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For enquiries and information:

Mr M Z Montjane
Tel: (012) 334-4653
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BOARD NOTICE

Notice is hereby given for general information that Board Notice 30 of 2005 in *Gazette* No. 27339 of 2 March 2005 is hereby repealed and replaced with the following:

BOARD NOTICE 57 OF 2005

FINANCIAL SERVICES BOARD

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

FORM AND MANNER OF 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 / alternatives / choices 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 and 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 reporting period;
- (v) "reporting period" means the period covered by the report.

This Notice repeals the Determination of Form of, and Manner of Confirmation in, External Auditor's Report (Section 19(3) of FAIS Act), 2005, as published by Board Notice 30 of 2005 in *Gazette* No. 27339 of 2 March 2005, and replaces it with a new Notice called the Form and Manner of External Auditor's Report (Section 19(3) of FAIS Act), 2005, and comes into operation on the date of publication thereof.



J VAN ROOYEN,

Registrar of Financial Services Providers

SCHEDULE

Factual Findings 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 the independent auditor

In accordance with section 19(3) of the Act, we have performed the procedures agreed with you and described in the guidance issued by the Financial Services Board with respect to the compliance by (Business name of the Provider) with section 19(3) of the Act. Our engagement was undertaken in accordance with the International Standards on Related Services¹ (ISRS) 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 regards money and assets held by the Provider on behalf of clients (hereafter referred to as "trust accounts"), our findings are:

1. With regard to procedure 1, we enquired whether the accounting system of the Provider are structured in such a manner that the accounting records of the trust accounts and the accounting records of the Provider are separately maintained. We observed that the accounting system is structured in such a manner/ we observed that the accounting system is not structured in such a manner.
2. With regard to procedure 2, 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 was noted..... The encumbrances disclosed in the bank confirmation letters agreed/did not agree with those disclosed by the Provider (note the discrepancies if any).
3. With regard to procedure 3, we obtained explanations for old and unusual reconciling items, agreeing them to supporting documentation. We tested 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

Payments appearing on the bank statements after year-end were traced to the bank statement after year-end. ... payments relating to the financial year did not appear on the outstanding cheque listing at year-end.

Cheques on the outstanding cheque listing at year-end were traced to the bank statements after year-end/Of the ... cheques on the outstanding cheque listing at year-end ... cheques were not found in the bank statements after year-end.

4. With regard to procedure 4, we obtained a schedule of transfers, for the period before and after year-end, between all bank accounts of the Provider and confirmed that the transfers were accounted for in the same accounting

¹ ISRSs are to be applied for all related services reports issued on or after 1 January 2005. See the PAAB Circular B.1/2004, "Adoption of IAASB Standards by the Auditing and Assurance Standards Board".

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

We confirmed that the transfers listed on the schedule were valid by inspecting documentation supporting the transfer/the following transfers were not supported by documentation.

5. With regard to procedure 5, for two months, namely... and, deposits into trust accounts were agreed to supporting documentation/the following deposits were not supported by documentation ...

We confirmed whether deposits were made within one business day/ the following deposits were not made within one business day....

6. With regard to procedure 6, for two months, namely..... and, payments from trust accounts were agreed to supporting documentation to confirm whether 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 further agreed each payment made into the Provider's business account from the trust account, during the two months selected, to supporting documentation and confirmed whether transfers that represent fees were made in terms of the contract with the client/ the following fees transferred into the Provider's own bank account were not supported by a client contract...

7. With regard to procedure 7, we confirmed that restrictions on trust accounts were not breached while performing agreed procedures 5 and 6 / the following breaches of restrictions on trust accounts were identified while performing agreed procedures 5 and 6 ...

8. With regard to procedure 8, ...client files were selected . Movements referred to in the files were traced to bank statements/the following movements were not able to be traced to bank statements9. With regard to procedure 9, 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 ...

10. With regard to procedure 10, the following interest amounts were traced from the bank statements to the trust account in the Provider's accounting records of trust accounts .../the following interest amounts were not found in the trust account in the Provider's records of trust accounts

11. With regard to procedure 11, we selected payments and receipts from the Provider's business bank accounts for two months within the financial year of the Provider and confirmed whether the payments and receipts were not trust monies erroneously dealt with as business monies / the following payments and receipts did constitute trust monies dealt with as business monies....

12. With regard to procedure 12, the schedule of non-monetary assets held on behalf of clients totaling R.... was obtained. According to the schedule obtained the following non-monetary assets were held in the name of the Provider on behalf of clients.....

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 trust accounts as at(date of the financial year-end).

Had we performed additional procedures or had we performed an audit or review of the trust accounts in accordance with statements of South African Auditing Standards (or International Auditing Standards), 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 is it to be distributed to any other party.

Auditor Name

Registered Accountant and Auditor

Address

Date

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 FAIS.

Section 19(3) refers to money and assets held on behalf of clients (referred to in this guidance note as "trust accounts"). (Trust account/s in the context of FAIS refers to bank accounts opened in the name of the provider to hold money on behalf of clients. Trust accounts do not form part of the assets of the Provider and as such are not disclosed on the balance sheet of the Provider).

The agreed-upon procedure 12 regarding non-monetary assets held on behalf of clients in the name of the Provider has been included because the Registrar requires information regarding non-monetary assets held on behalf of clients by Providers in the Provider's name. No additional procedures regarding this information has been requested.

The engagement is performed in context of the requirements of paragraph 10 of the General Code of Conduct for Authorised Financial Services Providers and Representatives on custody of financial products and funds, namely "Custody of financial products and funds"²

² "10(1) Subject to the provisions of any other applicable Act, a provider who receives or holds financial products or funds of or on behalf of a client must account for such products or funds properly and promptly and--

(a) when documents of title are lodged with the provider on behalf of the client, the provider must immediately provide written confirmation of receipt thereof which contains a description of the documents that is sufficient to identify them;

(b) when a provider receives funds into safe custody without the mediation of a bank, the provider must on receipt of the money, issue a written confirmation of receipt thereof;

(c) where the provider, or a third party on behalf of either of them, is in control of such financial products or funds, take reasonable steps to ensure that they are adequately safeguarded;

(d) open and maintain a separate account, designated for client funds, at a bank and--

(i) must within one business day of receipt pay into the account all funds held on behalf of clients;

(ii) ensure that the separate account only contains funds of clients and not those of the provider;

(iii) pay all bank charges in respect of the separate account except that bank charges specifically relating to a deposit or withdrawal of the funds of the client are for the client's own account; and

(iv) ensure that any interest accruing to the funds in the separate account is payable to the client or the owner of the funds;

(e) take reasonable steps to ensure--

(i) that at all times such financial products or funds are dealt with strictly in accordance with the mandate given to the provider;

(ii) that client financial products or funds are readily discernible from private assets or funds of the provider; and

(iii) that, subject to any applicable contractual or statutory provisions, a client has ready access to any amount paid into the separate account, less any deductions which are authorised, and charges and fees required or authorised to be paid by law.

(2) Where a transaction or agreement has been recorded in writing, the provider who dealt with the client, must ensure that the original agreement is delivered to the client for safe custody.

Agreed-upon procedures**Accounting records**

1. Enquire and observe whether the accounting systems of the provider are structured in such a manner that the accounting records for the trust accounts are maintained separately from the accounting records of the provider³.

Cash

2. Obtain bank confirmation letters for all trust accounts, confirming whether:
 - the balance of the trust account agrees to the balance reflected in the Provider's accounting records;
 - any encumbrances over the trust accounts agree with those disclosed by the Provider.
3. Obtain the year-end bank reconciliations for all trust accounts, and for each reconciliation:
 - Enquire about any old or unusual reconciling items and agree these items to supporting documentation or subsequent resolution of the reconciling item.
 - Cast the bank reconciliation.
 - Trace outstanding deposits to the next day's bank statement (paragraph 10(1)(d)(i) of the General Code of Conduct for Authorised Financial Services Providers and Representatives requires all monies received to be deposited within one business day).
 - Agree payments which appear on the bank statement 1 week after year-end 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.
 - Agree cheques which appear on the outstanding cheques list to bank statements after year-end.
4. Obtain a schedule of transfers between all bank accounts of the Provider for the period before and after the year-end.
 - Confirm whether transfers between accounts are accounted for in the same accounting period by inspecting transfers between accounts.
 - Confirm whether transfers between accounts are valid by inspecting documentation supporting the transfers. Supporting documentation may include, for example, client mandates.
5. For two months, or such shorter period as agreed with the Registrar, during the financial year, agree deposits made into trust accounts to supporting documentation confirm whether the deposit constitutes a valid receipt from a client, and confirm whether the deposits are made within one business day.

(3) Section 10(1)(d) is not applicable to a provider subject to section 45 of the Short-term Insurance Act, 1998 (Act No. 53 of 1998), if the provider complies with the requirements contemplated in that section."

³ This is intended to be a high level observation regarding the accounting systems of the Provider.

- 6(a) For two months, or such shorter period as agreed with the Registrar during the financial year, agree payments made during the year from trust accounts to supporting documentation confirming whether the payment was made in terms of a valid client instruction/mandate.
- 6(b) Agree each payment made from the trust account into the provider's business bank account during the two months selected (or such shorter period as agreed with the Registrar), to supporting documentation, confirming whether transfers which represent fees were made in terms of the contract with the client.
7. Enquire whether or not there are any restrictions on trust accounts and confirm whether these restrictions were not breached in performing procedures 5 and 6 above.
8. Obtain a selection of 10% of client correspondence files.
- Trace current year movements referred to in the file to the bank statements.
9. Inspect the trust account bank statements, relating to the two months selected for procedures 5 and 6 above or such shorter period as agreed with the Registrar, 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 for Authorised Financial Services Providers and Representatives).
- Confirm whether fees which are not for the Provider's trust account are charged to the business account of the Provider. by agreeing the fees identified in the trust account as being for the provider's account to the provider's business account.
10. Inspect the trust account bank statements, relating to the two months selected for procedures 5, 6 and 9 or such shorter period as agreed with the Registrar) for interest accruing.
- Confirm whether interest accruing is credited to the trust account and not the provider's business (paragraph 10(1)(d)(iv) and paragraph 10(3) of the General Code of Conduct for Authorised Financial Services Providers and Representatives) by agreeing interest earned to the trust account accounting records.
11. Agree receipts and payments on the Provider's business bank account relating to the two months selected for procedures 5, 6 and 9 or such shorter period as agreed with the Registrar with supporting documentation such as bank deposit books or slips or cheques confirming whether any trust monies have been erroneously dealt with as business monies.

Non-monetary assets held on behalf of clients

12. Obtain a schedule of non-monetary assets held at year-end on behalf of clients, held in the name of the Provider.
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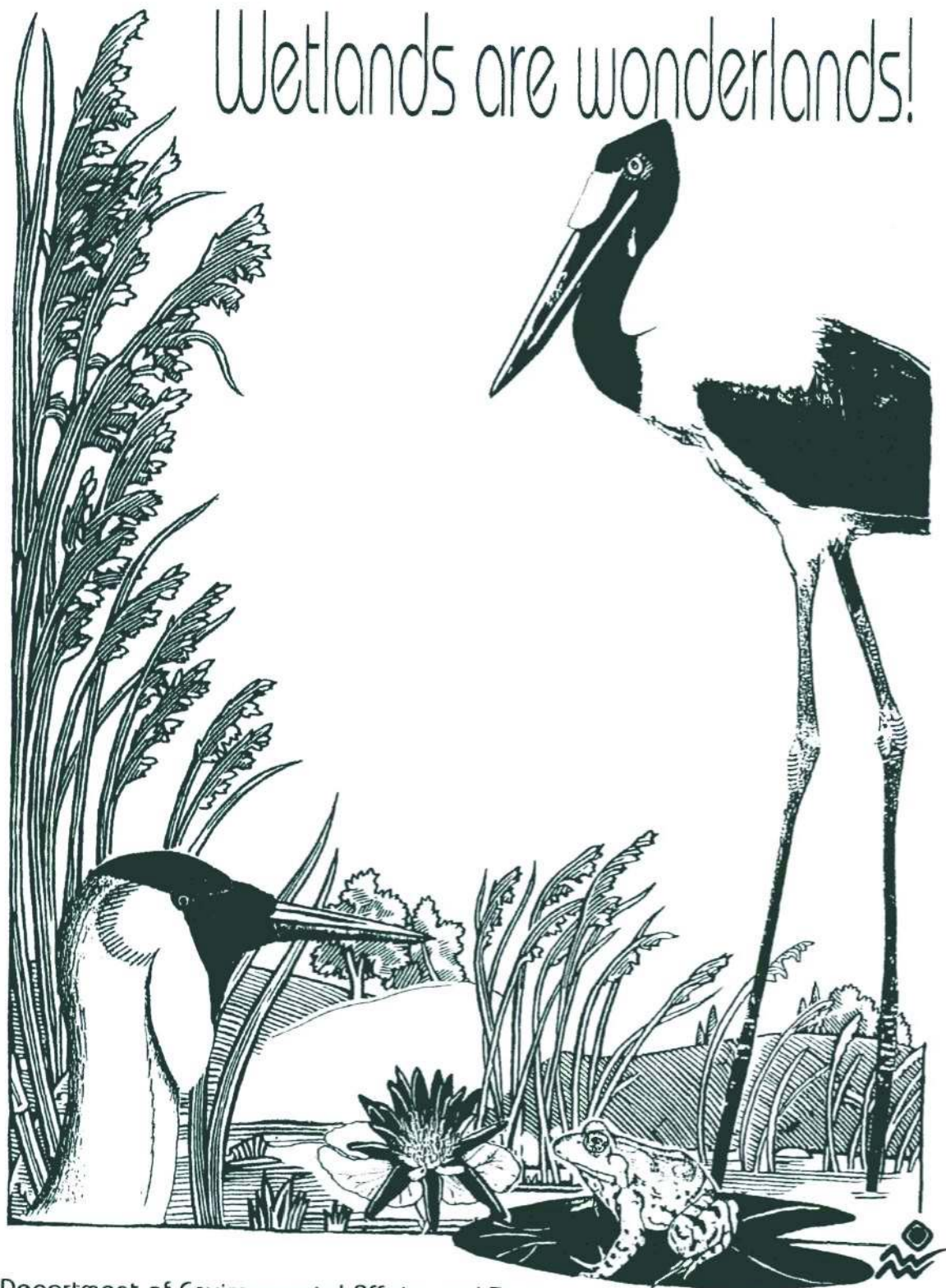
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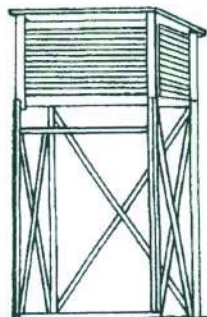
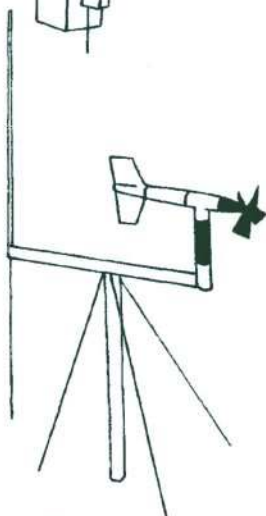
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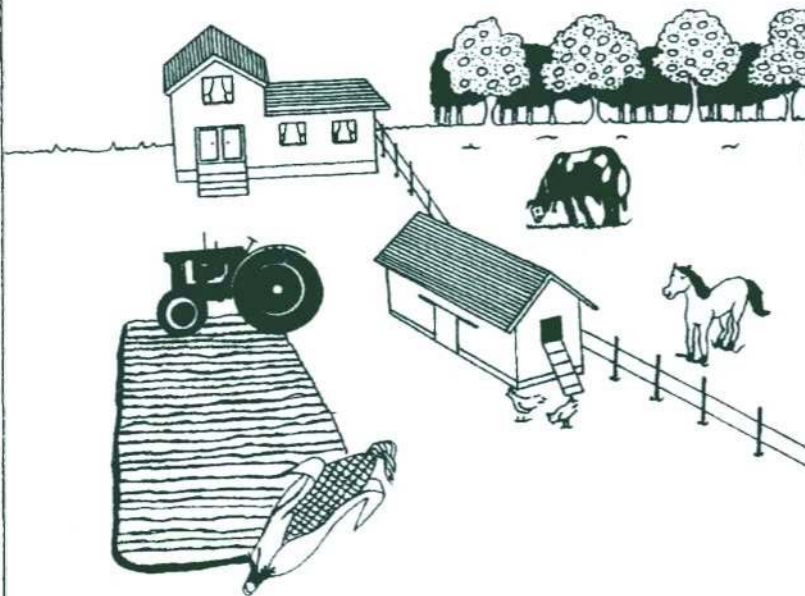


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