



Government Gazette Staatskoerant

REPUBLIC OF SOUTH AFRICA
REPUBLIEK VAN SUID-AFRIKA

Vol. 522 Pretoria, 29 December 2008 No. 31755
Desember

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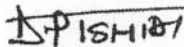
BOARD NOTICE 151 OF 2008

FINANCIAL SERVICES BOARD

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

**AMENDMENTS TO FIT AND PROPER REQUIREMENTS, QUALIFYING CRITERIA AND
QUALIFICATIONS AND EXEMPTION IN RESPECT OF SERVICES UNDER SUPERVISION**

I, DUBE PHINEAS TSHIDI, the 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 (Act No. 37 of 2002), and paragraph 5 of the Exemption in respect of Services under Supervision respectively, amend the Notices on Fit and Proper Requirements, Qualifying Criteria and Qualifications and Exemption in respect of Services under Supervision as set out in the Schedule.



D P TSHIDI,
Registrar of Financial Services Providers

SCHEDULE

AMENDMENTS TO FIT AND PROPER REQUIREMENTS, QUALIFYING CRITERIA AND QUALIFICATIONS AND EXEMPTION IN RESPECT OF SERVICES UNDER SUPERVISION**[General note:**

In this Schedule words underlined with a solid line indicate insertions in existing enactments, and words in bold type square brackets indicate deletions from existing enactments.]

1. Definitions

In this Schedule-

'Fit and Proper Requirements' means the Determination of Fit and Proper Requirements for Financial Services Providers, 2008, published in Board Notice 106 of 2008 in Gazette No. 31514 of 15 October 2008;

'Qualifying Criteria and Qualifications' means the Determination of Qualifying Criteria and Qualifications for Financial Services Providers, 2008, published in Board Notice 105 of 2008 in Gazette No. 31514 of 15 October 2008;

'Exemption in respect of Services under Supervision' means the Exemption in respect of Services under Supervision in terms of Requirements and Conditions, 2008, published in Board Notice 104 of 2008 in Gazette No. 31514 of 15 October 2008.

2. Amendment of Fit and Proper Requirements

- (a) Part IV of the Schedule to the Fit and Proper Requirements is hereby amended by the substitution of column two and three under subcategory 1.1 Long-term Insurance Category A in Table A: Category I Experience Requirements for an FSP and Representative of the following columns:

TABLE A: CATEGORY I EXPERIENCE REQUIREMENTS FOR AN FSP AND REPRESENTATIVE			
	COLUMN ONE SUBCATEGORY	COLUMN TWO ADVICE: MINIMUM EXPERIENCE	COLUMN THREE INTERMEDIARY SERVICES: MINIMUM EXPERIENCE
1.1	Long-term Insurance Category A	<u>[1 year]</u> 6 months	[6] <u>2</u> months

- (b) Part V of the Schedule to the Fit and Proper Requirements is hereby amended by the substitution of subparagraphs (1)(c) and (1)(d) of paragraph 5 of the following subparagraphs:

- "(c) A key individual of a Category I and IV FSP must, at approval, have a recognised qualification, as determined by the Registrar by notice in the *Gazette*, as it applies to the applicable Categories or subcategories of the FSP.
- (d) A representative of a Category I and IV provider must, on appointment, have a recognised qualification as determined by the Registrar by notice in the *Gazette*, as it applies to the applicable Categories or subcategories he or she is appointed for: Provided that the Registrar may, by notice in the *Gazette*, exempt

representatives that on appointment only meet the following entry level qualifications while working under supervision until the recognised qualification is obtained:

- (i) Matric;
- (ii) Grade 12; or
- (iii) an equivalent school leaving certificate at NQF Level 4,

with the proviso that in respect of representatives in subcategory 1.1 **[Long Term] Long-term** Insurance Category A and/or 1.19 Friendly Society Benefits, the entry level qualification requirement is either ABET level 1, or the proven ability to read, write and calculate to the satisfaction of the provider.”;

- (c) Part VI of the Schedule to the Fit and Proper Requirements is hereby amended by the insertion in paragraph 6(1) after subparagraph (e) of the following subparagraphs:

“(f) All representatives must complete the relevant first level Regulatory Examination within two years from date of first appointment;

“(g) All representatives must complete the relevant second level Regulatory Examination(s) within six years from date of first appointment.”;

- (d) Part IX of the Schedule to the Fit and Proper Requirements is hereby amended by-

- (i) the substitution of subparagraph (4) of paragraph 9 of the following subparagraph:

“(4) An FSP in respect of Category II and IV must at all times comply with the following requirements:

- (a) The assets of the FSP (excluding goodwill, other intangible assets and investments in related parties) must exceed the FSP's liabilities (excluding loans validly subordinated in favour of all other creditors);
- (b) the FSP must maintain current assets which are at least sufficient to meet current liabilities; and
- (c) the FSP shall at all times maintain liquid assets equal to or greater than 8/52 weeks of annual expenditure.”;

- (ii) by the insertion in paragraph 9 after subparagraph (5) of the following subparagraph:

“(6) An FSP that is authorised for multiple financial categories, must comply with the most onerous financial soundness requirements as it applies to the multiple categories.”;

- (e) Part X of the Schedule to the Fit and Proper Requirements is hereby amended by-

- (i) the substitution of subparagraph (1) of paragraph 10 of the following subparagraph:

“(1) Subject to the provisions of the Act and Parts I to IX above, the transitional requirements will be applicable to all FSPs, key individuals and representatives that was authorised, approved or appointed in relation to a specific Category or subcategory **[on] prior to and including** 31 December 2009 and provides for the transitional arrangements until 31 December 2014 as applicable.”;

- (ii) the substitution of column two and three under subcategory 1.1 Long-term Insurance Category A in Table E: Transitional provisions for Categories I, II, IIA and III of the following columns:

TABLE E: TRANSITIONAL PROVISIONS FOR CATEGORIES I, II, IIA AND III				
	COLUMN ONE CATEGORY	COLUMN TWO QUALIFICATION REQUIREMENTS	COLUMN THREE FIRST LEVEL REGULATORY EXAMINATION	COLUMN FOUR SECOND LEVEL REGULATORY EXAMINATION
	Category I			
1.1	Long-term Insurance Category A	<p><u>Representatives</u>: ABET Level 1 or the proven ability to read and write to the satisfaction of the provider.</p> <p><u>FSPs and Key Individuals</u>: recognised qualification on NQF level 2 or a recognised skills programme of 30 credits at level 2 by 31 December 2011</p>	31/12/ [2014] 2013	Not applicable

- (iii) the substitution of subparagraph (3)(g) of paragraph 10 of the following subparagraph:

"(g) All FSPs (who are sole proprietors) authorised during the period 30 September 2004 to 31 December 2008, that changed their licensing restrictions during the period 1 ~~[December]~~ January 2008 to 31 December ~~[2008]~~ 2009 to include additional Categories or subcategories are, in relation to the additional Categories or subcategories they are authorised for, required to-

- (aa) comply with the qualification requirements in column two of Table E by 31 December 2011, as applicable to the Categories and subcategories they are authorised, approved or appointed for; or
- (bb) complete a qualification, from the list of recognised qualifications, in accordance with Part V of this Determination, as applicable to the Categories and subcategories they are authorised, approved or appointed for, by 31 December 2013.";

- (iv) the substitution of subparagraph (3)(h) of paragraph 10 of the following subparagraph:

"(h) All key individuals and representatives appointed during the period 30 September 2004 to 31 December 2008, whose approval and/or appointment conditions were amended during the period 1 ~~[December]~~ January 2008 to 31 December ~~[2008]~~ 2009 to include additional Categories or subcategories, are, in relation to the additional Categories or subcategories they are approved, required to-

- (aa) meet the column two requirements of Table E by 31 December 2011, as applicable to the Categories or subcategories they are authorised, approved or appointed for; or
- (bb) complete a qualification, from the list of recognised qualifications, in accordance with Part V of this Determination, as applicable to the Categories or subcategories they are authorised, approved or appointed for, by 31 December 2013.";

- (v) the substitution of the second subparagraph (3)(c) of paragraph 10 of the following subparagraph:

(The Fit and Proper Requirements contains two subparagraphs 10(3). This incorrect numbering is corrected in these amendments.)

"(3)A All FSPs (who are sole proprietors), key individuals and representatives authorised, approved or appointed during the period 1 January 2009 to 31 December 2009 must comply as follows:

- (a) All FSPs (who are sole proprietors), key individuals and representatives authorised, approved or appointed during the period 1 January 2009 to 31 December 2009 are required to complete a qualification, from the list of recognised qualifications, in accordance with Part V of this Determination, as applicable to the Category or subcategory they are authorised, approved and/or appointed for, by 31 December 2013.
- (b) All FSPs (who are sole proprietors), key individuals and representatives authorised, approved or appointed during the period 1 January 2009 to 31 December 2009 must meet the requirements relating to the first level of Regulatory Examinations, as applicable to the Categories or subcategories they are authorised, approved or appointed for, by the date stated in column three of Table E.
- (c) All FSPs (who are sole proprietors), key individuals and representatives authorised, approved or appointed during the period 1 January ~~[2008]~~ 2009 to 31 December ~~[2008]~~ 2009 must meet the requirements relating to the second level of Regulatory Examinations, applicable to the Categories or subcategories they are authorised, approved or appointed for, by 31 December 2013.";

(vi) the substitution of subparagraph (4) of paragraph 10 of the following subparagraph:

"(4) All FSPs (who are sole proprietors), key individuals and representatives authorised, approved or appointed during the period 30 September 2004 to 31 December 2009 must comply with the Continuous Professional Development requirements, as described in Part ~~[VIII]~~ VII of this Determination, from the date of completion the applicable requirements as set out in paragraphs 2 and 3 above.";

(vii) the insertion in paragraph 10 after subparagraph (8) of the following subparagraphs:

"(9) All FSPs that have been authorised for category 1.3 Long-term insurance category B and category 1.4 Long-term Insurance Category C between 2004 and 31 December 2008, that render financial services in respect of retirement annuity policies and policies issued in respect of preservation funds, has until 31 October 2009 to amend the restrictions on their licence to include category 1.5 Retail Pension Benefits.

(10) All FSPs that amend the restrictions on their license to include category 1.5 Retail Pension Benefits in terms of the requirements of paragraph 10(9), are exempt from complying with the qualification requirement for category 1.5 Retail Pension Benefits, but are required to complete the second level Regulatory Examination in respect of category 1.5 Retail Pension Benefits, by 31 December 2013."

- (f) Part XI of the Schedule to the Fit and Proper Requirements is hereby amended by the insertion in paragraph 11 after subparagraph (e) of the following subparagraph:

"(f) the Amendment Determination of Fit and Proper Requirements for Financial Services Providers, published in Board Notice 84 of 2008 in Gazette 31384 of 3 September 2008."

3. Amendment of Qualifying Criteria and Qualifications

Part IV of the Schedule to the Qualifying Criteria and Qualifications is hereby amended by the substitution of the heading in the first column of the Table in paragraph (4) of the following heading:

"Category I and IV".

4. Amendment of Exemption in respect of Services under Supervision

- (a) Paragraph 3 of the Schedule to the Exemption in respect of Services under Supervision is hereby amended by-

- (i) the substitution of subparagraph (c) of the following subparagraph:

"(c) the first and second level regulatory examinations in terms of paragraph 6(2)(c) and (3)(c) of the Determination of Fit and Proper Requirements, 2008; [**and**]; and

- (ii) the deletion of subparagraph (d);

- (b) Paragraph 4 of the Schedule to the Exemption in respect of Services under Supervision is hereby amended by the substitution of subparagraph (7) of paragraph 4 of the following subparagraph:

"(7) Supervision may include one or more of the following activities:

- (a) Sign-off by a supervisor on the advice given to a client;
- (b) pre-transaction sign-off by a supervisor where intermediary services are rendered;
- (c) attending meetings with supervisee and clients where the purpose of the meeting is the rendering of financial services;
- (d) appropriate post-transaction sampling;
- (e) follow-up calls to clients after the rendering of financial services by the supervisee to confirm certain aspects of the interaction with the client; or
- (f) any other activity that enables the supervisor to scrutinise the activities of the supervisee in respect of rendering of financial services:

Provided that in the case of Category I and IV financial services providers the intensity of supervision is aligned to the phase of supervision (direct or ongoing supervision), referred to in Table A below, which applies.";

- (c) Paragraph 6 of the Schedule to the Exemption in respect of Services under Supervision is hereby amended by the substitution of subparagraph 2(a) of paragraph 6 of the following subparagraph:

"(a) A supervisor who does not meet the qualification requirements or has not completed the relevant first or second level Regulatory Examination(s), in

relation to a specific Category or subcategory that he or she was appointed for before **[the date of coming into operation of this Exemption]** 31 December 2010, may continue to function as a supervisor until he or she has met the requirements as set out in the Determination of Fit and Proper Requirements, 2008, as they apply."

5. Short title and Commencement

This Notice is called the Amendments to Fit and Proper Requirements, Qualifying Criteria and Qualifications and Exemption in respect of Services under Supervision and comes into operation on 31 December 2008.