

(1 July 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 CERTAIN JURISTIC REPRESENTATIVES FROM THE LIQUIDITY REQUIREMENTS, 2018

FSCA FAIS Notice 88 of 2018, dated 5 December 2018. Commencement date: 1 March 2019.

As amended by:

FSCA FAIS Notice 32 of 2020, dated 1 June 2020. Commencement date: 1 July 2020.

FSCA FAIS Notice 54 of 2021 dated 31 May 2021. Commencement date: 1 July 2021.

FSCA FAIS Notice 32 of 2023 dated 13 June 2023. Commencement date: 1 July 2023.

The Financial Sector Conduct Authority, under section 44(4) of the Financial Advisory and Intermediary Services Act, 2002, read with section 281(3)(b) of the Financial Sector Regulation Act, 2017, hereby exempts particular persons from provisions of the Determination of Fit and Proper Requirements for Financial Services Providers, 2017, to the extent set out in the Schedule.

(Signed)

CD da Silva,

For the Financial Sector Conduct Authority

SCHEDULE

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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-

“**Authority**” means the Financial Sector Conduct Authority as defined in section 1(1) of the FSR Act;

“**category II financial services**” has the meaning assigned to it in section 1(1) of the Determination;

“**Determination**” 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;

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

“**juristic representative**” means a representative that is not a natural person and that is a representative of one or more private equity providers only;

“**liquidity requirement**” has the meaning assigned to it in section 47 of the Determination;

“**private equity fund**” means a managed pool of capital that -

- (a) has as its principle [*sic*] business the making of equity, equity orientated or equity related investments primarily in unlisted companies or ventures to earn income or capital gains;
- (b) is managed or advised by a member of the South African Venture Capital and Private Equity Association or other equivalent private equity and venture capital industry body; and
- (c) is not open or offered to the public as an investment;

“**private equity provider**” means a financial services provider that renders Category II financial services to one or more private equity funds only.

2. Extent and conditions of exemption

- (1) A juristic representative is exempted from sections 48(2) and 48(4) of the Determination, insofar it relates to the liquidity requirement, until **30 June 2026**.

(Paragraph 2(1) amended by FN 32 of 2020)

(Paragraph 2(1) amended by FSCA FAIS Notice 54 of 2021)

(Paragraph 2(1) amended by FSCA FAIS Notice 32 of 2023 dated 13 June 2023)

- (2) The exemption referred to in subparagraph (1) is subject thereto that the juristic representative does not become the subject of a decision, order or directive as contemplated in 14(1) of the Act and sections 144 and 167 of the FSR Act, whereby -
- (a) the juristic representative is debarred;
 - (b) an administrative penalty is imposed on the juristic representative; and/or
 - (c) the juristic representative is removed from a specified position or function in or in relation to a financial institution.
- (3) Failure by a juristic representative to comply with the condition referred to in subparagraph (2) will automatically result in the exemption no longer applying to that juristic representative.

3. Amendment and withdrawal of exemption

This Exemption is subject to -

- (a) amendment thereof published by the Authority by notice on the web site of the Authority; and
- (b) withdrawal in a like manner.

4. Short title and commencement

This Notice is called the Exemption of certain Juristic Representatives from the Liquidity Requirements, 2018, and comes into operation on 1 March 2019.

DATE OF PUBLICATION OF NOTICE: 5 DECEMBER 2018