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GENERAL NOTICE

NOTICE 3196 OF 2003

FINANCIAL SERVICES BOARD

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

AMENDMENT OF CODES OF CONDUCT FOR ADMINISTRATIVE AND DISCRETIONARY FSPs

I, Jeffrey van Rooyen, Registrar of Financial Services Providers, hereby, after consultation with the Advisory Committee on Financial Services Providers, under section 15 of the Financial Advisory and Intermediary Services Act, 2002 (Act No. 37 of 2002), publish amendments to the Codes of Conduct for Administrative and Discretionary FSPs, 2003, as set out in the Schedule hereto.

J VAN ROOYEN,

Registrar of Financial Services Providers

SCHEDULE

AMENDMENT OF CODES OF CONDUCT FOR ADMINISTRATIVE AND DISCRETIONARY FSPs

[General Note:
In this Schedule words underlined in bold indicate insertions in existing enactments, and words in brackets indicate deletions from existing enactments.]

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

"Codes of Conduct" means the Codes of Conduct for Administrative and Discretionary FSPs, 2003, published in Board Notice 79 of 2003 in *Gazette* No. 25299 of 8 August 2003.

Amendment of Arrangement of Sections in Chapter I of Codes of Conduct

2. The Arrangement of Sections in Chapter I of the Codes of Conduct is hereby amended by the substitution in the second column for the heading of Part II of the following heading:

"Transitional provision and **[Short]** short title".

Substitution of Part III of Chapter 1 of Codes of Conduct

3. Chapter I of the Codes of Conduct is hereby amended by the substitution for Part III of the following Part-

" PART III

Transitional provision and **[Short]** short title

11.1 **[This Chapter is called the Code of Conduct for Administrative FSPs]** In this section-

"Conditions" means the Conditions applicable to Investment Managers and Linked Investment Services Providers determined under section 4(1)(c) of the Stock Exchanges Control Act, 1985 (Act No. 1 of 1985), and section 5(1)(c) of the Financial Markets Control Act, 1989 (Act No. 55 of 1989), and published by Board Notice 1584 of 2001 and Board Notice 1583 of 2001, respectively;

"LISP" means a linked investment services provider as defined in the Conditions and approved in terms of section 4(1)(a) of the Stock

Exchanges Control Act, 1985, or section 5(1)(a) of the Financial Markets Control Act, 1989, before the date determined by the Minister in terms of section 7(1) of the Act.

11.2 A mandate and/or application form entered into before the date determined by the Minister in terms of section 7(1) of the Act between a LISP and a client and approved by the Registrar of Stock Exchanges or the Registrar of Financial Markets in terms of the Conditions is, if the LISP becomes an administrative FSP with effect from that date, and until lawful termination of the mandate thereafter, deemed to be a mandate fully complying with section 5(1) of this Chapter, notwithstanding that the mandate does not in all respects comply with the requirements set out in section 5(2) thereof.

11.3 This Chapter is called the Code of Conduct for Administrative FSPs, 2003.".

Amendment of Arrangement of Sections In Chapter II of Codes of Conduct

4. The Arrangement of Sections in Chapter II of the Codes of Conduct is hereby amended by the substitution in the second column for the heading of Part II of the following heading:

"Transitional provision and **[Short]** short title".

Substitution of section 8 of Part III of Codes of Conduct

5. Section 8 of Part III of the Codes of Conduct is hereby amended by the substitution of the following section-

"A discretionary FSP [must] may establish a nominee company with the sole object of being the registered holder and custodian of the investments of clients, subject to such conditions and restrictions as may be imposed by the Registrar under section 8(4) of the Act, and the applicable provisions of the regulations made under the Act, and enter into a written agreement with the company, which provides for termination of the agreement by either party on written notice of not less than 90 days. Where a discretionary FSP elects not to establish such a nominee company, an appropriate existing nominee company, approved by the Registrar, must be utilised by the discretionary FSP."

Substitution of Part III of Chapter II of Codes of Conduct

6. Chapter II of the Codes of Conduct is hereby amended by the substitution for Part III of the following Part-

" **PART III**

Transitional provision and **[Short]** short title

9.1 **[This Chapter is called the Code of Conduct for Discretionary FSPs]** In this section-

"Conditions" means the Conditions applicable to Investment Managers and Linked Investment Services Providers determined under section 4(1)(c) of the Stock Exchanges Control Act, 1985 (Act No. 1 of 1985), and section 5(1)(c) of the Financial Markets Control Act, 1989 (Act No. 55 of 1989), and published by Board Notice 1584 of 2001 and Board Notice 1583 of 2001, respectively;

"Investment manager" means an investment manager as defined in the Conditions and approved in terms of section 4(1)(a) of the Stock Exchanges Control Act, 1985, or section 5(1)(a) of the Financial Markets Control Act, 1989, before the date determined by the Minister in terms of section 7(1) of the Act;

9.2 A mandate entered into before the date determined by the Minister in terms of section 7(1) of the Act between an investment manager and a client and approved by the Registrar of Stock Exchanges or the Registrar of Financial Markets in terms of the Conditions is, if the investment manager becomes a discretionary FSP with effect from that date, and until lawful termination of the mandate thereafter, deemed to be a mandate fully complying with section 5(1) of this Chapter, notwithstanding that the mandate does not in all respects comply with the requirements set out in that section.

9.3 This Chapter is called the Code of Conduct for Discretionary FSPs, 2003.".

Short title and commencement

6. This Notice is called the Notice on Amendment of Codes of Conduct for Administrative and Discretionary FSPs, No. 1 of 2003, and comes into operation on the date determined by the Minister in terms of section 7(1) of the Act.

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