

BOARD NOTICE 96 OF 2003

FINANCIAL SERVICES BOARD

**FINANCIAL ADVISORY AND INTERMEDIARY SERVICES ACT, 2002 (ACT
NO. 37 OF 2002)**

**EXEMPTION OF CERTAIN FINANCIAL SERVICES PROVIDERS FROM
REQUIREMENTS PERTAINING TO AUDITED FINANCIAL STATEMENTS
AND FINANCIAL SOUNDNESS**

I, Jeffrey van Rooyen, Registrar of Financial Services Providers, hereby exempt under section 44(4)(a) of the Financial Advisory and Intermediary Services Act, 2002, (Act No. 37 of 2002), authorised financial services providers, Category I, who do not receive or hold clients' money or assets or who do not receive premiums (as contemplated in the Short-term Insurance Act, 1998 and the Long-term Insurance Act, 1998) from section 19(2) (a) and (b)(i) of the said Act and from paragraph 5(2) of the Determination of Fit and Proper Requirements for Financial Services Providers, to the extent and subject to the provisions as set out in the Schedule.

J. VAN ROOYEN,

Registrar of Financial Services Providers

SCHEDULE

FINANCIAL ADVISORY AND INTERMEDIARY SERVICES ACT, 2002

EXEMPTION OF CERTAIN AUTHORISED FINANCIAL SERVICES PROVIDERS, FROM REQUIREMENTS PERTAINING TO AUDITED FINANCIAL STATEMENTS AND FINANCIAL SOUNDNESS

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 has been assigned in the Act shall; have that meaning and, unless the context otherwise indicates -

"financial services provider" means an authorised financial services provider belonging to Category I as defined in paragraph 1(1) of the Fit and Proper Requirements, who does not receive or hold money or assets on behalf of clients or does not receive premiums as contemplated in the Long-term Insurance Act or the Short-term Insurance Act;

"Fit and Proper Requirements" means the Determination of Fit and Proper Requirements for Financial Services Providers, 2003, published by Board Notice No. 91 of 2003 in *Gazette* No. 25446 of 10 September 2003;

"Long-term Insurance Act" means the Long-term Insurance Act, 1998 (Act No. 52 of 1998);

"Short-term Insurance Act" means the Short-term Insurance Act, 1998 (Act No. 53 of 1998).

Objectives of exemption

2. In terms of section 19(1) of the Act a financial services provider must, inter alia, annually prepare financial statements reflecting the financial position of the business as at the last day of the financial year in question. Section 19(2) further requires that these statements be audited and reported on by an external auditor approved by the registrar and submitted to the registrar within a required time period.

On consideration of the application of section 19(2) to financial services providers, reasonable grounds appear for relaxation of such requirements. The objective of the exemption mentioned in paragraph 3 is to relieve financial services providers from the obligation under section 19(2) (a) to cause the annual financial statements referred to in subsection 19(1) to be audited and reported on by an external auditor. The obligation to prepare annual financial statements in the manner

prescribed in section 19(1), (2)(a)(i) and (ii), (b)(ii) and (iii) remains applicable. The statements need not to be prepared in accordance with the provisions of section 19(2)(b) (i). The financial services provider is required to submit the unaudited financial statements to the registrar in the manner and time frame prescribed in section 19(2)(b)(iv). However, in those instances where the provider is obliged by any other law to have financial statements audited and reported on by an external auditor or, otherwise prepared by an accounting officer, such statements have to be submitted to the registrar.

Paragraph 5(2) of the Fit and Proper Requirements stipulates that an applicant's assets must exceed the applicant's liabilities. This requirement is considered to be necessary only in those instances where the financial services provider will be handling clients' funds or assets, or receive premiums (as contemplated in the Short-term Insurance Act or the Long-term Insurance Act), because of such funds or assets or premiums being at risk.

Extent of exemption

- 3.1 A financial services provider is exempted from section 19(2) (a) and (b)(i) of the Act. The exemption is subject to the condition that such provider, where the provider is obliged by any other law to cause financial statements to be audited and reported on, or otherwise prepared, must submit such financial statements to the registrar in accordance with section 19(2)(b) (iv) of the Act.
- 3.2 A financial services provider is exempted from paragraph 5(2) of the Fit and Proper Requirements. The exemption is subject to the condition that the financial services provider, must, when complying with section 19(2)(b)(iv) of the Act, certify to the satisfaction of the registrar, that the provider will at all times be able to meet any financial liability in respect of the provider's business of rendering financial services.

Amendments and withdrawal

4. An exemption–
 - (a) is subject to any amendment thereof published by the registrar in the *Gazette*; and
 - (b) remains operative until withdrawn in like manner .

Short title and commencement

5. This Exemption is called the Exemption of certain Authorised Financial Services Providers from Requirements pertaining to Audited Financial Statements and Financial Soundness, No.1 of 2003, and comes into operation on the date determined by the Minister in terms of section 7(1) of the Act.