BOARD NOTICE 104 OF 2004

FINANCIAL SERVICES BOARD

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

EXEMPTION REGARDING CERTAIN MINIMUM QUALIFICATIONS

I, Jeffrey van Rooyen, Registrar of Financial Services Providers, hereby exempt under section 44 of the Financial Advisory and Intermediary Services Act, 2002 (Act No. 37 of 2002), certain persons from certain minimum qualifications required for authorisation as financial services providers, subject to certain conditions in respect thereof, as set out in the Schedule.

J VAN ROOYEN,

Registrar of Financial Services Providers

SCHEDULE

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

EXEMPTION OF CERTAIN FINANCIAL SERVICES PROVIDERS FROM REQUIREMENTS PERTAINING TO MINIMUM QUALIFICATIONS

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 has been assigned in the Act, read with the definition of "this Act" in section 1(1) of the Act, has that meaning and, unless the context otherwise indicates-

"benefits", in relation to a friendly society, means a benefit provided by the society-

(a) towards the expenses in connection with the death or funeral of any member of the friendly society or husband, wife, widow, widower, child or other relative or dependant of such member; or

(b) during a period of confined mourning by a member or other person referred to in paragraph (a);

"Column Four requirements" means the conditions/restrictions referred to in Column Four of Table A of paragraph 3(1) of the Fit and Proper Determination applying in relation to minimum qualifications, appearing opposite thereto in Column Three, for the rendering of a financial service in connection with the financial products mentioned in paragraph (a) or (b) of the definition of "provider";

"Fit and Proper Determination" means the Determination of Fit and Proper Requirements for Financial Services Providers, 2003, published by Board Notice No. 91 of 2003 in *Gazette* No. 25446 of 10 September 2003, as amended;

"provider" means a person belonging to Category I as defined in paragraph 1(1) of the Fit and Proper Determination who renders a financial service in connection with-

(a) financial products belonging to Long-term Insurance Category A, referred to in subcategory (1) in Column One of Table A of paragraph 3(1) of the Fit and Proper Determination; or

(b) a benefit provided by a friendly society, referred to in subcategory (14) in Column One of Table A of paragraph 3(1) of the Fit and Proper Determination,

and who-

(i) has submitted an application for authorisation in terms of section 8(1) of the Act before or on 29 September 2004; or

(ii) has submitted an application for authorisation in terms of section 8(1) of the Act after 29 September 2004, but prior to 31 December 2004;

and includes, where applicable, any key individual of the provider;

"required minimum qualifications" means the minimum academic standard, qualifications or professional status referred to in Column Three of Table A of paragraph 3(1) of the Fit and Proper Determination in respect of the rendering of a financial service in connection with the financial products mentioned in paragraph (a) or (b) of the definition of "provider".

Objectives of exemption

2. The Exemption in respect of certain Applicants for Authorisation, 2004, published by Board Notice 94 of 2004 in *Gazette* No. 26820 of 23 September 2004 applies to a provider referred to in subparagraph (i) of the definition of "provider". The need has been identified to extend that Exemption to a provider so defined who has submitted an application for authorisation after 29 September 2004, but prior to 31 December 2004.

Section 8(1) of the Act provides that the registrar must be satisfied that a financial services provider is competent to act with reference to requirements contained in the Fit and Proper Determination, which include certain required minimum qualifications.

The registrar has determined from information obtained and exemption applications submitted that there would be many providers, as referred herein, who will not comply with the required minimum qualifications.

The objective of this Exemption is to relieve such provider from the obligation under section 8(1) to comply with the required minimum qualifications, subject to certain conditions.

The registrar is satisfied that the requirements of subsection (4), read with subsections (1), (2) and (3), of section 44 of the Act are met for a temporary relaxation of the required minimum qualifications for providers.

Extent of exemptions and conditions

3. (1) (a) A provider referred to in subparagraph (ii) of the definition of "provider" is hereby exempted from section 7(1) of the Act, subject to the condition that the provider must during the duration of the exemption inform all clients of their rights to submit complaints (if any) against the applicant to the Ombud for Financial Services Providers by virtue of section 26(1)(a)(iii) of the Act, read with the applicable provisions of the Rules on Proceedings of the Office of the Ombud for Financial Services Providers as published in the *Gazette*, pending finalisation of the provider's application by the registrar.

(b) The exemption referred to in paragraph (a) continues until the date on which the application of the provider is finally granted or the date on which the application is finally refused by the registrar.

(2) A provider is hereby exempted under section 44(4) of the Act until 30 September 2007 from the obligation under section 8(1) of the Act to comply with the required minimum qualifications, subject to the condition that the provider who has on a date six months prior to 30 September 2007 not yet complied fully with the required minimum qualifications, as may then be applicable, must inform the registrar in writing (including any electronic communication) of the steps taken to ensure full compliance by the expiry date.

(3) (a) A provider is hereby exempted under section 44(4) of the Act from the provisions relating to further conditions/restrictions operating from "date of licensing" appearing in the relevant Column Four requirement, subject to the condition that the reference to "date of licensing" is read as a reference to "the date of full compliance with the 'required minimum *qualifications' as defined in paragraph 1 of the Exemption* regarding Certain Minimum Qualifications, 2004".

(b) A key individual of a provider is hereby exempted under section 44(4) of the Act from the provisions relating to further conditions/restrictions operating from the "date of appointment" of the key individual in the relevant Column Four requirement, subject to the condition that the reference to "date of appointment" is read as a reference to "the date of full compliance with the 'required minimum qualifications' as defined in paragraph 1 of the Exemption regarding Certain Minimum Qualifications, 2004".

Amendment and withdrawal of exemptions and conditions

4. The exemptions and conditions set out in paragraphs 3 may at any time during the currency of the exemptions-

(a) be amended by the registrar by notice in the *Gazette*;

(b) be withdrawn by the registrar in like manner.

Short title and commencement

5. This Exemption is called the Exemption regarding Certain Minimum Qualifications, 2004, and comes into operation on the date determined by the Minister in terms of section 7(1) of the Act.