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BOARD NOTICE

BOARD NOTICE 202 OF 2012

FINANCIAL SERVICES BOARD

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

AMENDMENT OF THE FIT AND PROPER REQUIREMENTS

I, German Emanuel Anderson, the Deputy Registrar of Financial Services Providers, after consultation with the Advisory Committee on Financial Services Providers, hereby under-section 8(1) of the Financial Advisory and Intermediary Services Act, 2002, amend the Determination of Fit and Proper Requirements for Financial Services Providers, 2008, as set out in the Schedule;



G E Anderson
Deputy Registrar of Financial Services Providers

SCHEDULE

1. Definitions

In this Schedule “**Act**” means the Financial Advisory and Intermediary Services Act, No. 37 of 2002. Any word or expression to which a meaning has been assigned in the Act has that meaning and, unless the context otherwise indicates—

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

2. Amendment of Fit and Proper Requirements

(a) Paragraph 1(1) in Part I of the Schedule to the Fit and Proper Requirements is hereby amended-

(i) by the substitution for the definition of ‘annual expenditure’ of the following definition:

“**annual expenditure**’, means the expenditure set out in-

- (a) the latest financial statements of the FSP; or
- (b) the budgeted expenditure as expressed in the budget or financial accounts in the case of an applicant commencing with business,

less-

- (i) staff bonuses;
- (ii) employees’ and directors’, partners’ or members’ share in profits;
- (iii) emoluments of directors, members, partners or a sole proprietor;
- (iv) other appropriation of profits to directors, members and partners;
- (v) fifty percent of the commissions or fees paid to representatives for the rendering of services that did not form part of their remuneration;

- (vi) depreciation;
 - (vii) bad debts; and
 - (vii) any loss resulting from the sale of assets;”;
- (ii) by the substitution for the definition of ‘liquid assets’ of the following definition:
 “**liquid assets**’, means cash and other assets equivalent to cash that can be liquidated without realising a loss on liquidation provided that-
- (a) 25% of such assets must be capable of being liquidated in 7 days;
 - (b) a further 25% of such assets must be capable of being liquidated in 30 days; and
 - (c) the remaining 50% of such assets must be capable of being liquidated in 60 days;”;
- (iii) by the insertion of the following definition after the definition of ‘liquid assets’-
 “**management accounts**’, means a set of financial statements which-
- (a) is prepared from the accounting records contemplated in section 19(1)(a) of the Act;
 - (b) reflects the financial position of the FSP at month end;
 - (c) is prepared in accordance with the accounting policies as contemplated in section 19(1)(b)(iv) of the Act;
 - (d) fairly represents the financial performance and position of the FSP; and
 - (e) reflects any material matter which has affected or is likely to affect the financial affairs of the FSP;”.
- (b) Paragraph 9 of the Fit and Proper Requirements is hereby amended by-
- (i) the substitution for subparagraph (2) of the following subparagraph-
 “(2) The assets (excluding goodwill, intangible assets, investments in and loans to related parties and investments with or loans to persons to whom the FSP renders financial services) of a Category I FSP who does not hold client assets or receive premiums or money must exceed such FSP’s liabilities (excluding loans subordinated in favour of other creditors).”;
 - (ii) the substitution for subparagraphs (3)(a) and (4)(a) of the following subparagraph-
 “(a) The assets of the FSP (excluding goodwill, intangible assets, investments in and loans to related parties and investments with or loans to persons to whom the FSP renders financial services) must exceed the FSP’s liabilities (excluding loans subordinated in favour of other creditors);”;
 - (iii) the substitution for subparagraph (5)(a) of the following subparagraph-
 “(a) The assets of the FSP (excluding goodwill, intangible assets, investments in and loans to related parties and investments with or loans to persons to whom the FSP renders financial services) must exceed the FSP’s liabilities (excluding loans subordinated in favour of other creditors) by at least R3 million;”.

3. Short title

This Notice is called the Amendment of the Determination of Fit and Proper Requirements, No. 1 of 2012, and comes into operation on the date of publication in the *Gazette*.