

**BOARD NOTICE 123 OF 2009  
FINANCIAL SERVICES BOARD**

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

**NOTICE ON REQUIREMENTS FOR PROFESSIONAL INDEMNITY AND FIDELITY  
INSURANCE COVER FOR PROVIDERS, 2009**

I, Dube Phineas Tshidi, Registrar of Financial Services Providers, hereby under section 13 of the General Code of Conduct for Authorised Financial Services Providers and Representatives, 2009, require all providers to maintain suitable professional indemnity and fidelity insurance cover to the extent set out in the Schedule.

DP TSHIDI

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*Registrar of Financial Services Providers*

## SCHEDULE

### NOTICE ON REQUIREMENTS FOR PROFESSIONAL INDEMNITY AND FIDELITY INSURANCE COVER FOR PROVIDERS, 2009

#### Interpretation

1. In this Schedule "the Act" means the Financial Advisory and Intermediary Services Act, 2002 (Act No. 37 of 2002), any word or expression to which a meaning is assigned in the Act or in any code of conduct or other measure promulgated under the Act, has, unless the context indicates otherwise, that meaning, and-

"date of commencement" means the date on which this Notice, in terms of paragraph 8 of this Schedule, comes into operation;

"General Code" means the General Code of Conduct for Authorised Financial Services Providers and Representatives, 2003.

#### Application

2. This Schedule only applies to providers and not to representatives.

#### Categories I, II, IIIA, III and IV providers

3. Subject to the provisions of this Schedule-

- (a) A person who is a Category I or IV provider and who does not receive or hold clients' financial products or funds on the date of commencement must, with effect from a date 12 months after that date, maintain in force in respect of clients-
  - (i) suitable guarantees of a minimum amount of R1 million; or
  - (ii) suitable professional indemnity cover of a minimum amount of R1 million.
- (b) A person who is a Category I or IV provider and who receives or holds clients' financial products or funds of or on behalf of a client on the date of commencement must, with effect from a date 12 months after that date, maintain in force in respect of clients-
  - (i) suitable guarantees of a minimum amount of R1 million; or
  - (ii) suitable professional indemnity and fidelity insurance cover of a minimum amount of R1 million.
- (c) The provisions of paragraphs (a) and (b) apply to any person who after the commencement date becomes a Category I or IV provider.
- (d) A person who is a Category II provider and who does not receive or hold clients' financial products or funds of or on behalf of a client on the date of commencement must, with effect from a date six months after that date, maintain in force in respect of clients-
  - (i) suitable guarantees of a minimum amount of R1 million; or
  - (ii) suitable professional indemnity cover of a minimum of R1 million.

- (e) A person who is a Category II provider and who receives or holds clients' financial products or funds of or on behalf of a client on the date of commencement must, with effect from a date six months after that date, maintain in force in respect of clients-
- (i) suitable guarantees of a minimum amount of R5 million; or
  - (ii) suitable professional indemnity and fidelity insurance cover of a minimum amount of R5 million, respectively.
- (f) A person who is a Category IIA provider and who does not receive or hold clients' financial products or funds of or on behalf of a client on the date of commencement must, with effect from a date six months after that date, maintain in force in respect of clients-
- (i) suitable guarantees of a minimum amount of R5 million; or
  - (ii) suitable professional indemnity cover of a minimum amount of R5 million.
- (g) A person who is a Category IIA provider and who receives or holds clients' financial products or funds of or on behalf of a client on the date of commencement must, with effect from a date six months after that date, maintain in force in respect of clients-
- (i) suitable guarantees of a minimum amount of R5 million, or
  - (ii) suitable professional indemnity and fidelity insurance cover of a minimum amount of R5 million, respectively.
- (h) A person who is a Category III provider and who receives or holds clients' financial products or funds of or on behalf of a client on the date of commencement must, with effect from a date six months after that date, maintain in force in respect of clients-
- (i) suitable guarantees of a minimum amount of R5 million; or
  - (ii) professional indemnity and fidelity insurance cover of a minimum amount of R5 million, respectively.
- (i) The provisions of paragraphs (d), (e), (f), (g) and (h) apply to any person who after the commencement date becomes a Category II, IIA or III provider.
4. Any person who is licensed as a financial services provider after the date of commencement must comply with the requirements in terms of paragraph 3 above, within 6 weeks of the date of authorisation.

**Amendments and adjustments**

5. (a) The Registrar may at any time by notice in the *Gazette* amend any provision of this Schedule to the extent as the Registrar may deem necessary.
- (b) The Registrar may at any time adjust the application of paragraph 3 of this Schedule in the case of a provider-
- (i) on the Registrar's own initiative; or
  - (ii) on written application of the provider.

**Construction of Notice**

6. No provision of this Notice shall be construed as in any way restricting or otherwise prejudicially affecting a legally enforceable claim of any person for delictual or contractual damages against a provider resulting from or connected with the rendering of financial services by the provider to such person.

**Repeal**

7. The Notice on Requirements for Professional Indemnity and Fidelity Insurance Cover for Providers, 2009, published in Board Notice 37 of 2009 in *Gazette* 32037 of 25 March 2009 is hereby repealed.

**Short title and commencement**

8. This Notice is called the Notice on Requirements for Professional Indemnity and Fidelity Insurance Cover for Providers, 2009, and comes into operation on the date of publication in the *Gazette*.