


BOARD NOTICE 92 OF 2011**FINANCIAL SERVICES BOARD****FINANCIAL ADVISORY AND INTERMEDIARY SERVICES ACT, 2002****COMPLIANCE REPORT FOR FSPs CHANGING COMPLIANCE OFFICER DURING REPORTING PERIOD, 2011**

In terms of section 17(4) of the Financial Advisory and Intermediary Services Act, 2002 ("the Act"), I, Dube Phineas Tshidi, the Registrar of Financial Services Providers, determine the manner in which the compliance report for FSPs changing compliance officer during the reporting period, 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 prior to the appointment of a compliance officer, by completing the schedule attached hereto, or by completing electronically, online the schedule on the web site of the Financial Services Board (www.fsb.co.za), must be submitted by the key individual or sole proprietor within one month after the appointment of the compliance officer.
- (b) Answers should not be provided in columns that are shaded in grey in the schedule.
- (c) In this Notice, unless the context indicates otherwise—
 - (i) any word or expression shall have the meaning that it was assigned in 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) "developmental area" means any control, process or compliance issue that has been identified during the monitoring of compliance as an area in respect of which the need for improvement of such control, process or compliance issue has been identified by the provider, and plans are in place to effect such improvements within a reasonable time;
 - (v) "FICA" means the Financial Intelligence Centre Act, 2001;
 - (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", "financial services provider" or "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 Code of Conduct for Authorised Financial Services Providers and their Representatives, 2003;
- (ix) "previous reporting period" means the reporting period of the last annual compliance report submitted;
- (ix) "Regulations" means the Financial Advisory and Intermediary Services Regulations, 2003;
- (x) "reporting date" means date on which the compliance officer resigns;
- (xi) "reporting period" means the period from the latter of-
 - (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 previous reporting period,until the reporting date.

This Determination is called the Compliance Report for FSPs changing Compliance Officer during reporting period, 2011., and comes into operation on the date of publication thereof.



D P TSHIDI,
Registrar of Financial Services Providers

SCHEDULE

Compliance report for FSPs changing compliance officer during reporting period

Scope

In accordance with section 17(4) of the Act, I/we (the approved compliance officer(s) of the FSP) hereby report as follows as regards compliance with the Act by (full name of the FSP and the FSP Number) for the reporting period (date reporting period started) to (reporting date)

Question	Column				
	1	2	3	4	5
	Yes	No	Not applicable	Develop - mental area	Note No. Comment/ Annexure
1					
1.1					
1.2					
1.2.1					
1.2.2					

SECTION 1 – GENERAL

Conditions and restrictions by Registrar
Sections 7 and 8(4)(a) and (5)(b) of Act

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 without any licence restriction in relation to a specific financial product?

Financial products in respect of which FSP renders financial services
Condition 5 imposed by Registrar in terms of section 8(4) of Act

Does the FSP render financial services on any financial product that is not specifically defined in the Act or regulated in terms of any other legislation (e.g. hedge funds, depending of the structure)?

If the answer to Question 1.2.1 is YES – Provide details of the financial product concerned in a separate annexure and indicate the annexure number in column 5.

Question	Column				
	1	2	3	4	5
	Yes	No	Not applicable	Develop-mental area	Note No. Comment/Annexure
1.3 <i>Financial products in respect of which FSP renders financial services Authorisation in terms of licence</i>					
1.3.1 During the reporting period did any non-compliance occur in respect of the limitation on Categories and subcategories for which the licence is issued?					
1.3.2 <i>If the answer to Question 1.3.1 is YES -</i> Provide details of such non-compliance as well as steps taken to reasonably ensure that such non-compliance will not occur again in a separate annexure and indicate the annexure number in column 5.					
2. Key individuals Section 8(1) and (4)(b) of Act and <i>Determination of Fit and Proper Requirements</i>					
2.1 Are all people involved in the managing/overseeing function in relation to the rendering of financial services, appointed as key individuals?					
2.2 Fit and Proper Requirements for key individuals <i>Determination of Fit and Proper Requirements</i>					
2.2.1 Did any changes occur in the personal circumstances of any key individual during the reporting period that adversely affected the fitness and propriety of the person, as it relates to Part II of the Determination of Fit and Proper Requirements?					
2.2.2 <i>If the answer to Question 2.2.1 is YES -</i> Provide full details thereof in a separate annexure and indicate the annexure number in column 5.					
3 Representatives <i>Sections 13 and 14 of the Act</i>					
3.1 Was the representative register updated during the reporting period in terms of the licensing conditions?					
3.2 Debarment of representatives <i>Section 14 of the Act</i>					

Question	Column				
	1	2	3	4	5
	Yes	No	Not applicable	Developmental area	Note No. Comment/ Annexure
3.2.1					
4					
4.1					
4.2					
4.3					
4.4					
4.5					
4.5.1					
4.6					
4.7					
5					

Question	Column				
	1	2	3	4	5
	Yes	No	Not applicable	Develop - mental area	Note No. Comment/ Annexure
5.1	General provisions <i>Section 3 of General Code of Conduct and Board Notice 58 of 2010</i>				
5.1.1	Has the FSP adopted, maintained and implemented a conflict of interest management policy? If the answer is YES a copy of the policy must be attached and indicate the annexure number under column 5.				
5.1.2	Are the employees and, where appropriate, associates aware of the conflict of interest management policy?				
5.1.3	Has appropriate training and educational material been provided to the employees and where appropriate, associates?				
5.1.4	Has the conflict of interest management policy been published in appropriate media and is the policy easily accessible for public inspection at all reasonable times?				
5.2	Furnishing of advice and record of advice <i>Sections 8 and 9 of General Code of Conduct</i>				
5.2.1	Is the FSP licensed to furnish advice?				
5.2.2	Did the FSP render advice as a regular feature of its business during the reporting period?				
5.2.3	If the answer to Question 5.2.2 is YES –				
5.2.3.1	Did the FSP comply in all instances with section 8(1)(d) of the General Code of Conduct relating to replacement products during the reporting period?				
5.3	Custody of Financial Products and Funds <i>Section 10 of General Code of Conduct</i>				
5.3.1	During the reporting period did the FSP receive client funds and / or premiums?				

Question	Column				
	1	2	3	4	5
	Yes	No	Not applicable	Develop - mental area	Note No. Comment/ Annexure
5.4 Risk management <i>Sections 11 and 12 of the General Code of Conduct</i>					
5.4.1 Does the FSP have and effectively employ appropriate risk management resources, procedures, systems and controls as described in sections 11 and 12 of the General Code of Conduct?					
5.4.2 Does the FSP have a documented Risk Management Plan?					
5.5 Advertising <i>Section 14 of General Code of Conduct</i>					
5.5.1 Does the FSP advertise financial services?					
5.5.2 <i>If the answer to Question 5.5.1 is YES-</i>					
5.5.2.1 Was a reference to the fact that a licence is held contained in all advertisements that were placed during the reporting period?					
6 Money laundering control procedures					
6.1 Is the FSP an accountable institution in terms of Schedule 1 of FICA?					
6.2 <i>If the answer to Question 6.1 is YES -</i> Are you also appointed as the Money Laundering Control Officer of the FSP?					
7 Financial soundness					
7.1 Did the FSP comply with the solvency requirements as required in terms of paragraph 9 of the Determination of Fit and Proper Requirements at all times during the reporting period?					
7.2 Does the FSP prepare monthly accounting records in terms of section 19 of the Act?					
8 Monitoring					

Question	Column				
	1	2	3	4	5
	Yes	No	Not applicable	Develop- mental area	Note No. Comment/ Annexure
8.1	Please indicate the type of monitoring that you (compliance officer) performed during the reporting period:				
8.1.1					
	Financial products in respect of which the FSP renders financial services.				
8.1.2					
	Representatives under supervision.				
8.1.3					
	Juristic representatives				
8.1.4					
	Disclosure documents to check compliance with sections 4 and 5 of the General Code of Conduct.				
8.1.5					
	Disclosure documents to check compliance with section 7 of the General Code of Conduct.				
8.1.6					
	Furnishing of advice and record of advice.				
8.1.7					
	Receipt of funds and/or collection of premiums.				
8.1.8					
	Waiver of rights.				
8.1.9					
	Money laundering control procedures.				
8.1.10					
	Exchange control regulations (in case of a forex FSP).				
8.1.11					
	Policies and procedures.				
8.1.12					
	Conflict of interest management policy				
8.1.13					
	Mandates and application forms.				
8.1.14					
	Direct marketer's telesales script and/or telesales voice recordings to check compliance with Section 15 of the General Code of Conduct.				
8.1.15					
	Other. Please provide details on other monitoring in a separate annexure and indicate the annexure number in column 5.				

Question	Column				
	1	2	3	4	5
	Yes	No	Not applicable	Develop - mental area	Note No. Comment/ Annexure
8.1.16					
8.2					
SECTION 2 – ADMINISTRATIVE FSPs					
9					
9.1					
9.2					
9.2.1					
9.2.2					
SECTION 3 – DISCRETIONARY FSPs					
10					
10.1					

Question	Column				
	1	2	3	4	5
	Yes	No	Not applicable	Develop - mental area	Note No. Comment/ Annexure
10.1.1					
10.1.2					
10.1.2.1					
10.1.2.2					
SECTION 4 – FOREX FSPs <i>The Forex code covers forex investments which are investments in a financial product referred to in paragraph (e) of the definition of “financial product” in section 1(1) of the Act.</i>					
11					
11.1					
11.1.1					
11.1.2					
11.2					
11.2.1					
11.2.1.1					

Question	Column				
	1	2	3	4	5
	Yes	No	Not applicable	Develop - mental area	Note No. Comment/ Annexure
11.2.1.2					
11.2.1.2	Did the FSP comply with exchange control legislation (including tax legislation) when dealing with forex investment business?				
11.2.1.3	<i>If the answer to Question 11.2.1.2 is NO – Provide full details of any instances of non-compliance as well as steps taken to reasonably ensure that such non-compliance does not occur again in a separate annexure. Indicate the annexure number in column 5.</i>				
SECTION 5 – HEALTH SERVICES BENEFITS					
12					
12.1	Is the FSP licensed to render financial services relating to health services benefits?				
12.2	<i>If the answer to Question 12.1 is YES -</i>				
12.2.1	Was the accreditation of the FSP in terms of section 65(3) of the Medical Schemes Act, 1998, during the reporting period suspended, or withdrawn, or did it lapse? Please provide details of any suspensions, withdrawals or lapses as an Annexure to the report and indicate the annexure number in column 5.				
SECTION 6 – HEDGE FUND FINANCIAL SERVICES PROVIDERS					
13	Does the FSP manage assets of a hedge fund? If the answer is YES, Questions 15 and 16 must be answered.				
14	Code of Conduct for Discretionary FSPs, 2003 and Notice on Hedge Fund FSP Disclosures, 2008				
15	Did you (compliance officer) perform monitoring procedures to ensure that the hedge fund FSP complied with paragraph 8A (1) to (4) of the Code of Conduct for Discretionary FSPs, 2003?				

Question	Column				
	1	2	3	4	5
	Yes	No	Not applicable	Develop- mental area	Note No. Comment/ Annexure
16					
17					
17.1					
17.2					
18					
18.1					
18.2					
18.3					
18.4					
18.5					
18.6					

SECTION 8 – STATISTICAL INFORMATION SHEET

8.1 COMPLIANCE FUNCTION		
TYPE OF INFORMATION REQUIRED	QUESTION NUMBER IT RELATES TO	NUMERIC AMOUNT
Number of reports provided to FSP during reporting period	4.2	
Number of visits to the FSP during the reporting period in order to perform monitoring procedures	4.3	

8.2 HEDGE FUNDS: GENERAL		
TYPE OF INFORMATION REQUIRED	QUESTION NUMBER IT RELATES TO	NUMERIC AMOUNT
Number of times that the FSP breached their mandate during the reporting period.	18.5	
How often compliance officer received mandate breach reports during the reporting period.	18.6	

COMPLETED AND SIGNED BY FSP

Name of the FSP

FSP Number

Name of key individual

ID number of the key individual

Date appointed as key individual

Signature

Date

COMPLETED AND SIGNED BY COMPLIANCE OFFICER

Name of compliance officer of FSP

ID number of the compliance officer

Name of the compliance practice (if applicable)

Reference number of compliance officer/practice

Signature of the compliance officer

Date

Telephone number

Fax number

E-mail address

DECLARATION TO BE COMPLETED AND SIGNED BY THE COMPLIANCE OFFICER SUBMITTING THE REPORT

Name of compliance officer: _____

Compliance report in terms of section 17(4) of the Financial Advisory and Intermediary Act, 2002 (Act No. 37 of 2002) by compliance officers for the period between _____ (insert date) and _____ (insert date).

In accordance with section 17(4) of the Act, I/we _____ (being the approved compliance officer(s) of the financial services provider hereby report as follows as regards compliance by _____ (insert full names of FSP and FSP number) and any representatives and/or Key Individuals of the FSP with the Act, for the period _____ (insert period).

Having completed the attached hand-over compliance report for the abovementioned FSP, I/we hereby confirm without any reservations that, to the best of my/our knowledge and ability all the information contained in the attached annual compliance report is both true and correct in all respects/aspects.

I/we are aware that the information contained in the attached hand-over compliance report may be subject to verification by the Registrar of Financial Services Providers at any time, and should I/we in my/our capacity as compliance officer knowingly submit false, incorrect or misleading or in any manner not to be to the satisfaction of the Registrar, this may impact on my/our compliance with the Fit and Proper Requirements with regard to personal character qualities of honesty and integrity as determined by section 8(1) of the Act.

Signed on this the _____ **day of** _____ **(month)** _____ **(year).**

Signature: _____