

**BOARD NOTICE 124 OF 2009
FINANCIAL SERVICES BOARD**

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

**DETERMINATION OF COMPLIANCE REPORT FOR AUTHORISED FOREIGN
FINANCIAL SERVICES PROVIDERS, 2009**

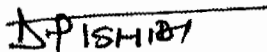
In terms of section 17(4) of the Financial Advisory and Intermediary Services Act, 2002 (Act No. 37 of 2002) ("the Act"), I, Dube Phineas Tshidi, Registrar of Financial Services Providers, by this notice with its schedule, determine the manner in which the compliance report of foreign financial services providers must be submitted, and the matters which it must have regard to. This determination was made after consultation with the Advisory Committee on Financial Services Providers.

- (a) A written report for the reporting period, conforming to the schedule attached hereto, or in the prescribed electronic format determined by the Registrar, must be submitted by 31 October 2009.
- (b) Answers should not be provided in columns that are shaded in grey in the schedule.
- (c) In this Notice and the schedule, unless the context indicates otherwise –
 - (i) any word or expression shall have the meaning that it was assigned in the Act (including any measure contemplated in the definitions of "this Act" as defined in section 1(1) of the Act);
 - (ii) "Code of Conduct" means any Code published under section 15 of the Act;
 - (iii) "Determination of Fit and Proper Requirements" means the Determination of Fit and Proper Requirements for Financial Services Providers, 2008;
 - (iv) "FICA" means the Financial Intelligence Centre Act, 2001 (Act No. 38 of 2001);
 - (v) "Foreign FSP or foreign financial services provider" means a financial services provider that is not domiciled in the Republic of South Africa;
 - (vi) "Forex Investment Business Code of Conduct" means the Code of Conduct for Authorised Financial Service Providers, and their Representatives, involved in Forex Investment Business, 2004;

- (vii) "FSP" or "financial services provider" means an authorised financial services provider, and includes, where applicable, any representative of the provider;
- (viii) "General Code of Conduct" or "General Code" means the General Code of Conduct for Authorised Financial Services Providers and Representatives, 2003;
- (ix) "Regulations" means the Financial Advisory and Intermediary Services Regulations, 2003;
- (x) "reporting date" means 31 August 2009;
- (xi) "reporting period" means the period from-
 - (aa) the date of authorisation as financial services provider in terms of section 8 of the Act; or
 - (bb) the first day of the month following the reporting period for the 2008 compliance report,

whichever is the later date, until the reporting date.

This Determination is called the Determination of Compliance Report for Foreign Financial Services Providers, 2009, and comes into operation on the date of publication thereof.



D P TSHIDI,
Registrar of Financial Services Providers

SCHEDULE

Compliance Report in terms of section 17(4) of the Financial Advisory and Intermediary Services Act, 2002 (Act No 37 of 2002) ("the Act") by Foreign Financial Services Providers for reporting period ended 31 August 2009

Scope

In accordance with section 17(4) of the Act, I/we (the approved compliance officer(s) of the financial services provider) ("the FSP") or the sole proprietor or key individual of the FSP if no compliance officer(s) is required hereby report as follows as regards compliance with the Act by (full name of the FSP and the FSP Number) and any representatives of the FSP, for the reporting period (date reporting period started) to 31 August 2009

Question	Column				
	1	2	3	4	5
	Yes	No	Not applicable	Develop - mental area	Note No. Comment/ Annexure
SECTION 1 – GENERAL					
1. Conditions and restrictions imposed, made, given or issued by Registrar <i>Section 8(4) (a) and 8(5) (b) of the Act</i>					
1.1 Does the FSP have procedures in place to ensure that it can comply with condition 1 of the licensing conditions?					
1.2 Does the FSP verify in all instances that any other FSP that it gives an instruction to, or receives an instruction from, is authorised to render the specific financial services in South Africa without any restrictions in its licence in relation to the specific financial product?					
1.3 Financial products in respect of which FSP renders financial services <i>Condition 5 imposed by the Registrar in terms of section 8(4) of the Act</i>					
1.3.1 Is the FSP regulated in terms of any other Act (locally or in its home jurisdiction)? (Please note that this does not include membership of professional bodies.)					

1.3.2.	<i>If the answer to Question 1.3.1 is YES - Provide details of the Regulators (Name of Regulator and registration and/or licensing number with Regulator, if applicable) in a separate annexure and indicate the annexure number in column 5.</i>					
1.3.3.	Does the FSP render financial service on any financial product in South Africa that is not specifically defined in the Act or regulated in terms of any other legislation?					
1.3.4.	<i>If the answer to Question 1.3.3 is YES - Provide details of the financial products concerned in a separate annexure and indicate the annexure number in column 5.</i>					
1.4	Financial products in respect of which FSP renders financial services <i>Authorisation in terms of the licence of the FSP</i>					
1.4.1.	Does the FSP have procedures in place to ensure that the rendering of financial services are done within the limitation on categories and sub-categories for which the licence is issued?					
1.4.2.	Did any non-compliance occur in respect of the limitation on categories and sub-categories during the reporting period?					
1.4.3.	<i>If the answer to Question 1.4.2 is YES - Provide details of any non-compliance in a separate annexure and indicate the annexure number in column 5.</i>					
2.	Group structure					
2.1	Does the FSP form part of a group of companies and/or have service level agreements with other financial services providers within the group? Provide full details of the group (organogram or diagram as well as relation to one another) in a separate annexure and indicate the annexure number in column 5.					
3.	Key individuals <i>Section 8(1) and 8(4)(b) of Act and Determination of Fit and Proper Requirements for Financial Services Providers</i>					
3.1	Are the people involved in a managing/overseeing function in relation to the rendering of financial services in South Africa, appointed as key individuals?					
3.2	In a separate annexure, provide information on the organogram/structure with regards to key individuals (what position they have in the organisation, where they are situated). Indicate the annexure number 5.					
3.3	Does the FSP have procedures in place to ensure that it complies with section 8(4) (b) of the Act in the case of replacement of key individuals?					

4. Representatives <i>Sections 13 and 14 of the Act</i>						
4.1	Does the FSP have representatives? If YES, questions 4.2 to 4.5 must be answered.					
4.2	Provide the number of representatives in column 5.					
4.3	Does the FSP have any juristic representatives?					
4.3.1	<i>If the answer Question 4.3 is YES-</i> Does the FSP have an agreement with each juristic representative?					
4.3.2	Are all employees of the juristic representative that are rendering financial services on behalf of the provider, appointed as representatives of the provider in terms of section 13 of the Act?					
4.4	Does the FSP have procedures in place (including documentation) to enable representatives to provide clients with confirmation, as certified by the provider, of their status as representative as provided for in section 13(1) (b)(i) of the Act?					
4.5 Debarment of representatives <i>Section 14 of the Act</i>						
4.5.1.	Does the FSP have procedures in place to debar a representative, if necessary?					
5. Insurance cover <i>Sections 5(e) and 13 of the General Code of Conduct</i>						
5.1	Does the FSP have professional indemnity cover? If yes, provide the extent (numeric amount and currency) of the cover in column 5.					
5.2	Does the FSP have fidelity insurance cover? If yes, provide the extent (numeric amount and currency) of the cover in column 5.					
5.3	Does the FSP have guarantees in place? If yes, provide the extent (numeric amount and currency) of the guarantees in column 5					
5.4	Does the FSP disclose to clients whether it holds guarantees or professional indemnity or fidelity insurance cover?					
6. Compliance function <i>Section 17 of the Act and Chapter IV of the Regulations</i>						
6.1	Is the compliance function established as part of the risk management framework of the business of the FSP in compliance with section 17(3) of the Act and Regulation 5?					