



Financial Sector
Conduct Authority

FSCA FAIS Notice 75 of 2018

FINANCIAL ADVISORY AND INTERMEDIARY SERVICES ACT, 2002

EXEMPTION OF ABSA INSURANCE AND FINANCIAL ADVISERS (PTY) LTD FROM CERTAIN PROVISIONS OF THE GENERAL CODE OF CONDUCT, 2018

The Financial Sector Conduct Authority, under section 44(4) of the Financial Advisory and Intermediary Services Act, 2002 (“the Act”), hereby exempts ABSA Insurance and Financial Advisers (Pty) Ltd from certain provisions of the General Code of Conduct for Authorised Financial Services Providers and Representatives, 2003, to the extent set out in the Schedule.



CD da Silva
For the Financial Sector Conduct Authority

SCHEDULE

EXEMPTION OF ABSA INSURANCE AND FINANCIAL ADVISERS (PTY) LTD FROM CERTAIN PROVISIONS OF THE GENERAL CODE OF CONDUCT, 2018

Definitions

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

“**AIFA**” means ABSA Insurance and Financial Advisers (Pty) Ltd, an authorised financial services provider with licence number 4012;

“**Authority**” means the Financial Sector Conduct Authority as defined in section 1(1) of the Financial Sector Regulation Act, 2017 (Act No. 9 of 2017);

“**clients**” means the 8279 clients referred to in AIFA’s application for exemption that AIFA could not contact or reach in order to discuss the information referred to in paragraphs 2(2)(b)(ii)(aa) and (bb), or from whom a decision could not be obtained;

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

“**POPI Act**” means the Protection of Personal Information Act, 2013 (Act No. 4 of 2013);

“**PSG**” means PSG Wealth Financial Planning (Pty) Ltd, an authorised financial services provider with licence number 728;

“**representatives**” means the representatives of AIFA who will also be appointed as representatives of PSG, as referred to in the application for exemption.

Extent of exemption and conditions

2. (1) AIFA is exempted from the provisions of section 3(3) of the General Code insofar it relates to the disclosure of the clients’ confidential or personal information to PSG.
- (2) The exemption referred to in subparagraph (1) is subject to the following conditions:
 - (a) AIFA must -
 - (i) comply with the provisions of the POPI Act, insofar it relates to the disclosure of the information referred to in subparagraph (1);
 - (ii) have adequate and sufficient controls, monitoring or oversight to ensure that the representatives in their engagement with the clients explain in clear and simple language –
 - (aa) the purpose of the engagement;
 - (bb) the relationship, agreements and transactions between AIFA and PSG insofar it relates and is relevant to the clients;
 - (cc) the capacity in which it is engaging with the clients; and
 - (dd) the right of clients to select a financial services provider of their choice;
 - (iii) on a quarterly basis, provide to the Authority a report on the progress of the engagement with the clients regarding the appointment of PSG as their financial services provider;
 - (b) PSG must undertake, in writing, that PSG shall -
 - (i) comply with the provisions of the POPI Act insofar it relates to the information referred to in subparagraph (1);
 - (ii) only use the information referred to in subparagraph (1) to engage with the clients for the following purpose:
 - (aa) informing the clients of the relationship, agreements and transactions between AIFA and PSG insofar it relates and is relevant to the clients;
 - (bb) ascertaining from the clients whether or not they wish to appoint PSG as their financial services provider;
 - (iii) not use the information to market or advertise any financial services or related services of or financial products offered by PSG to the clients;
 - (iv) not disclose the information referred to in subparagraph (1) to any person without the prior written consent of the clients to whom that information relates;
 - (v) at all times keep the information referred to in subparagraph (1) secure by, *inter alia*, -
 - (aa) keeping the information separate from its financial services or related services or business; and
 - (bb) preventing unauthorised access or access for purposes other than referred to in subparagraph (b)(ii);
 - (vi) when engaging with the clients, explain in clear and simple language –
 - (aa) the purpose of the engagement;
 - (bb) the relationship, agreements and transactions between AIFA and PSG insofar it relates and is relevant to the clients;

- (cc) the capacity in which it is engaging with the clients; and
- (dd) the right of clients to select a financial services provider of their choice; and
- (vii) return to AIFA and destroy any copies of the information referred to in subparagraph (1) where the clients elect not to appoint PSG as their financial services provider.

Amendment and withdrawal of exemption and conditions

3. The exemption and conditions referred to in paragraph 2 are subject to-
 - (a) amendment thereof published by the Authority by notice on the website of the Financial Sector Conduct Authority; and
 - (b) withdrawal in a like manner.

Short title and commencement

4. This Exemption is called the Exemption of ABSA Insurance and Financial Advisers (Pty) Ltd from Certain Provisions of the General Code of Conduct, No 2 of 2018, and comes into operation on 30 October 2018.

DATE OF NOTICE: 30 OCTOBER 2018