



FSCA FAIS Notice 101 of 2021

FINANCIAL ADVISORY AND INTERMEDIARY SERVICES ACT, 2002

EXEMPTION OF PARTICULAR PERSONS FROM COMPETENCE AND FEE REQUIREMENTS, NO. 42 OF 2021

The Financial Sector Conduct Authority, under section 44(4) of the Financial Advisory and Intermediary Services Act, 2002 (“the Act”), read with section 281(3)(b) of the Financial Sector Regulation Act, 2017, hereby exempts particular persons from provisions of the Act and certain measures promulgated thereunder, to the extent set out in the Schedule.

A Ludin
Deputy Commissioner
Financial Sector Conduct Authority

Date of publication: 10 September 2021

SCHEDULE

EXEMPTION OF PARTICULAR PERSONS FROM COMPETENCE AND FEE REQUIREMENTS, NO. 42 OF 2021

1. Definitions

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 shall have that meaning, and unless the context otherwise indicates-

“**applicant**” means a person referred to in Column 1 of the Table in Annexure A;

“**Determination**” means the Determination of Fit and Proper Requirements for Financial Services Providers, 2017, published by Board Notice 194 of 2017 in Government Gazette No. 41321 on 15 December 2017;

“**DOFA**”, in respect of a representative, means the first date on which a person was appointed as a representative to render financial services in respect of a particular category of FSP and subcategory of financial product;

“**Fee or fees**” means the requirement to pay the fee as prescribed in paragraph 3.3 of the Table of Fees;

“**financial institution**” has the meaning assigned to it in section 1(1) of the FSR Act;

“**FSP**” means a financial services provider as defined in section 1(1) of the Act;

“**FSR Act**” means the Financial Sector Regulations Act, 2017 (Act No. 9 of 2017);

“**General Code of Conduct**” means the General Code of Conduct for Authorised Financial Services Providers and Representatives, 2003;

“**N/A**” means the -

(a) particular condition referred to in paragraph 3(1) read with Column 4 and/or Column 5 of the Table in Annexure A; or

(b) date of expiry referred to in paragraph 2(2) read with Column 7 of the Table in Annexure A,

does not apply to the relevant applicant;

“**Qualification**” means the requirement to have a recognised qualification as defined in section 1 of the Determination;

“**RE 5**” means the requirement to have passed the RE 5 as defined in section 1 of the Determination;

“**Services under Supervision Notice**” means the Notice on Exemption of Services under Supervision, No. 2 of 2018, published by FSCA FAIS Notice 86 of 2018 on 3 December 2018; and

“**Table of Fees**” means the Table of Fees in the Schedules to the Determination of Fees payable to the Registrar of Financial Services Providers published by Government Notice No. 89 in Government Gazette 41432 of 09 February 2018.

2. Extent and Duration of Exemption

- (1) Subject to the conditions in paragraph 3, the applicants are exempted from the provisions in Column 2 of the Table in Annexure A, insofar as it relates to the requirements in Column 3 of that Table.
- (2) The exemptions referred to in subparagraph (1) commence on the dates set out in Column 6 and expire on the dates set out in Column 7 of the Table in Annexure A.

3. Conditions of Exemption

- (1) The exemptions referred to in paragraph 2, other than the exemptions relating to Fees, are subject to the conditions that -
 - (a) the applicants must -
 - (i) promptly inform the Authority of any matter that may impact on their ability to comply with the requirements set out in Column 3 of the Table in Annexure A on expiry of the exemption;
 - (ii) promptly advise the Authority of any change to the particulars furnished in and relating to their applications for exemption;
 - (iii) where applicable, comply with sections 5(g) and/or 15(6) of the General Code of Conduct, insofar as it relates to the disclosure of the exemptions referred to in paragraph 2(1);
 - (iv) not become the subject of a decision, order or directive as contemplated in sections 9 and 14(1) of the Act and sections 144, 153 and 167 of the FSR Act whereby -
 - (aa) the applicant's license is suspended or withdrawn (either provisionally or finally);
 - (bb) the applicant is debarred;
 - (cc) an administrative penalty is imposed on the applicant; and/or
 - (dd) the applicant is removed from a specified position or function in or in relation to a financial institution;
 - (v) for the duration of the exemption, render financial services under supervision as contemplated in the Services under Supervision Notice and comply with the requirements and conditions of that Notice;
 - (b) **applicants 3 and 6**, in addition to the conditions in subparagraph (1)(a), must furnish the Authority with evidence that they have enrolled for a qualification on or before the date referred to in Column 4 of the Table in Annexure A; and
 - (c) **applicants 3, 6 and 8**, in addition to the conditions in subparagraph 1(a), must furnish the Authority with their statement of results on or before the dates referred to in Column 5 of the Table in Annexure A.
- (2) The exemptions referred to in paragraph 2, other than exemptions relating to Fees, are limited to the following extent:
 - (a) in the case of an applicant that is a representative, the exemption is only applicable insofar as financial services are rendered as a representative in respect of the financial products and category of FSP for which the applicant has a DOFA that precedes the date referred to in paragraph 5;
 - (b) in the case of an applicant that is a key individual, the exemption is only applicable in respect of the financial products, category of FSP and in relation to the FSP for which the applicant is approved as key individual at the date referred to in paragraph 5; and
 - (c) in the case of an applicant that is a sole proprietor, the exemption is only applicable insofar as financial services are rendered as an FSP or a representative of another FSP, in respect of the financial products and category of FSP for which the applicant is authorised as a sole proprietor or appointed as a representative at the date referred to in paragraph 5.

- (3) The exemptions relating to Fees –
 - (a) only apply to a particular application referred to in paragraph 3.3 of the Tables of Fees that was submitted to the Authority; and
 - (b) do not apply to any application for exemption referred to in paragraph 3.3 of the Table of Fees submitted to the Authority on or after the date referred to in paragraph 5.
- (4) Failure by an applicant to comply with any condition referred to in subparagraph (1) will automatically result in the exemption no longer being applicable to that applicant.

4. Amendment and withdrawal of Exemption

This Exemption is subject to -

- (1) amendment thereof, published by the Authority by notice on the web site of the Authority; and
- (2) withdrawal in a like manner.

5. Short title and commencement

This Notice is called the Exemption of Particular Persons from Competence and Fee Requirements, No. 42 of 2021, and comes into operation on date of publication.

ANNEXURE A

COLUMN 1		COLUMN 2	COLUMN 3	COLUMN 4	COLUMN 5	COLUMN 6	COLUMN 7
Applicant		Provisions from which exemption is granted	Requirements	Proof of Enrolment	Statement of Results	Date of Commencement of Exemption	Date of Expiry of Exemption
1.	Adriaan Jacobus Smit	Section 26 of the Determination	RE 5	N/A	N/A	10 September 2021	31 January 2022
2.	Brandon Duvenhage	Section 26 of the Determination	RE 5	N/A	N/A	10 September 2021	31 January 2022
		Section 41(1) of the Act	Fee	N/A	N/A	10 September 2021	N/A
3.	Edwell Trinity Lubisi	Section 23 of the Determination	Qualification	31 January 2022	30 September 2022	10 September 2021	30 September 2023
		Section 41(1) of the Act	Fee	N/A	N/A	10 September 2021	N/A
4.	Evangeline Tumelo Shima	Section 26 of the Determination	RE 5	N/A	N/A	10 September 2021	30 April 2022
		Section 41(1) of the Act	Fee	N/A	N/A	10 September 2021	N/A
5.	Madel Smith	Section 26 of the Determination	RE 5	N/A	N/A	10 September 2021	31 January 2022
6.	Melvin Marlon Kupersamy	Section 23 of the Determination	Qualification	31 January 2022	30 September 2022	10 September 2021	30 September 2023
		Section 41(1) of the Act	Fee	N/A	N/A	10 September 2021	N/A
7.	Moné Patterson	Section 26 of the Determination	RE 5	N/A	N/A	10 September 2021	31 January 2022
		Section 41(1) of the Act	Fee	N/A	N/A	10 September 2021	N/A
8.	Nosipho Melody Somtunzi	Section 26 of the Determination	RE 5	N/A	N/A	10 September 2021	30 April 2022
		Section 23 of the Determination	Qualification	N/A	30 September 2022	10 September 2021	30 September 2023
		Section 41(1) of the Act	Fee	N/A	N/A	10 September 2021	N/A
9.	Ockert Jacobus Venter	Section 26 of the Determination	RE 5	N/A	N/A	10 September 2021	31 January 2022
		Section 23 of the Determination	Qualification	N/A	N/A	10 September 2021	31 March 2022