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BOARD NOTICE

BOARD NOTICE 193 OF 2011

FINANCIAL SERVICES BOARD

FINANCIAL ADVISORY AND INTERMEDIARY SERVICES ACT, 2002 (ACT NO. 37 OF 2002)

EXEMPTION OF FSPS FROM AUDITED FINANCIAL STATEMENT REQUIREMENTS

I, German Emanuel Anderson, the Deputy Registrar of Financial Services Providers, hereby exempt under section 44(4) of the Financial Advisory and Intermediary Services Act, 2002, certain FSPs from some audit requirements as set out in the Schedule.



G E Anderson
Deputy Registrar of Financial Services Providers

SCHEDULE

Definitions

1. In this Schedule “**Act**” means the Financial Advisory and Intermediary Services Act, 2002. Any word or expression to which a meaning has been assigned in the Act has that meaning and, unless the context otherwise indicates—

“**accounting officer**” means a person contemplated in section 60 of the Close Corporations Act, 1984;

“**FSP limited by product**” means an authorised Category I FSP who renders financial services limited to financial products belonging to Long-term Insurance subcategory A or friendly society benefits provided by a friendly society contemplated in paragraph (d)(ii) of the definition of ‘financial product’ in section 1(1) of the Act and who receives or holds clients’ money;

“**audit**” has the meaning set out in the Auditing Profession Act, 2005;

“**FSP**” means an authorised Category I FSP who does not receive premiums (contemplated in the Short-term Insurance Act, 1998, and the Long-term Insurance Act, 1998) or otherwise receive or hold clients’ money or assets;

“**Fit and Proper Requirements**” means the Determination of Fit and Proper Requirements for Financial Services Providers, 2008;

“**independent reviewer**” means a person referred to in regulation 29(4) of the Companies Regulations, 2011.

Objective of exemption

2. (1) Section 19(1) of the Act requires an FSP and FSP limited by product to maintain proper accounting records and prepare annual financial statements.
- (2) Section 19(2)(a) provides that the financial statements prepared in terms of section 19(1) must be audited. Section 19(4) to (6) deals with irregularity reporting, the appointment and termination of an auditor.
- (3) The Registrar is satisfied that in the case of FSPs and FSPs limited by product that these requirements are capable of causing financial or other hardship or prejudice (section 44(1)(b) of the Act) in so far as an auditor's involvement is required. Relaxation of the requirements, subject to certain conditions, would satisfy the requirements of section 44(1)(c).
- (4) In the case of a close corporation, an auditor's involvement is not obligatorily, only that of an accounting officer. The Registrar is satisfied that similar considerations justify less onerous requirements for FSPs and FSPs limited by product who are close corporations.
- (5) The Companies Act, 2008, has different requirements regarding the submission of financial statements for different types of companies. The extent to which annual financial statements of companies will have to be reviewed or audited depends on various criteria.
- (6) In view of the aforesaid the Registrar is satisfied that there are reasonable grounds for relaxation of the application of the audit requirements. FSPs and FSPs limited by product are therefore relieved from the obligation to cause annual financial statements to be audited and reported on by an external auditor. However, the FSP and FSP limited by product remains responsible for the accounting and reporting obligations detailed in section 19 of the Act.
- (7) Where the FSP and FSP limited by product is otherwise obliged by law to have financial statements reviewed, audited and reported on, or otherwise prepared, such statements must be submitted to the Registrar.

Extent and conditions of exemption

3. (1) An FSP is exempted from section 19(2)(a) and (3) to (6) of the Act unless-
 - (a) it is obliged by law to cause financial statements to be audited and reported on; or
 - (b) it is otherwise obliged by law to cause financial statements to be independently reviewed by an independent reviewer or otherwise prepared, in which case section 19(2)(a) and (3) to (6) applies with the necessary changes.
- (2) An FSP limited by product, unless obliged by law to cause financial statement to be audited and reported on, is exempted from section 19(2)(a) and (3) to (6) of the Act to the extent that reference is made to an auditor, audit or statement or report by an auditor subject to the conditions that it-
 - (a) must appoint an accounting officer approved by the Registrar;

- (b) the accounting officer must certify and report on the financial statements referred to in section 19(1) of the Act in conformity with the practices of the accounting officer's profession; and
 - (c) section 19(2) to (6) applies with the necessary changes to the accounting officer, any certification and report by the officer and termination of appointment.
- (2) The exemption does not apply where an FSP limited by product is otherwise obliged by law to cause financial statements to be independently reviewed by an independent reviewer, in which case section 19(2)(a) and (3) to (6) of the Act applies with the necessary changes.
- (3) An FSP and FSP limited by product who wish to benefit from this Notice must within six months after publication of the Notice or upon application for authorisation in case of an unauthorised FSP-
- (a) register the exemption with the Registrar within the prescribed format and manner; and
 - (b) must inform the Registrar in writing within 15 days after the change has taken place, of any change in respect of the information that was submitted for purposes of registering the exemption.

Repeals

4. Exemption of Certain Authorised Financial Services Providers from Requirements pertaining to Audited Financial Statements and Financial Soundness, 1 of 2003, and Exemption of Certain Authorised Financial Services Providers from Requirements pertaining to Audited Financial Statements (2), 2004, are repealed.

Short title

5. This Notice is the Exemption of FSPs and FSPs limited by products from Audit Requirements, 2011.
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