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## BOARD NOTICES

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### NOTICE 30 OF 2005 FINANCIAL SERVICES BOARD

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

#### DETERMINATION OF FORM OF, AND MANNER OF CONFIRMATION IN, EXTERNAL AUDITOR'S REPORT (SECTION 19(3) OF FAIS ACT)

I, Jeffrey van Rooyen, Registrar of Financial Services Providers, hereby under section 19(3) of the Financial Advisory and Intermediary Services Act, 2002 (Act No. 37 of 2002) ("the Act" or "the FAIS Act"), determine the form and manner of confirmation by an external auditor of a financial services provider of the matters referred to in that section as set out in the Schedule hereto, and so determine the following provisions in connection therewith:

- (a) That this Determination applies to all financial services providers who have not been exempted in terms of the Act from compliance with section 19(3) of the Act;
- (b) that a report substantially conforming to the report in the Schedule, in written form and signed, must be submitted to me by the auditor concerned, in addition to and simultaneously with the financial statements referred to in section 19(2) of the Act;
- (c)
  - (i) that where report options are granted in the wording of the Schedule, or a non-applicable section appears therein, the non-applicable option or section must be deleted and initialled;
  - (ii) that any additional comments which the auditor wishes to make must be attached in separate signed attachments;
- (d) that in this Notice and the Schedule, unless the context otherwise indicates or it is otherwise clearly inappropriate –
  - (i) any word or expression to which a meaning has been assigned in the Act has that meaning;
  - (ii) "General Code of Conduct" means the General Code of Conduct for Authorised Financial Services Providers and Representatives, 2003, as published by Board Notice No. 80 of 2003 in *Gazette* No. 25299 of 8 August 2003;
  - (iii) "Provider" or "financial services provider" means an authorised financial services provider;
  - (iv) "reporting date" means the last date for any relevant period reported;

(v) "reporting period" means the period covered by the report.

This Determination is called the Determination of Form of, and Manner of Confirmation in, External Auditor's Report (Section 19(3) of FAIS Act), 2005, and comes into operation on the date of publication thereof.

A handwritten signature in black ink, appearing to be 'J Van Rooyen', with a large loop at the start and a small '1' at the end.

**J VAN ROOYEN,**

*Registrar of Financial Services Providers*

## SCHEDULE

### **Report to the Registrar of Financial Services Providers in terms of section 19(3) of the Financial Advisory and Intermediary Services Act, 2002 (Act No. 37 of 2002) ("the Act") by an external auditor**

In accordance with section 19(3) of the Act, we have performed the procedures agreed with you and attached hereto as Annexure A with respect to the compliance by ..... (name of the Provider) with section 19(3) of the Act in respect of the reporting period.....(financial year of Provider), and as on the reporting date.....(last date of reporting period). Our engagement was undertaken in accordance with the Statements of South African Auditing Standards (or International Standards on Related Services) applicable to agreed-upon procedures engagements. The responsibility for determining the adequacy or otherwise of the procedures agreed to be performed, is that of the registrar. Our procedures were performed solely to assist the registrar in evaluating the compliance by the Provider with section 19(3) of the Act.

### **Findings**

Based on our procedures as contained in Annexure A, as regards money and assets held by the Provider on behalf of clients, our findings are:

1. With regard to procedure 1, the balance per the bank confirmation letters of R... agreed to the balance reflected in the Provider's records / the following discrepancy between the bank confirmation letters and the Provider's records were noted. The encumbrances disclosed in the bank confirmation letters agreed/did not agree with those disclosed by the Provider (note the discrepancies if any).
2. With regard to procedure 2, we obtained and verified explanations for old and unusual reconciling items. We selected the following reconciliations ..... and found the mathematical accuracy of the reconciliation to be correct. We traced ..... outstanding deposits to the next day's bank statement/we were unable to trace the following outstanding deposits to the next day's bank statement .....

A sample of ... payments appearing on the bank statements after year-end was selected. ... payments relating to the financial year did not appear on the outstanding cheque listing at year-end.

A sample of ... cheques on the outstanding cheque listing at year-end was traced to the bank statements after year-end / of the sample of ... cheques on the outstanding cheque listing at year-end ... cheques were not found in the bank statements after year-end.

3. With regard to procedure 3, we selected ... transfers between bank accounts and confirmed that the transfers were accounted for in the same



accounting period / the following transfers were not accounted for in the same accounting period ....

We selected ... transfers and confirmed that they were valid by inspecting documentation supporting the transfer / the following transfers were not supported ...

4. With regard to procedure 4, we selected ... deposits into client accounts and confirmed that they constituted valid receipts by agreeing them to supporting documentation / the following deposits were not supported ...
5. With regard to procedure 5, we selected ... payments from client accounts and confirmed that the payments were made in terms of a valid client instruction / mandate the following payments were not supported by a valid client instruction / mandate ...  

We confirm that where the payment was made into the Provider's own bank account, the fee agreed to the client contract / the following fees transferred into the Provider's own bank account were not supported by a client contract ...
6. With regard to procedure 6, we confirmed that any restrictions on cash accounts were not found to be breached while performing agreed procedures 4 and 5 / the following breaches of restrictions on cash accounts were found while performing agreed-upon procedures 4 and 5 ...
7. With regard to procedure 7, the following client files were selected .... Movements referred to in the file were traced to bank statements / we were not able to trace the following movements to bank statements .....
8. With regard to procedure 8, the following fees for the Provider's account were traced from the bank statements to the Provider's business account .... / the following fees for the Provider's account were not found in the Provider's business account ...
9. With regard to procedure 9, the following interest amounts were traced from the bank statements to the client's account in the Provider's accounting records of client monies ... / the following interest amounts were not found in the client's account in the Provider's records of client monies .....
10. With regard to procedure 10, we selected ... payments and ... receipts from the provider's business bank accounts and confirmed that the payments and receipts were not client monies erroneously dealt with as business monies / the following payments and receipts did constitute clients monies dealt with as business monies....

11. With regard to procedure 11, the schedule of non-monetary assets held on behalf of clients totaling R.... was obtained. We selected ... assets and confirmed their existence by inspecting supporting documentation / we were unable to confirm the existence of the following assets .... Where these assets were purchased from funds in the client bank account we confirmed that the purchase was sanctioned by the client / the following purchases from funds in the client bank account were not sanctioned by the client... We selected ... transfers out of client assets and agreed the transfer to a valid authority from the client / the following transfers out of client assets were not supported by a valid authority from the client .....

Because the above procedures do not constitute either an audit or a review made in accordance with Statements of South African Auditing Standards (or International Standards on Auditing), we do not express any assurance on the money and assets held on behalf of clients as at .....(date of the financial year end).

Had we performed additional procedures or had we performed an audit or review of the money and assets held on behalf of clients in accordance with statements of South African Auditing Standards (or International Standards on Auditing), other matters might have come to our attention that would have been reported to you.

Our report is solely for the information of the registrar and is not to be used for any other purpose, nor to be distributed to any other party.

Name: ..... Date.....

Registered Accountant and Auditor (SA)

Chartered Accountant (SA)

Address: .....

.....

.....

Telephone number:.....Fax number:.....

E-mail address:.....

## **Annexure A**

### **Agreed-upon procedures for auditor reports to be issued in terms of section 19(3) of the FAIS Act**

The procedures listed below represent the procedures agreed with the FSB for engagements performed in terms of section 19(3) of the FAIS Act. The auditor performs the additional general procedures listed which provide a background for the engagement but which do not form part of the agreed-upon procedures.

#### **General**

1. Discuss the terms and scope of the engagement with the Provider and the engagement team.
2. Prepare an engagement letter setting out the terms and scope of the engagement.
3. Discuss with management and document their assessment of the risk of fraud and error with regard to the management and custody of their clients' monies and assets.
4. Understand and document the internal controls established by the Provider to ensure that clients' monies and assets are kept separate from the business' assets.
5. Consider the results of the audit of the Provider, including the understanding obtained of the general state of internal control at the Provider.
6. Enquire whether or not there have been any significant changes in the Provider from the previous year, for example, changes in ownership, changes in capital structure, or changes to the system of accounting for client monies.
7. Obtain explanations from management for any unusual fluctuations or inconsistencies in the level and nature of the assets held by the Provider on behalf of its clients.
8. Obtain representations from management that client monies and assets have been kept separate from those of the business throughout the year.
9. Examine the accounting records to ascertain whether or not the accounting records separate the records of:
  - the provider's financial transactions relating to his business as authorised financial services provider,
  - particulars and information of transactions involving client monies,
  - assets and liabilities.
10. Consider work performed by internal audit, where appropriate.
11. Obtain the compliance officer's reports to the registrar and consider the impact of any instances of non-compliance with the requirements of section 19(3) on the agreed-upon procedures to be performed below.



## Agreed-upon procedures

### Cash

1. Obtain bank confirmation letters for all accounts that contain client monies, confirming:
  - the balance of the account agrees to the balance reflected in the Provider's records;
  - any encumbrances over the accounts agree with those disclosed by the Provider.
2. Obtain the bank reconciliations for all accounts containing client monies:
  - Enquire about any old or unusual reconciling items with the entity's personnel.
  - Cast the bank reconciliations selected.
  - Trace outstanding deposits to the next day's bank statement (paragraph 10(1)(d)(i) of the General Code of Conduct requires all monies received to be deposited within one business day).
  - Test the cut-off of payments by selecting a sample of payments which appear on the bank statement after year-end and tracing the payments to the outstanding cheque listing. Agree those payments which do not appear on the outstanding cheque listing to supporting documentation to confirm that they have been recorded in the correct period.
  - Select a sample of the cheques on the outstanding cheque listing at year-end and agree these to the bank statements after year-end.
3. Enquire about transfers between bank accounts for the period before and after the year-end.
  - Confirm that transfers between accounts are accounted for in the same accounting period by testing a selection of transfers between accounts.
  - Confirm that transfers are valid by inspecting documentation supporting the transfers selected for testing.
4. Test a sample of the deposits made during the year into accounts containing client monies:
  - Confirm that the deposit constitutes a valid receipt from a client by agreeing to supporting documentation and that deposits are made within one business day.
5. Test a sample of payments made during the year from accounts containing client monies:

- Agree the payment to supporting documentation to confirm that the payment was authorised and that it was made in terms of a valid client instruction/mandate.
  - Obtain evidence for each transfer made from the separate client account into the Provider's own bank account. In particular, where the transfer represents fees, agree the amount of the fee to the terms of the contract agreed to by the client.
6. Enquire whether or not there are any restrictions on bank accounts and confirm that these restrictions were not breached in performing the tests in procedures 4 and 5 above.
  7. Obtain a selection of client correspondence files.
    - Trace current year movements referred to in the file to the bank statements.
  8. Inspect the client account bank statements for evidence of banking charges. (Only fees relating to deposits and withdrawals of the client's funds are for the client's own account in terms of paragraph 10(1)(d)(iii) of the General Code of Conduct).
    - Confirm that fees, which are not for the client's account, are charged to the business of the Provider by agreeing the fees identified for the Provider's account to the Provider's business account.
  9. Inspect the client account bank statements for interest accruing.
    - Confirm that interest accruing is credited to the client and not the Provider's business (paragraph 10(1)(d)(iv) and paragraph 10(3) of the General Code of Conduct) by agreeing interest earned to the client monies accounting records.
  10. On a test basis, agree receipts and payments on the provider's business account with supporting documentation such as bank deposit books or slips or cheques in order to ascertain whether any client monies have been erroneously dealt with as business monies.

### **Non-monetary assets held on behalf of clients**

11. Obtain a schedule of non-monetary assets held on behalf of clients, and the movements throughout the year.
  - Agree a selection of these assets to supporting documentation that confirms the existence of the asset.
  - Where the funds used to purchase the non-monetary asset originated from the client bank account, vouch the amount paid for the asset to the

transfer out of the client bank account and confirm that the purchase was sanctioned by the client by inspecting the client instruction or mandate.

Agree a selection of the transfers out of client assets to a valid authority from the client.

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**NOTICE 31 OF 2005**

**FINANCIAL SERVICES BOARD**

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

**AMENDMENT NOTICE OF MONEY MARKET FUNDS EXEMPTION**

I, Jeffrey van Rooyen, Registrar of Financial Services Providers, hereby under paragraph 4(a) of the Money Market Funds Exemption amend that Exemption to the extent set out in the Schedule.

A handwritten signature in black ink, appearing to be 'J. van Rooyen', written in a cursive style.

**J VAN ROOYEN,**

*Registrar of Financial Services Providers*

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**SCHEDULE****FINANCIAL ADVISORY AND INTERMEDIARY SERVICES ACT, 2002  
(ACT NO. 37 OF 2002)****AMENDMENT NOTICE OF MONEY MARKET FUNDS EXEMPTION**

**[NOTE:** In this Schedule words underlined indicate new insertions in, and words appearing between brackets in bold indicate deletions from existing enactments.]

**Definitions**

1. In this Schedule-

**"the Exemption"** means the Money Market Funds Exemption;

**"Money Market Funds Exemption"** means the Exemption of Authorised Financial Services Providers and Representatives conducting Short-term Deposit Business from certain Fit and Proper Requirements and the General Code when rendering Financial Services relating to Money Market Funds, 2003, promulgated by Board Notice 135 of 2003 in *Gazette* No. 25723 of 14 November 2003.

**Amendment of Exemption**

2. The Exemption is hereby amended by the substitution for the definition of "short-term deposit business" in paragraph 1 of the Schedule to the Exemption of the following definition:

"short-term deposit business" means short-term deposit business as defined in the Specific Code of Conduct for Authorised Financial Services Providers and Representatives conducting Short-term Deposit Business, published by Board Notice No. **[123 of 2003 in *Gazette* No. 25628 of 2003]** 102 of 2004 in *Gazette* No. 26844 of 29 September 2004;

**Short title**

3. This Notice is called the Amendment Notice of the Money Market Funds Exemption, 2005.
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