

(31 December 2023 - to date)

FINANCIAL ADVISORY AND INTERMEDIARY SERVICES ACT 37 OF 2002

(Government Notice 1453 in Government Gazette 24079 dated 15 November 2002. Various commencement dates – See Act for details)

EXEMPTION OF COMPLIANCE OFFICERS FROM SECTION 4(4) OF THE NOTICE ON COMPLIANCE OFFICERS, 2017

FAIS Notice 119 of 2017 dated 13 September 2017. Commencement date: 13 September 2017.

As amended by:

FSCA FAIS Notice 89 of 2019 dated 22 November 2019. Commencement date: 22 November 2019.

FSCA FAIS Notice 142 of 2021. Commencement date: 1 January 2022.

FSCA FAIS Notice 85 of 2023 dated 18 December 2023. Commencement date: 31 December 2023.

I, Caroline Dey da Silva, Deputy Registrar of Financial Services Providers, under section 44(4) of the Financial Advisory and Intermediary Services Act, 2002 (Act No. 37 of 2002), hereby exempt Compliance Officers from section 4(4) of the Notice on Compliance Officers, to the extent and subject to the conditions set out in the Schedule.

(Signed)

CD da Silva,

Deputy Registrar of Financial Services Providers

SCHEDULE

EXEMPTION OF COMPLIANCE OFFICERS FROM SECTION 4(4) OF THE NOTICE ON COMPLIANCE OFFICERS

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1. Definitions

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 -

“business premises” includes premises of the business units and/or branches of the provider;

“compliance officer” has the meaning assigned to it in section 1 of the Notice on Compliance Officers;

“compliance services” has the meaning assigned to it in section 1 of the Notice on Compliance Officers;

“Notice on Compliance Officers” means the Notice on Qualifications, Experience and Criteria for Approval of Compliance Officer, 2010, published by Board Notice 127 of 2010 (as amended) in Government Gazette No. 33537 of 9 September 2010;

“provider” means a financial services provider as defined in section 1 of the Act and includes the representative(s) of that provider.

2. Extent of exemption, duration and conditions

- (1) Subject to subparagraph (2), a compliance officer is exempted from section 4(4) of the Notice on Compliance Officers only to the extent reference is made to the minimum prescribed intervals of the visits and reports.
- (2) The exemption referred to in subparagraph (1), is subject to the conditions that the compliance officer must-
 - (a) conduct sufficient visits to the business premises of the provider, the frequency and number of which must be determined by having regard to-
 - (i) the nature, scale and complexity of the provider's business and nature and range of financial services, activities and ancillary services offered;
 - (ii) compliance risks of the provider having regard to the financial services, activities and ancillary services offered, as well as the types of financial products in respect of which the services are rendered and the market in which it operates;
 - (iii) availability and adequacy of off-site monitoring tools; and

- (iv) off-site access to data from the business premises, business units and/or branches of the provider;
 - (b) establish and implement a monitoring programme that takes into consideration all areas of the provider's financial services, activities and any relevant ancillary services to ensure that compliance risks and changes to those risks are comprehensively monitored;
 - (c) review the monitoring programme on a regular basis, as well as *ad-hoc* when necessary, to ensure that emerging risks are taken into consideration;
 - (d) on a regular basis, report to the provider on, at least, the following:
 - (i) adequacy and effectiveness of the overall control environment for financial services and activities, including systems, policies, controls and procedures;
 - (ii) the risks and deficiencies that have been identified; and
 - (iii) the remedies undertaken or to be undertaken; and
 - (e) inform the provider to whom the compliance officer renders compliance services of the applicability of this exemption to that services.
- (3) Failure by a particular compliance officer to comply with any condition referred to in subparagraph (2) will result in the exemption not being applicable to that compliance officer.
- (4) The exemption expires on **30 June 2026**.
(Paragraph 2(4) amended by FSCA FAIS Notice 89 of 2019)
(Paragraph 2(4) amended by FSCA FAIS Notice 142 of 2021)
(Paragraph 2(4) amended by FSCA FAIS Notice 85 of 2023 dated 18 December 2023)

3. Amendment and withdrawal of exemption and conditions

The exemption and conditions referred to in paragraph 2 are subject to-

- (a) amendment thereof published by the Registrar by notice on the official web site of the Financial Services Board; and
- (b) withdrawal in a like manner.

4. Short title and commencement

This Exemption is called the Exemption of Compliance Officers from section 4(4) of the Notice on Compliance Officers, 2017, and comes into effect on the date of publication on the official web site of the Financial Services Board.

DATE OF NOTICE: 13 SEPTEMBER 2017