

**BOARD NOTICE 93 OF 2012****FINANCIAL SERVICES BOARD****FINANCIAL ADVISORY AND INTERMEDIARY SERVICES ACT, 2002****COMPLIANCE REPORT FOR FOREIGN FSPs, 2012**

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 a foreign FSP must be submitted, and the matters which the report 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, by completing the attached schedule , or by electronically completing the schedule on the web site of the Financial Services Board ([www.fsb.co.za](http://www.fsb.co.za)), must be submitted by 31 October 2012.
- (b) No answers may 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) **"foreign FSP"** or **"foreign financial services provider"** means a financial services provider that is not domiciled in the Republic of South Africa;
  - (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 General Code of Conduct for Authorised Financial Services Providers and Representatives, 2003;
- (ix) “**key individual**” means a key individual as defined in the Act, including sole proprietors as defined in the Fit and Proper Requirements, 2008;
- (x) “**Regulations**” means the Financial Advisory and Intermediary Services Regulations, 2003;
- (xi) “**reporting date**” means 31 August 2012;
- (xii) “**reporting period**” means the period the latter of-
  - (aa) the date of authorisation as financial services provider in terms of section 8 of the Act;
  - (bb) the first day of the month following the reporting period for the 2011 compliance report; or
  - (cc) the date of appointment of the compliance officer of the FSP,until the reporting date.

This Determination is called the Compliance Report for Foreign FSPs, 2012, and comes into operation on the date of publication thereof.



**D P TSHIDI,**  
Registrar of Financial Services Providers

**SCHEDULE**

**Compliance Report for Foreign FSPs for reporting period ended 31 August 2012**

**Scope**

In accordance with section 17(4) of the Act, I/we ..... the approved compliance officer(s), if appointed) or the sole proprietor or key individual of the FSP if no compliance officer is appointed, 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 2012.

Question	Column				
	1	2	3	4	5
	Yes	No	Not applicable	Develop- mental area	Note No. Comment/ Annexure
<b>1</b>					
1.1					
1.2					
1.3					
1.3.1					

**SECTION 1 – GENERAL**

**Conditions and restrictions imposed, made, given or issued by Registrar Sections 7, 8(4) (a) and (5) (b) of Act**

Does the FSP have procedures in place to ensure compliance with condition 1 of the licensing conditions requiring the FSP to update business information within 15 days of any change occurring?

Does the FSP verify that any FSP that it gives an instruction to, or from whom it receives an instruction, is authorised to render the relevant financial services in South Africa without any licence restriction in relation to the 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 the Act

Is the FSP regulated in terms of any other law (within or outside South Africa)? (Please note that this does not include membership of professional bodies.)

Question	Column				
	1 Yes	2 No	3 Not applicable	4 Develop - mental area	5 Note No. Comment/ Annexure
1.3.2					
1.3.3					
1.3.4					
1.4					
1.4.1					
1.4.2					
1.4.3					
1.5					
1.5.1					
1.5.2					
1.5.3					
1.5.4					

Question	Column				
	1 Yes	2 No	3 Not applicable	4 Develop- mental area	5 Note No. Comment/ Annexure
1.5.5					
1.5.6					
<b>2</b>					
2.1					
2.1.1					
2.2					
<b>3</b>					
3.1					
3.2					
3.3					
<b>4</b>					
4.1					

Column					
Question	1	2	3	4	5
	Yes	No	Not applicable	Develop - mental area	Note No. Comment/ Annexure
4.1.1	<i>If the answer to Question 4.1 is YES – Did the FSP comply with these requirements at all times during the reporting period?</i>				
4.2	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?				
4.3	Does the FSP prepare monthly accounting records as required by section 19 of the Act?				
<b>SECTION 2 – REPRESENTATIVES</b>					
5	<b>Representatives</b> <i>Sections 13 and 14 of the Act and section 8(8) of the Determination of Fit and Proper Requirements</i>				
5.1	Does the FSP have representatives? If YES, the Statistical Information Sheet (Section 6) must be answered.				
5.2	<b><i>If the answer to question 5.1 is YES, questions 5.3 to 5.6.1 must be answered.</i></b>				
5.3	Does the FSP have any juristic representatives?				
5.4	<b><i>If the answer to Question 5.3 is YES – questions 5.4.1 to 5.4.3 must be answered</i></b>				
5.4.1	Does the FSP have an agreement with each juristic representative?				
5.4.2	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?				
5.4.3	Does the FSP have procedures in place to ensure that juristic representatives have the necessary operational ability to render financial services to clients?				

Question	Column				
	1	2	3	4	5
	Yes	No	Not applicable	Develop - mental area	Note No. Comment/ Annexure
5.5					
5.6					
5.6.1					
<b>SECTION 3 – GENERAL CODE OF CONDUCT</b>					
6					
6.1					
6.1.1					
6.1.2					
6.1.3					
6.1.3.1					
6.1.4					
6.1.4.1					

Column					
	1	2	3	4	5
Question	Yes	No	Not applicable	Develop - mental area	Note No. Comment/ Annexure
6.1.5					
6.1.6					
6.1.7					
6.1.8					
6.1.9					
<b>7</b>					
7.1					
7.1.1					
7.2					
7.2.1					
7.3					



Question	Column				
	1	2	3	4	5
	Yes	No	Not applicable	Develop - mental area	Note No. Comment/ Annexure
7.3.1					
7.4					
7.5					
8					
8.1					
8.2					
8.3					
8.3.1					
8.3.2					
8.3.3					
8.3.4					

Question	Column				
	1	2	3	4	5
	Yes	No	Not applicable	Develop-mental area	Note No. Comment/ Annexure
<b>9</b>					
<b>Furnishing of advice and record of advice Sections 8 and 9 of General Code of Conduct</b>					
9.1					
Is the FSP licensed to furnish advice in South Africa?					
9.2					
Did the FSP furnish advice in South Africa as a regular feature of its business during the reporting period?					
9.3					
<b>If the answer to question 9.2 is YES – questions 9.3.1 and 9.3.2 must be answered:</b>					
9.3.1					
Does the FSP have procedures in place to ensure that an analysis of the client's financial situation and objectives is performed before advice is furnished?					
9.3.1.1					
<b>If the answer to Question 9.3.1 is NO - In a separate annexure, provide details on how and when (specific time frame) such procedures will be put in place. Indicate the annexure number in column 5.</b>					
9.3.2					
Does the FSP keep a record of advice and provide it to clients in accordance with section 9 of the General Code of Conduct? Provide details of non-compliance in a separate annexure and indicate the annexure number in column 5.					
<b>10</b>					
<b>Custody of financial products and funds Section 10 of General Code of Conduct</b>					
10.1					
Does the FSP receive or hold funds on behalf of clients in accounts other than in separate bank accounts in the name of the clients, or receive or hold financial products and those financial products are not held in safe custody by a custodian appointed by the client?					
10.2					
<b>If the answer to question 10.1 is YES – questions 10.2.1 to 10.2.4 must be answered</b>					
10.2.1					
Has the FSP notified the Registrar of the details of the auditor or accounting officer in terms of section 19 of the Act read with the Exemption of Certain Authorised Financial Services Providers from Requirements pertaining to Audited Financial Statements and Financial Soundness, 1 of 2003 and Exemption of Certain Authorised Financial Services Providers from Requirements pertaining to Audited Financial Statements (2), 2004?					

Question	Column				
	1 Yes	2 No	3 Not applicable	4 Develop - mental area	5 Note No. Comment/ Annexure
10.2.2					
10.2.2.1					
10.2.3					
10.2.4					
11					
11.1					
11.2					
12					
12.1					
12.2					
12.2.1					
12.2.2					
13					
13.1					

Question	Column				
	1 Yes	2 No	3 Not applicable	4 Developmental area	5 Note No. Comment/ Annexure
13.2					
13.2.1					
13.2.2					
<b>14</b>					
14.1					
14.2					
14.3					
14.4					
14.5					
<b>15</b>					
15.1					

Column					
Question	1		3	4	5
	Yes	No			
15.2					
15.3					
15.4					
15.5					
15.5.1					
15.5.2					
<b>SECTION 4 – COMPLIANCE FUNCTION</b>					
16					
16.1					
16.2					
16.2.1					

Question	Column				
	1	2	3	4	5
	Yes	No	Not applicable	Develop - mental area	Note No. Comment/ Annexure
16.3					
16.3.1					
17					
17.1					
17.1.1					
17.1.2					
17.1.3					
17.1.4					
17.1.5					
17.1.6					
17.1.7					
17.1.8					
17.1.9					
17.1.10					

	Column				
	1	2	3	4	5
<b>Question</b>	Yes	No	Not applicable	Develop - mental area	Note No. Comment/ Annexure
17.1.11					
17.2					

Other. Please provide details on type of monitoring in a separate annexure and indicate the annexure number in column 5.

In a separate annexure, provide an explanation as to how you did the monitoring. Please also include the extent of monitoring. Indicate the annexure number in column 5.





**SECTION 6 – STATISTICAL INFORMATION SHEET**

<b>6.1 REPRESENTATIVES AT REPORTING DATE</b>		
<b>TYPE OF INFORMATION REQUIRED</b>	<b>RELEVANT QUESTION NUMBER</b>	<b>NUMERIC AMOUNT</b>
Number of representatives	5.1	

<b>6.2 TYPE OF INSURANCE COVER</b>	<b>RELEVANT QUESTION NUMBER</b>	<b>CURRENCY</b>	<b>EXTENT OF COVER (NUMERIC AMOUNT)</b>
Professional Indemnity Cover as contemplated in section 5(e) and 13 of the General Code of Conduct	7.1		
Fidelity Insurance Cover as contemplated in sections 5(e) and 13 of the General Code of Conduct	7.2		
Guarantees as contemplated in section 13 of the General Code of Conduct	7.3		

**COMPLIANCE REPORT COMPLETED AND SIGNED BY FSP**

Name of FSP

FSP number

Name of key individual

ID number of key individual

Date appointed as key individual

Signature

Date

**COMPLIANCE REPORT COMPLETED AND SIGNED BY COMPLIANCE OFFICER(S)**

Name(s) of compliance officer(s) of FSP

ID number(s) of the compliance officer(s)

Name(s) of the compliance practice(s) (if applicable)

Reference number(s) of compliance officer(s)/practice(s)

Signature(s) of the compliance officer(s)

Date

Telephone number

Fax number

E-mail address

**Please note that all unsigned reports will be regarded as "Not Submitted".**

**DECLARATION COMPLETED AND SIGNED BY COMPLIANCE OFFICER(S) SUBMITTING 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/Financial Services Providers for reporting period \_\_\_\_\_ (insert period) to \_\_\_\_\_ (insert period).

In accordance with section 17(4) of the Act, I/we \_\_\_\_\_ (being the approved compliance officer(s)) hereby report as follows as regards compliance by \_\_\_\_\_ (insert full names of FSP and FSP number) and any representative and key individual of the FSP with the Act, for the reporting period.

Having completed the attached annual compliance report for the FSP, I/we hereby confirm 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 annual compliance report may be subject to verification by the Registrar of Financial Services Providers, and should I/we knowingly submit false, incorrect or misleading information to the Registrar, this may impact on my/our compliance with the Determination of 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** \_\_\_\_\_ (day) \_\_\_\_\_ (month) \_\_\_\_\_ (year).

**Signature(s):** \_\_\_\_\_