

(10 January 2005 – 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 SERVICES BOARD

#### NOTICE ON FSB LEVIES ON AUTHORISED FINANCIAL SERVICES PROVIDERS, 2004

*Board Notice 1 of 2005 in Government Gazette 27162 dated 10 January 2005. Commencement date: 10 January 2005.*

The Financial Services Board referred to in section 2 of the Financial Services Board Act, 1990 (Act No. 97 of 1990), hereby under section 15A of the said Act imposes the levies set out in the Schedule on authorised financial services providers.

By order of the Financial Services Board.

(Signed)

**Dr C Rustomjee**

**Chairperson: Financial Services Board**

### SCHEDULE

#### LEVIES ON AUTHORISED FINANCIAL SERVICES PROVIDERS

#### TABLE OF CONTENTS

1. Definitions
2. Imposition of levies
3. Levy on authorised financial services providers
4. Levy for funding of Office of Ombud for Financial Services Providers
5. Payment of levies
6. Applications for exemption
7. Consolidated payments
8. Short title and commencement

## 1. Definitions

In this Notice any word or expression to which a meaning has been assigned in the Act and the Financial Advisory and Intermediary Services Act, 2002 (Act No. 37 of 2002), has the meaning so assigned to it and, unless the context indicates otherwise –

**"Board"** means the Financial Services Board referred to in the Act;

**"registrar"** means the registrar of financial services providers referred to in section 2 of the Financial Advisory and Intermediary Services Act, 2002 (Act No. 37 of 2002);

**"the Act"** means the Financial Services Board Act, 1990 (Act No. 97 of 1990).

## 2. Imposition of levies

The levies specified in items 3 and 4 of this Notice are hereby imposed on authorised financial services providers in respect of the periods referred to in those items.

## 3. Levy on authorised financial services providers

- (1) Subject to subitems (3), (4) and (5), a person who is authorised in terms of section 8 of the Financial Advisory and Intermediary Services Act, 2002, as a Category I financial services provider as defined in the *Determination of Fit and Proper Requirements for Financial Services Providers* in Board Notice 91 of 2003 (published in Gazette No. 25446 of 10 September 2003), must pay the levy referred to in subitem (2) on or before –

- (a) 28 February 2005, if the person is authorised on or before 31 December 2004;

- (b) 30 June 2005, if the person is authorised between 1 January 2005 and 31 May 2005.

- (2) The levy, which is subject to a maximum of R285 000, is calculated as follows:

- (a) a base amount of R684, and

- (b)  $A \times R171$ ,

where A = the total number of key individuals of the financial services provider approved by the registrar plus the total number of representatives appointed by the financial services provider, as at 31 December 2004 or 31 May 2005, as the case may be.

- (3) Multiple 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 such authorised financial services providers are deemed to be the key individuals and representatives of one authorised financial services provider. The levy referred to in this subitem must be paid on or before 28 February 2005, by those multiple financial services providers authorised on or before 31 December 2004. If the amount of the levy so paid does not equal the maximum amount referred to in item 3(2) and if there is a difference between the levy paid on 28 February 2005 and the levy that would have been payable on 30 June 2005 had no levy been paid on 28 February 2005, all the multiple financial services providers belonging to the same legal entity must pay such difference on or before 30 June 2005.

- (4) An authorised financial services provider who has paid the levy referred to in item 9 of Board Notice 54 of 2004 (published in *Gazette* No. 26339 of 7 May 2004) must, if such levy is smaller than the levy imposed by subitem (1), pay the amount of the difference between the two levies. No refund will be made if such levy is more than the levy imposed by subitem (1).
- (5) An authorised financial services provider who has paid the levy referred to in item 16 of the abovementioned Board Notice 54 of 2004 does not need to pay the levy imposed by subitem (1).

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

- (1) Subject to subitem (3), a person who is authorised in terms of section 8 of the Financial Advisory and Intermediary Services Act, 2002, as a Category I, II or III financial services provider as defined in the Determination referred to in item 3(1), must pay the levy referred to in subitem (2) on or before –
  - (a) 28 February 2005, if the person is authorised on or before 31 December 2004;
  - (b) 30 June 2005, if the person is authorised between 1 January 2005 and 31 May 2005.
- (2) The levy, which is subject to a maximum of R28 500, is calculated as follows:
  - (a) a base amount of R171, and
  - (b)  $A \times R34.20$ ,

where  $A$  = the total number of key individuals of the financial services provider approved by the registrar plus the total number of representatives appointed by the financial services provider, as at 31 December 2004 or 31 May 2005, as the case may be.

- (3) Multiple 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). The key individuals and the representatives of such authorised financial services providers are for the purpose of payment of the levy deemed to be the key individuals and representatives of one authorised financial services provider. The levy referred to in this subitem must be paid on or before 28 February 2005, by those

multiple financial services providers authorised on or before 31 December 2004. If the amount of the levy so paid does not equal the maximum amount referred to in item 4(2) and if there is a difference between the levy paid on 28 February 2005 and the levy that would have been payable on 30 June 2005 had no levy been paid on 28 February 2005, all the multiple financial services providers belonging to the same legal entity must pay such difference on or before 30 June 2005.

## **5. Payment of levies**

- (1) The levies and interest (if any) referred to in this Notice shall, subject to the provisions of this Notice, be payable by an authorised financial services provider concerned to the Board by means of a cheque, postal order or money order, or a money transfer.
- (2) On amounts of overdue levies, interest will be charged at a rate equal to the prevailing prime overdraft rate of the Standard Bank of South Africa Ltd.
- (3) The levies referred to in this Schedule include VAT.

## **6. Applications for exemption**

- (1) An application by an authorised financial services provider for the granting under section 15A(4) of the Act of exemption from a provision of this Notice shall be submitted in writing to the Executive Officer, Financial Services Board, P O Box 35655, Menlo Park, 0102, on a date at least one month before the date on which the exemption is in accordance with the application to take effect.
- (2) Such application shall contain full particulars of the authorised financial services provider, the authorisation of the persons signing the application and the date on which the exemption is to take effect, if granted, and shall set out fully the reasons for the application.
- (3) The application shall –
  - (a) contain an affirmation by the authorised financial services provider concerned to provide, on receipt of any such request, the Executive Officer of the Board forthwith with any other or further information or particulars which the Board may require in connection with the provider or application concerned; and
  - (b) contain particulars of the address at which the authorised financial services provider will accept service by the Board 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 shall on the authority of the Board be served by the Executive Officer of the Board by registered post at the address furnished by the provider in accordance with subitem (3)(b) in its application for exemption.

## **7. Consolidated payments**

Where in any particular levy year a body regarded by the Board as fully representative of a category of authorised financial services providers, offers to make a consolidated payment of levies on behalf of that category in terms of an agreement concluded between the members of such category and such body, the Board 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 authorised financial services provider concerned shall remain fully responsible for the individual payment payable by it, plus interest (if any) on that amount calculated in accordance with item 5(2).

## **8. Short title and commencement**

This Notice is called the Notice on FSB Levies on Authorised Financial Services Providers, 2004, and comes into operation on the date of publication thereof in the *Gazette*.