7.1	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?					
17.7.2	Has the FSP identified all representatives who have not yet passed the First Level Regulatory Examination?					