

(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 PARTICULAR FSPs FROM SECTION 19(3) AUDIT REPORT AND LIQUIDITY REQUIREMENTS, 2017

FAIS Notice 123 of 2017 dated 21 September 2017. Commencement date: 1 October 2017.

As amended by:

FSCA FAIS Notice 87 of 2019 dated 20 November 2019. Commencement date: 20 November 2019.

FSCA FAIS Notice 16 of 2021 dated 26 February 2021. Commencement date: 1 March 2021.

FSCA FAIS Notice 80 of 2023 dated 12 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 particular FSPs 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 PARTICULAR FSPs FROM SECTION 19(3) AUDIT REPORT AND LIQUIDITY REQUIREMENTS

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1. Definitions

Prepared by:

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-

“**Fit and Proper Requirements**” means the Determination of Fit and Proper Requirements for Financial Services Providers, 2017, published by Board Notice 194 of 2017 in *Government Gazette* No. 41321 on 15 December 2017;

(Definition of “Fit and Proper Requirements” substituted by FN 87 of 2019)

“**insurer**” means a person that-

- (a) is a registered short-term insurer or a long-term insurer as contemplated in the Short-term Insurance Act, 1998 (Act No. 53 of 1998), or the Long-term Insurance Act, 1998 (Act No. 52 of 1998), respectively;
- (b) is satisfied and able to demonstrate that the delegation of the specific financial service to a particular FSP will not -
 - (i) materially increase the risk to the insurer;
 - (ii) materially impair the quality of the governance framework of the insurer, including the insurer's ability to manage its risks and meet its legal and regulatory obligations;
 - (iii) impair the ability of the relevant regulators to monitor the insurer's compliance with the regulatory obligations; and
 - (iii) *[sic]* compromise the fair treatment of or continuous and satisfactory service to clients; and
- (c) monitors, manages and regularly reviews the level and standard of the specific financial service rendered by the particular FSP to clients, as well as the particular FSP's performance under and compliance with the written mandate to render the specific financial service;

“**particular FSP**” means an authorised Category I financial services provider that -

- (a) renders a specific financial service; and
- (b) does not collect, account receive or hold premiums or monies relating to a financial product other than premiums contemplated in the definition of 'specific financial service';

“specific financial service” means the collection, accounting, receiving, holding of premiums or to in any other manner deal with premiums, in terms of a written mandate, on behalf of an insurer in respect of a financial product issued by that insurer.

2. Extent of exemption, duration and conditions

- (1) A particular FSP that renders a specific financial service is exempted from section 19(3) of the Act and sections 48(2), 48(3)(b) and 49(1)(b) of the Fit and Proper Requirements subject to the conditions that-
(Words in paragraph 2(1) preceding item (a) amended by FN 87 of 2019)

(a) the particular FSP must-

- (i) at all times comply with section 48(1) of the Fit and Proper Requirements;

(Paragraph 2(1)(a)(i) amended by FN 87 of 2019)

- (ii) at all times have a written mandate from the insurer to render the specific financial service;

- (iii) annually obtain written confirmation from the insurer referred to in (ii) that-

(aa) the insurer meets the criteria set out in the definition of 'insurer'; and

(bb) the mandate referred to in (ii) is in force and effect and the period for which it is and will remain in force and effect;

- (iv) annually submit the confirmation referred to in (iii) to the Registrar simultaneously with its financial statements;

- (v) comply with sections 5(g) and 15(6) of the General Code of Conduct for Authorised Financial Services Providers and Representatives, 2003, insofar it relates to the disclosure of the exemption referred to in this paragraph; and

(b) the mandate referred to in (a) must provide that any payment of a premium to the particular FSP shall be deemed to be payment to the insurer.

(2) Failure by-

- (a) a particular FSP to comply with any condition referred to in subparagraph (1);

- (b) an insurer referred to in subparagraph (1)(a)(ii)-

- (i) to meet any of the criteria set out in the definition of “insurer”; or

- (ii) to provide the confirmation referred to in subparagraph (1)(a)(iii),

will result in the exemption not being applicable to that particular FSP.

- (3) The exemption expires on **30 June 2026**.

(Paragraph 2(3) amended by FN 87 of 2019)

(Paragraph 2(3) (erroneously cited as 2(4)) amended by FN 16 of 2021)

(Paragraph 2(3) (erroneously cited as 2(4)) amended by FSCA FAIS Notice 80 of 2023 dated 12 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 Particular FSPs from section 19(3) Audit Report and Liquidity Requirements, 2017, and comes into effect on 1 October 2017.

DATE OF NOTICE: 21 September 2017