

(29 August 2022 – to date)

FINANCIAL SERVICES BOARD ACT 97 OF 1990

(Government Notice 1600 in Government Gazette 12620 dated 11 July 1990. Commencement date of certain sections: 1 October 1990 – unless otherwise indicated [Proc. No. 175, Gazette No. 12757 dated 28 September 1990])

Commencement date of further sections: 1 April 1991 [Proc. No. 29, Gazette No. 13094 dated 28 March 1991]

FINANCIAL SECTOR CONDUCT AUTHORITY

LEVIES ON FINANCIAL INSTITUTIONS

General Notice 1258 in Government Gazette 46834 dated 29 August 2022. Commencement date: 29 August 2022.

The Financial Sector Conduct Authority, established in terms of section 56 of the Financial Sector Regulation Act, 2017 (Act No. 9 of 2017), under section 15A(1) of the Financial Services Board Act, 1990 (Act No. 97 of 1990), read with Regulation 2(3) of the Financial Sector Regulations, 2018, hereby imposes the levies set out in the Schedule on financial institutions.

(Signed)

UNATHI KAMLANA

COMMISSIONER

FINANCIAL SECTOR CONDUCT AUTHORITY

SCHEDULE

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SCHEDULE

1. Definitions

In this Notice, any word or expression to which a meaning has been assigned in any financial services law, has the meaning so assigned to it and, unless the context indicates otherwise -

“Authority” means the Financial Sector Conduct Authority as defined in section 1 of the Financial Sector Regulation Act;

“Collective Investment Schemes Control Act” means the Collective Investment Schemes Control Act, 2002 (Act No. 45 of 2002);

“commercial umbrella fund” means a fund as defined in section 1(1) of the Pension Funds Act established for the benefit of employees of various employers which are not subsidiaries of a single holding company;

“Credit Rating Services Act” means the Credit Rating Services Act, 2012 (Act No. 24 of 2012);

“Financial Advisory and Intermediary Services Act” means the Financial Advisory and Intermediary Services Act, 2002 (Act No. 37 of 2002);

“Financial Markets Act” means the Financial Markets Act, 2012 (Act No. 19 of 2012);

“Financial Sector Regulation Act” means the Financial Sector Regulation Act, 2017 (Act No. 9 of 2017);

“financial services law” means the Act, the Acts referred to in paragraph (a) of the definition of **“financial institution”** in section 1 of the Act, the Financial Sector Regulation Act and the Insurance Act;

“Friendly Societies Act” means the Friendly Societies Act, 1956 (Act No. 25 of 1956);

“group” means group of companies as defined in section 1 of the Companies Act, 2008 (Act No. 71 of 2008);

“Insurance Act” means the Insurance Act, 2017 (Act No. 18 of 2017);

“levy year” means the period from 1 April 2022 to 31 March 2023 and, subject to this Notice and any amendment or repeal thereof, such corresponding period in succeeding years, in respect of which levies are imposed;

“long-term insurer” means -

- (a) a licensed insurer as defined in section 1 of the Long-term Insurance Act, and which as at 1 April of the levy year is still licensed in terms of the Insurance Act; or
- (b) a registered insurer as defined in section 1 of the Long-term Insurance Act, which was not converted to a licence under the Insurance Act as referred to in item 6(5) of Schedule 3 of the Insurance Act, and which as at 1 April of the levy year is still registered or deemed to be registered in terms of the Long-term Insurance Act;

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

“microinsurer” has the meaning assigned to it in section 1 of the Insurance Act;

“over-the counter derivative provider” means an over-the counter derivative provider authorised under regulation 2 of the Financial Markets Act Regulations, 2018 published under GN. R98 on 9 February 2018.

“Pension Funds Act” means the Pension Funds Act, 1956 (Act No. 24 of 1956);

“Short-term Insurance Act” means the Short-term Insurance Act, 1998 (Act No. 53 of 1998);

“short-term insurer” means -

- (a) a licensed insurer as defined in section 1 of the Short-term Insurance Act, and which as at 1 April of the levy year is still licensed in terms of the Insurance Act; or
- (b) a registered insurer as defined in section 1 of the Short-term Insurance Act, which was not converted to a licence under the Insurance Act as referred to in item 6(5) of Schedule 3 of the Insurance Act, and which as at 1 April of the levy year is still registered or deemed to be registered in terms of the Short-term Insurance Act; and

“the Act” means the Financial Services Board Act, 1990 (Act No. 97 of 1990).

2. Imposition of levies

The levy specified in a paragraph of this Notice is hereby imposed in respect of the financial institution referred to in that paragraph and in respect of the levy year.

3. Levy on pension funds

(1)

- (a) The levy, in respect of a pension fund registered or provisionally registered in terms of the Pension Funds Act, but excluding a retirement annuity fund, pension preservation fund, provident preservation fund and a commercial umbrella fund, is an amount of R1 424 plus an additional amount of R16.85 per member of such fund and in respect of 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 beneficiaries), or R3 263 702, whichever total amount is the lesser.
- (b) The levy, in respect of a commercial umbrella fund, pension preservation fund and provident preservation fund registered or provisionally registered in terms of the Pension Funds Act, is an amount of R1 424 plus an additional amount of R16.85 per member of such fund and in respect of 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 beneficiaries).

(2)

- (a) The calculation of the levy referred to in subparagraph (1) is based on the number of members and other persons as reflected in the latest statistics furnished to the Authority, in terms of any law as at 30 June of the levy year.
- (b) If a transfer of members is in process and not finalised on 30 June of the levy year, the transferor fund must pay the levy in respect of the members to be transferred.

- (c) Where the appointment of a liquidator of a fund is approved or where a fund has been exempted from section 28 of the Pension Funds Act by the Authority after 30 June of the levy year, the levy for the fund is payable in full for the levy year.

- (3) The levies referred to in subparagraph (1) must be paid not later than 31 August of the levy year.

4. Levy on administrators

- (1) The levy, in respect of an administrator approved in terms of section 13B of the Pension Funds Act, is an amount of R9 092 plus an additional amount of R709 per pension fund referred to in paragraph 3(1) under the administration of the administrator, and an amount of R0.85 per member and in respect of every other person who receives regular periodic payments from such fund, but excluding any member or such person, whose benefit in the fund remained unclaimed and beneficiaries.

(2)

- (a) The calculation of the levy referred to in subparagraph (1) is based on the number of members and other persons as reflected in the latest statistics furnished to the Authority in terms of any law as at 30 June of the levy year.

- (b) If a transfer of members is in process and not finalised on 30 June of the levy year, the transferor fund must pay the levy in respect of the members to be transferred.

- (c) Where the appointment of a liquidator of a fund is approved or where a fund has been exempted from section 28 of the Pension Funds Act by the Authority after 30 June of the levy year, the levy for the fund is payable in full for the levy year.

- (3) The levies referred to in subparagraph (1) must be paid not later than 31 August of the levy year.

5. Levy on retirement annuity funds

(1)

- (a) The levy, in respect of a retirement annuity fund referred to in paragraph 3(1), is an amount of R1 424 plus an additional amount equal to 0.0097% of the value of the assets of the fund.

- (b) Where the appointment of a liquidator of a fund is approved by the Authority 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 those assets of the fund determined at the time of the valuation thereof by the insurer for the purpose of determining its liabilities excluded in paragraph 10(2)(b) from the definition of "liabilities", as well as any other assets held by the fund to enable it to meet its obligations towards its members.

- (b) The calculation of the levy referred to in subparagraph (1) is based on the value of assets as reflected in the latest statistics furnished to the Authority, in terms of any law as at 30 June of the levy year.
 - (c) If a transfer of members is in process and not finalised on 30 June of the levy year, the transferor fund 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, if any, in which a long-term insurer, in return for the payment of a premium, undertakes to provide policy benefits for the purpose of funding in whole or in part the liability of a retirement annuity fund to provide benefits to its members in terms of its rules.
- (4) The levy referred to in subparagraph (1), which is payable by a retirement annuity fund, must be paid not later than 31 August of the levy year.

6. Levy for Pension Funds Adjudicator

- (1) The levy for the Pension Funds Adjudicator, in respect of a pension fund registered or provisionally registered in terms of the Pension Funds Act, including a pension preservation fund, provident preservation fund, a retirement annuity fund and commercial umbrella fund, is an amount of R7.34 per member of such fund and any other person who receives regular periodic payments from such fund, but excluding any member or such person whose benefit in the fund remained unclaimed.
- (2)
- (a) If a transfer of members is in process and not finalised on 30 June of the levy year, the transferor fund must pay the levy in respect of the members to be transferred.
 - (b) Where the appointment of a liquidator of a fund is approved or where a fund has been exempted from section 28 of the Pension Funds Act by the Authority after 30 June of the levy year, the levy for the fund is payable in full for the levy year.
- (3) The levy referred to in subparagraph (1) may be paid with the levy referred to in paragraph 3 and is payable on the date specified in paragraph 3(3).

7. Levy on friendly societies

With effect from 1 April 2006, any friendly society registered or provisionally registered in terms of section 3(2)(a) of the Friendly Societies Act, is exempted from the payment of levies.

8. Levy on short-term insurers and Lloyd's underwriters

- (1) The levy, in respect of a short-term insurer other than a microinsurer, Lloyd's and Lloyd's underwriters, is the Rand levy amount which the short-term insurer paid in the previous levy year increased by 5%.
- (2) The levy, in respect of Lloyd's and Lloyd's underwriters, is the Rand levy amount which a Lloyd's representative or deputy representative referred to in section 34(2) of the Insurance Act, paid in the previous levy year increased by 5%.
- (3)
 - (a) A short-term insurer, other than a microinsurer, Lloyd's and Lloyd's underwriters, must pay the full levies referred to in subparagraph (1) in accordance with subparagraph (4).
 - (b) In the case of Lloyd's and Lloyd's underwriters, the person or Lloyd's representative and deputy representative referred to in subparagraph (2) must pay the full levy referred to in subparagraph (2), in accordance with subparagraph (4).
- (4) The levies referred to in subparagraph (3) must be paid in two equal instalments before or on 31 August and 30 November of the levy year.

9. Levy on long-term insurers

- (1) The levy, in respect of a long-term insurer -
 - (a) referred to in paragraph (b) of the definition of long-term insurer, which is authorised in terms of the Long-term Insurance Act to -
 - (i) 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, is the Rand levy amount which the long-term insurer paid in the previous levy year increased by 5%; or
 - (ii) enter into an assistance policy only, is the Rand levy amount which the long-term insurer paid in the previous levy year increased by 5%;
 - (b) referred to in paragraph (a) of the definition of long-term insurer, other than a microinsurer, licensed in terms of the Insurance Act to -
 - (i) conduct life insurance business in one or more than one of the following classes as set out in Table 1 of Schedule 2 of the Insurance Act:
 - (aa) RISK class;
 - (bb) FUND RISK class;

- (cc) CREDIT LIFE class;
- (dd) LIFE ANNUITIES class;
- (ee) INDIVIDUAL INVESTMENT class;
- (ff) FUND INVESTMENT class;
- (gg) INCOME DRAWDOWN class;
- (hh) REINSURANCE class; or
- (ii) one or more of the classes in sub-items (aa) to (hh) and the FUNERAL class,

is the Rand levy amount which the long-term insurer paid in the previous levy year increased by 5%; or

- (ii) conduct life insurance business in the FUNERAL class as set out in Table 1 of Schedule 2 of the Insurance Act only, is the Rand levy amount, which the long-term insurer paid in the previous levy year increased by 5%.

- (2) A long-term insurer must pay the full applicable levies referred to in subparagraph (1) in two equal instalments before or on 31 August and 30 November of the levy year.

10. Levy on collective investment schemes in securities

(1)

- (a) The levy, in respect of collective investment schemes in securities referred to in Part IV of the Collective Investment Schemes Control Act, is a total amount of R18 528 610, for all such schemes administered by a manager registered in terms of section 42 of that Act at any time during the levy year.
- (b) The amount is payable in four quarterly instalments on or before 31 August, 30 September, 31 December and 31 March of the levy year.
- (c) The quarterly amounts are calculated on the basis of statistics as at the end of the preceding quarter and are apportioned among all managers registered at that date.

- (2) The levies due are calculated as follows:

- (a) 10% apportioned equally among all managers;

- (b) 60% apportioned according to the number of portfolios administered by each manager; and
- (c) 30% apportioned in proportion to the total assets administered by each manager.

11. Levy on foreign collective investment schemes

- (1) The levy, in respect of foreign collective investment schemes approved in terms of section 65 of the Collective Investment Schemes Control Act, is payable in four quarterly instalments, with each instalment consisting of -
 - (a) an amount of R12 915, in respect of each scheme;
 - (b) an amount of R7 005, in respect of each portfolio, fund or sub-scheme; and
 - (c) 0.00031231% of assets managed on behalf of South African investors.
- (2) The levy is payable in four quarterly instalments on or before 31 August, 30 September, 31 December and 31 March of the levy year. The amounts are calculated on the basis of statistics as at the end of the preceding quarter, which statistics must be furnished to the Authority within 30 days after the end of such quarter.
- (3) For the purposes of subparagraph (2), the statistics to be furnished to the Authority must contain details of all sales and redemptions or buy-backs in South Africa.
- (4) Levies are payable in respect of all months falling within any relevant quarter.

12. Levy on collective investment schemes in property

- (1) The levy, in respect of a manager of a collective investment scheme in property referred to in Part V of the Collective Investment Schemes Control Act, is an amount of R114 021 in respect of each portfolio.
- (2) The levy referred to in subparagraph (1) must be paid not later than 31 August of the levy year.

13. Levy on collective investment schemes in participation bonds

- (1) The levy, in respect of a manager administering a collective investment scheme in participation bonds referred to in Part VI of the Collective Investment Schemes Control Act, consists of:
 - (a) a base amount of R13 342;
 - (b) an amount of R2 066 in respect of each scheme; and

(c) 0.0000457% of the aggregate amount owing by mortgagors on 31 December 2021.

(2) The levy referred to in subparagraph (1) is calculated for four quarters and must be paid not later than 31 August of the levy year.

14. Levy on collective investment schemes in hedge funds

(1) The levy, in respect of hedge funds schemes declared in terms of section 63 of the Collective Investment Schemes Control Act, is payable in four quarterly instalments, with each instalment consisting of:

(a) an amount of R13 815 in respect of each scheme;

(b) an amount of R2 066 in respect of each portfolio, fund or sub-scheme; and

(c) 0.0045% of the net amount of assets managed.

(2) The amounts are calculated on the basis of statistics as at the end of the preceding quarter, which statistics must be furnished to the Authority within 30 days after the end of such quarter.

(3) Levies are payable in respect of all months falling within any relevant quarter.

15. Levy on authorised financial services providers

(1) Subject to subparagraph (4), a person who is authorised in terms of section 8 of the Financial Advisory and Intermediary Services Act as a Category I or IV financial services provider as defined in the Determination of Fit and Proper Requirements for Financial Services Providers, 2017, excluding any such provider who is also authorised as a Category II, IIA or III provider referred to in subparagraph (3), must on or before 31 October of the levy year, pay a levy which is subject to a maximum amount of R2 054 274, and is calculated as follows:

(a) a base amount of R3 982; and

(b) $A \times R635$.

where -

A = the total number of key individuals of the financial services provider approved in terms of section 8(3)(a)(ii) of the Financial Advisory and Intermediary Services Act plus the total number of representatives appointed by the financial services provider, less key individuals that are also appointed as representatives, as at 31 August of the levy year.

(2) Subject to subparagraph (4), a person who is authorised in terms of section 8 of the Financial Advisory and Intermediary Services Act as a Category II, IIA or III financial services provider as defined in the Determination of Fit and Proper Requirements for Financial Services Providers, 2017, must on or before 31 October of the levy year pay a levy, which is subject to a maximum of R2 054 274, and is calculated as follows:

(a) a base amount of R8 024; and

(b) $A \times R635$; and

(c) $B \times 0.0000184595$.

where -

A = the total number of key individuals of the financial services provider approved in terms of section 8(3)(a)(ii) of the Financial Advisory and Intermediary Services Act plus the total number of representatives appointed by the financial services provider, less key individuals that are also appointed as representatives, as at 31 August of the levy year; and

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

(3) Subject to subparagraph (4), a person who is authorised in terms of section 8 of the Financial Advisory and Intermediary Services Act as a Category I or a Category IV financial services provider to render financial services in respect of only the financial product subcategories: Long-term Insurance subcategory A or Friendly Society Benefits, as defined in section 1 of the Determination of Fit and Proper Requirements for Financial Services Providers, 2017, must on or before 31 October of the levy year pay a levy, which is subject to a maximum of R2 054 274, and is calculated as follows:

(a) a base amount of R3 982; and

(b) $A \times R250$.

where -

A = the total number of key individuals of the financial services provider approved in terms of section 8(3)(a)(ii) of the Financial Advisory and Intermediary Services Act plus the total number of representatives appointed by the financial services provider, less key individuals that are also appointed as representatives, as at 31 August of the levy year.

- (4) Multiple authorised financial services providers who form part of the same group are jointly and severally liable for payment of a single levy as referred to in subparagraphs (1), (2) or (3), as the case may be. For purposes of such payment, the key individuals and the representatives of such authorised financial services providers are deemed to be the key individuals and representatives of one authorised financial services provider.
- (5) Where the authorisation of a financial services provider is suspended on 31 August 2022, but the Authority lifts the suspension thereafter, the authorised financial services provider is liable to pay the applicable levy within 30 days from the suspension being lifted, subject to the maximum amounts stipulated in subparagraphs (1), (2) and (3). The levy must be calculated on the basis of the statistics of the authorised financial services provider as at the date of the suspension being lifted.
- (6) Should the levy referred to in this paragraph not be paid, the licence of the authorised financial services provider may be withdrawn in terms of section 9 of the Financial Advisory and Intermediary Services Act.

16. Levy for funding of Office of Ombud for Financial Services Providers

- (1) Subject to subparagraph (2), a person who is authorised in terms of section 8 of the Financial Advisory and Intermediary Services Act as a financial services provider must on or before 31 October of the levy year pay a levy, which is subject to a maximum of R333 245, and is calculated as follows:
 - (a) a base amount of R1 231; and
 - (b) $A \times R469$.

where -

A = the total number of key individuals of the financial services provider approved in terms of section 8(3)(a)(ii) of the Financial Advisory and Intermediary Services Act plus the total number of representatives appointed by the financial services provider, less key individuals that are also appointed as representatives, as at 31 August of the levy year.

- (2) Multiple authorised financial services providers who form part of the same group are jointly and severally liable for payment of a single levy as referred to in subparagraph (1). For purposes of such payment, the key individuals and the representatives of such authorised financial services providers are deemed to be the key individuals and representatives of one authorised financial services provider.
- (3) Should the levy mentioned in subparagraph (1) not be paid, the licence of the authorised financial services provider may be withdrawn in terms of section 9 of the Financial Advisory and Intermediary Services Act.

17. Levy on exchanges

- (1) The levy, in respect of the JSE Limited, an exchange licensed in terms of section 9 of the Financial Markets Act, is an amount of R18 774 429 and must be paid not later than 31 August of the levy year.
- (2) The levy, in respect of each exchange licensed in terms of section 9 of the Financial Markets Act, except the JSE Limited, is an amount of R625 815 payable within 30 days of a levy invoice raised on the exchange.

18. Levy on central securities depositories

- (1) The levy, in respect of Strate (Pty) Limited, licensed in terms of section 29 of the Financial Markets Act as a central securities depository, is an amount of R4 486 970 and must be paid not later than 31 August of the levy year.
- (2) The levy, in respect of a central securities depository licensed in terms of section 29 of the Financial Markets Act, except Strate (Pty) Limited, is an amount of R625 815 payable within 30 days of the levy invoice raised on the entity.

19. Levy on financial markets in respect of market abuse

- (1) A levy for the payment of the costs of performing the functions of the Authority and the Directorate of Market Abuse in terms of the Financial Markets Act, is payable as follows:
 - (a) R28 820 522 by the JSE Ltd;
 - (b) R127 524 in respect of an exchange contemplated in paragraph 17 subparagraph (2).
- (2) The levy referred to in subparagraph 1(a) is payable in four quarterly instalments of R7 205 130 each on or before 31 August, 30 September, 31 December and 31 March of the levy year.
- (3) The levy referred to in subparagraph 1(b) is payable within 30 days of the date of the levy invoice raised on the exchange.
- (4) In addition to the levies referred to in subparagraph 1(a) and 1(b), the legal costs actually incurred by the Authority in respect of market abuse litigation are payable quarterly in arrears by the relevant exchange on which the market abuse activity occurred.

20. Levy on over-the counter derivative providers

The levy in respect of an over-the counter derivative provider is a total of R100 000 and is payable on or before 31 August of the levy year.

21. Levy on credit rating agencies

- (1) The levy in respect of credit rating agencies registered in terms of section 5 of the Credit Rating Services Act is a total amount of R3 787 970 and is payable on or before 31 August of the levy year.
- (2) The levy of R3 787 970 is calculated based on the costs of performing the functions of the Authority is, apportioned equally among all registered credit rating agencies as at 30 April.

GENERAL

22. Payment of levies

- (1) The levies and interest (if any) referred to in this Notice are payable by the financial institution concerned to the Authority by means of cash deposit and money transfer.
- (2) Interest will be charged on all overdue accounts at the prime interest rate.

23. Application for exemption

- (1) An application by any financial institution for the granting under section 15A(4)(a) of the Act of exemption from a provision of this Notice must be submitted in writing to the Commissioner, Financial Sector Conduct Authority via -

- (a) registered post to P O Box 35655, Menlo Park, 0102; or
- (b) email to FSCA.LeviesExemption@fsca.co.za;

on a date at least one month before the date on which the exemption is to take effect.

- (2) The application must contain full particulars of the financial institution, the authorisation of the persons signing the application and the date on which the exemption, if granted, is to take effect, and must fully set out the reasons for the application.
- (3) The application must -
 - (a) contain an affirmation by the financial institution concerned to provide, on receipt of any such request, the Authority immediately with any other or further information or particulars which it may require in connection with the institution or application concerned; and
 - (b) contain particulars of the address at which the institution will accept service by the Authority of any notice contemplated in section 15A(4)(b)(ii) of the Act.

- (4) A notice referred to in section 15A(4)(b)(ii) of the Act must be served by the Authority by registered post at the address furnished by the financial institution, in accordance with subparagraph (3)(b) in its application for exemption.

24. Consolidated payments

Where in any particular levy year, a body regarded by the Authority as fully representative of a category of financial institutions, offers to make a consolidated payment of levies on behalf of that category in terms of an agreement concluded between such category of the financial institutions and the body, the Authority may accept such offer, if the payment is made in accordance with the provisions of this Notice; provided that if for any reason such consolidated payment is not so made on the relevant dates of payment, every individual financial institution concerned shall remain fully responsible for the individual payment payable by it, and interest (if any) on that amount calculated in accordance with paragraph 22(2).

25. Withdrawal of notices and saving

- (1) Subject to subparagraph (2), Notice 465 of 11 August 2021 is withdrawn.
- (2) If on the date of coming into operation of this Notice a financial institution has not yet fully paid a levy and interest due thereon, as imposed in terms of a provision of the notice mentioned in subparagraph (1), any such provision, together with any other provision of such notice which relates to the first-mentioned provision, is deemed in respect of the institution concerned and the relevant due amount not to be withdrawn by subparagraph (1) until such debt is fully discharged.

26. Short title and commencement

This Notice is called the Levies for Financial Institutions, 2022 and comes into operation on the date of publication in the *Government Gazette*.