



Government Gazette Staatskoerant

REPUBLIC OF SOUTH AFRICA
REPUBLIEK VAN SUID-AFRIKA

Vol. 478

Pretoria, 22 April 2005

No. 27515



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BOARD NOTICE RAADSKENNISGEWING

BOARD NOTICE 42 OF 2005 FINANCIAL SERVICES BOARD

FINANCIAL SERVICES BOARD ACT, 1990

LEVIES ON FINANCIAL INSTITUTIONS

The Financial Services Board referred to in section 2 of the Financial Services Board Act, 1990 (Act No. 97 of 1990), hereby under section 15A of the said Act imposes the levies set out in the Schedule on financial institutions.

By order of the Financial Services Board.



Dr C Rustomjee

Chairperson: Financial Services Board

SCHEDULE

Definitions

1. In this Notice any word or expression to which a meaning has been assigned in any financial services law, has the meaning so assigned to it and, unless the context indicates otherwise -
 - (i) **"Board"** means the Financial Services Board referred to in the Act; (iv)
 - (ii) **"financial services law"** means the Act, and any other act referred to in paragraph (a) of the definition of "financial institution" in section 1 of the Act ; (v)
 - (iii) **"levy year"** means the period from 1 April 2005 to 31 March 2006 and, subject to this Notice and any amendment or repeal thereof, such corresponding period in succeeding years, in respect of which levies are imposed; (iii)
 - (iv) **"relevant Registrar"** means the Registrar mentioned in a financial services law concerned; (i)
 - (v) **"the Act"** means the Financial Services Board Act, 1990 (Act No. 97 of 1990). (ii)

Imposition of levies

2. The levy specified in an item of this Notice is hereby imposed in respect of the financial institution referred to in that item and in respect of the levy year.

Levy on pension funds

3. (1) In respect of a pension fund registered or provisionally registered in terms of the Pension Funds Act, 1956 (Act No. 24 of 1956) (including a preservation fund), excluding a retirement annuity fund as defined in section 1 of the Income Tax Act, 1962 (Act No. 58 of 1962), the levy is an amount of R848, plus an additional amount of R7 per member of such fund and R7 in respect of every other person who receives regular periodic payments from such fund, or R1 403 470, which total amount is the lesser. A pension fund registered under an umbrella scheme must pay an additional levy of R220 in respect of each participating employer. The maximum levy applies in respect of every participating employer and not in respect of the umbrella scheme as such.
- (2) In the case of a pension fund that is not exempted in terms of section 2(3)(a) of the Pension Funds Act, 1956, read with regulation 1 of the regulations published by Government Notice No. R.98 of 26 January 1962, the calculation of the levy referred to in subitem (1) is based on the number of members and other persons referred to in that subitem, as that number is reflected in the latest statistics furnished to the relevant Registrar in terms of any law, and on file with the Board on 31 August of the levy year. If a transfer of members is in process and not finalised on 31 August of the levy year, the transferor must pay the levy in respect of the members to be transferred. Where the appointment of a liquidator of a fund is approved by the Registrar during the levy year, the levy for the fund is payable for the full levy year and no further levy will thereafter be payable.
- (3) In the case of a pension fund that is exempted in terms of section 2(3)(a) of the Pension Funds Act, 1956, read with regulation 1 of the regulations published by Government Notice No. R.98 of 26 January 1962, the calculation of the levy referred to in subitem (1) is based on the number of members and other persons referred to in that subitem, as that number is reflected in the latest statistics furnished to the relevant Registrar in terms of any law –

- (a) on the date of publication of this Notice for the purpose of provisional payment of the levy; and
- (b) on file with the Board on 30 June of the levy year for the purpose of finalising the levies.

If a transfer of members is in process and not finalised on 31 August of the levy year, the transferor must pay the levy in respect of the members to be transferred. Where the appointment of a liquidator of a fund is approved by the Registrar during the levy year, the levy for the fund is payable for the full levy year and no further levy will thereafter be payable.

- (4) In the case of a pension fund that is exempted in terms of section 2(2) of the Pension Funds Act, 1956, from the provisions, other than sections 3 and 4(1) and (2), of that Act, the calculation of the levy referred to in subitem (1) is based on the number of members and other persons referred to in that subitem who are South African citizens, resident in the Republic, as that number is reflected in the latest statistics furnished to the relevant Registrar in terms of any law, and on file with the Board on 30 June of the levy year. Where the appointment of a liquidator of a fund is approved by the Registrar during the levy year, the levy for the fund is payable for the full levy year and no further levy will thereafter be payable.
- (5) The levies referred to in subitem (1), which are payable by a pension fund referred to in -
 - (a) subitems (2) and (4), must be paid not later than 31 October of the levy year; and
 - (b) subitem (3), must, in the case of the provisional payment, be paid not later than 12 May of the levy year and the balance within 30 days from the date of final invoice.

Levy for Pension Funds Adjudicator

- 4. In respect of a pension fund registered or provisionally registered in terms of the Pension Funds Act, 1956, including a retirement annuity fund as defined in section 1 of the

Income Tax Act, 1962, the levy for the Pension Funds Adjudicator is an amount of R1,35 per member of such fund and any other person who receives regular periodic payments from such fund. This levy may be paid with the levy referred to in item 3(1), where applicable, and is payable on the date specified in item 3(5).

Levy on retirement annuity fund

5. (1) In respect of a retirement annuity fund referred to in item 3(1), the levy is an amount of R848 plus an additional amount equal to 0.0075% of the value of the assets of the fund. Where the appointment of a liquidator of a fund is approved by the Registrar during the levy year, the levy for the fund is payable for the full levy year and no further levy will thereafter be payable. The value of the assets of a retirement annuity fund is for the purposes of this subitem -
- (a) in the case of a fund not exempted in terms of section 2(3)(a) of the Pension Funds Act, 1956, read with regulation 1 of the regulations published by Government Notice No. R.98 of 26 January 1962, the value of those assets of the fund determined at the time of the valuation thereof by the insurer for the purpose of determining its liabilities excluded in item 8(2)(b) from the definition of "liabilities", as well as any other assets held by the fund to enable it to meet its obligations towards its members; and
 - (b) in the case of a fund exempted in terms of section 2(3)(a) of the Pension Funds Act, 1956, read with regulation 1 of the regulations published by Government Notice No. R. 98 of 26 January 1962, the value of those assets of the fund determined at the time of the valuation thereof by the insurer for the purpose of determining its liabilities excluded in item 8(2)(b) from the definition of "liabilities".
- (2) The calculation of the value of the assets of a retirement annuity fund must include the value of a contract, if any, in which a long-term insurer, in return for the payment of a premium, undertakes to provide policy benefits for the purpose of funding in whole or in part the liability of a retirement annuity fund to provide benefits to its members in terms of its rules.
- (3) The levy referred to in subitem (1) which are payable by a retirement annuity fund referred to in -

- (a) subitem 1 (a), must be paid not later than 31 October of the levy year; and
- (b) subitem 1 (b), must, in the case of the provisional payment, be paid not later than 12 May of the levy year and the balance within 30 days from the date of final invoice.

Levy on friendly societies

6. (1) In respect of a friendly society registered or provisionally registered in terms of section 3(2)(a) of the Friendly Societies Act, 1956 (Act No. 25 of 1956), the levy is an amount of R85 plus an additional amount of 75c per member of such society (excluding a person who receives policy benefits under a contract which relates exclusively to such particular person and is issued by a long-term insurer registered or deemed to be registered in terms of the Long-term Insurance Act, 1998), or R1 800, which total amount is the lesser.
- (2) The calculation of the levy referred to in subitem (1) is based on the number of members who contribute to the society, as that number is reflected in the latest available statistics on file with the Board on 31 August of the levy year and furnished to the relevant Registrar in terms of any law.
- (3) The levy referred to in subitem (1) must be paid not later than 31 October of the levy year.

Levy on short-term insurers and underwriters at Lloyd's

7. (1) In respect of an insurer registered in terms of the Short-term Insurance Act, 1998 (Act No. 53 of 1998), to carry on short-term insurance business, the levy shall be based on estimated gross premium income, including any rebates, for the insurer's financial year ending during the period from 1 July to 31 March of the current levy year or ending during the period from 1 April to 30 June of the following levy year, adjusted after the end of its financial year in accordance with its actual audited gross premium income, including any rebates. Irrespective of the length of the financial period of the insurer, the levy shall be an amount equal to 0,122% of the first R60 million gross premium income, including any rebates, plus 0,0281% thereafter, or R12 200, whichever total amount is the greater. The rate in force as

at the end of the financial period of the insurer shall be applicable for the whole of the period ending on such date.

- (2) In respect of a person appointed in terms of section 57(1) of the Short-term Insurance Act, 1998, the levy shall be based on estimated gross premium income for the calendar year ending on 31 December of the levy year, but adjusted annually after 31 December in accordance with the gross premium income which was received on behalf of underwriters at Lloyd's in the Republic for the previous calendar year as published in the Annual Report of the Registrar of Short-term Insurance. The levy shall be an amount equal to 0,122% of the first R60 million gross premium income plus 0,0281% thereafter, or R12 200, whichever total amount is the greater.
- (3) A short-term insurer which was registered or deemed to be registered in terms of the Short-term Insurance Act, 1998, on any day of the levy year, must pay the full levies referred to in subitem (1).
- (4) The levy based on estimated premium income shall be paid in two instalments before or on 12 May and 31 October of the levy year. The adjustment referred to in subitem (1) shall be combined with the first or second payment after the end of the insurer's financial year. In the case of Lloyd's it shall be combined with the October payment.

Levy on long-term insurers

8. (1) In respect of a long-term insurer which is registered or deemed to be registered in terms of the Long-term Insurance Act, 1998, (Act No. 52 of 1998), and authorised to -
 - (a) enter into one or more than one disability policy, fund policy, health policy, life policy or sinking fund policy or one or more of those policies and an assistance policy, the levy is an amount of R42 100 plus 0,0075% of the liabilities under unmaturing long-term policies; or
 - (b) enter into an assistance policy only, the levy is an amount of R4 210 plus 0,0075% of the liabilities under unmaturing long-term policies.

- (2) The expression "liabilities under unmatured long-term policies" in sub-items (1)(a) and (b) -
- (a) means the liabilities as determined at the end of the long-term insurer's financial year which ended in the calendar year preceding the levy year, and the value of such liabilities are the gross liabilities under unmatured policies reflected against the item "Gross policy liabilities" in column 9 of Statement C9 of Form LT2000, or means, if the long-term insurer had no financial year which ended in the calendar year preceding the levy year, the gross liabilities as reflected at the end of the long-term insurer's financial year which ended in the calendar year preceding the previous levy year;
- (b) excludes the liabilities under a contract, in terms of which the long-term insurer, in return for the payment of a premium, undertakes to provide policy benefits for the purpose of funding in whole or in part the liability of a friendly society, as defined in section 1 of the Friendly Societies Act, 1956, or a pension fund organisation, as defined in section 1 of the Pension Funds Act, 1956, to provide benefits to its members in terms of its rules: Provided that such excluded liabilities do not include liabilities under a contract relating exclusively to a particular member of a friendly society or a pension fund organisation, or to the surviving spouse, children, dependants or nominees of a particular member of such friendly society or pension fund organisation.
- (3) A long-term insurer which was registered or deemed to be registered in terms of the Long-term Insurance Act, 1998, -
- (a) on 1 April of the levy year, must pay the full levies referred to in subitems (1)(a) and (b) in accordance with subitem (4); or
- (b) after 1 April but not after 1 October of the levy year, must pay half the levies referred to in subitems (1)(a) and (b) in one amount as the only payment, before or on 31 October of the levy year.
- (4) The levies referred to in subitem (3)(a) must be paid in two instalments, namely -

- (a) 50% of the levy or, if the actual amount is not available, a reasonable estimate of such levy based on a reasonable estimate of the value of the liabilities referred to in subitem (2), on or before 12 May of the levy year; and
- (b) the balance before or on 31 October of the levy year; and
- (c) if the payment was based on an estimate as referred to in subitem (4)(a), an adjustment in accordance with the actual value of the liabilities referred to in subitem (2) must be combined with the next levy payment after such actual value has been determined and furnished to the Board.

Levy on intermediaries

9. (1) In respect of an agent, broker or other person referred to in section 45 of the Short-term Insurance Act, 1998, the levy is an amount equal to 0,02646% of the total gross premiums as reported on by an auditor or accounting officer, as the case may be, in terms of regulation 4.4 under the said Act, which was received by such agent, broker or other person during his most recent financial year on behalf of registered insurers, and underwriters at Lloyd's, or R75, whichever total amount is the greater.
- (2) The levy referred to in subitem (1), must be paid not later than 30 September of the levy year and shall be based on the total gross premiums on 31 July of each levy year as provided by the South African Insurance Association, subject to a maximum of R1,89 billion.

Levy on collective investment schemes in securities

10. In respect of collective investment schemes in securities, as referred to in the Collective Investment Schemes Control Act, 2002 (Act No. 45 of 2002), the levy is a total amount of R4 788 000, plus any amount payable in terms of the proviso hereto, for all such schemes administered by a manager registered in terms of section 42 of the said Act at any time during the levy year. The amount shall be payable in four quarterly instalments on or before 30 June, 30 September, 31 December and 31 March of the levy year. The quarterly amounts are paid on the basis of statistics as at the end of the preceding quarter and are apportioned amongst all managers registered at that date. The calculation of levies due is as follows:

- (a) 10% apportioned equally between all managers;
- (b) 60% apportioned according to the number of portfolios administered by each manager; and
- (c) 30% apportioned in proportion to the total assets administered by each manager:

Provided that if a manager is not a member of the Association of Collective Investments, a company registered under section 21 of the Companies Act, 1973 (Act No. 61 of 1973), the amounts payable in terms of paragraphs (a), (b) and (c) are doubled.

Levy on foreign collective investment schemes

11. (1) In respect of foreign collective investment schemes approved in terms of section 65 of the Collective Investment Schemes Control Act, 2002, the levy is payable in four quarterly instalments, each instalment consisting of -

- (a) R3 682 in respect of each scheme; plus
- (b) R1 895 in respect of each portfolio, fund or sub-scheme; plus
- (c) 0,000170% of the net amount of assets managed on behalf of South African investors:

Provided that if an approved foreign collective investment scheme is not an associate member of the Association of Collective Investments referred to in item 10, the amounts payable in terms of paragraphs (a), (b) and (c) are doubled.

- (2) The amounts shall be payable in four quarterly instalments on or before 30 June, 30 September, 31 December and 31 March of the levy year and should be paid in South African currency. The amounts are calculated on the basis of statistics as at the end of the preceding quarter, which statistics must be furnished to the Registrar within 30 days after such quarter end.
- (3) For the purposes of subitem (2) the statistics to be furnished to the relevant Registrar must contain details of all sales and redemptions or buy-backs in South Africa.

- (4) Levies are payable in respect of all months falling within any relevant quarter.

Levy on collective investment schemes in property

12. (1) In respect of a manager of a collective investment scheme in property, as referred to in the Collective Investment Schemes Control Act, 2002, the levy is an amount of R48 690 on every portfolio of such scheme administered by a manager registered in terms of section 51 of the said Act, at any time during the levy year: Provided that if a registered manager is not a member of the Association of Property Unit Trust Management Companies, the amount of the levy payable is doubled.
- (2) The levy referred to in subitem (1) must be paid not later than 12 May of the levy year.

Levy on collective investment schemes in participation bonds

13. (1) In respect of a manager, administering a collective investment scheme in participation bonds, registered in terms of section 53 of the Collective Investment Schemes Control Act, 2002, the levy is an amount of R4 844, plus an amount calculated by multiplying the aggregate amount owing by mortgagors on 31 December of the year preceding the levy year, by the figure of 0,00995 %.
- (2) The levy referred to in subitem (1) must be paid not later than 12 May of the levy year.

Levy on exchanges

14. (1) In respect of the JSE Securities Exchange South Africa, licensed in terms of section 10 of the Securities Services Act, 2004 (Act No. 36 of 2004), the levy is an amount of R4 434 600.
- (2) In respect of the Bond Exchange of South Africa, licenced in terms of section 10 of the Securities Services Act, 2004 (Act No. 36 of 2004), the levy is an amount of R1 755 600.

- (3) The levies referred to in subitem (1) and (2) must be paid not later than 12 May of the levy year.

Levy on authorised financial services providers

15.(1) Subject to subitem (4), a person who is authorised in terms of section 8 of the Financial Advisory and Intermediary Services Act, 2002 (Act No.37 of 2002), as a Category I financial services provider as defined in the *Determination of Fit and Proper Requirements for Financial Services Providers* in Board Notice 91 of 2003 (published in *Gazette* No. 25446 of 10 September 2003, as amended by Board Notice 101 of 2004, published in *Gazette* No 26844 of 29 September 2004), excluding any such provider who is also a Category II or III provider referred to in subitem (3), must pay the levy referred to in subitem (2) on or before 30 November of the levy year.

- (2) The levy, which is subject to a maximum of R684 000, is calculated as follows:

(a) a base amount of R1 710, and

(b) $A \times R285$

where -

A = the total number of key individuals of the financial services provider approved by the registrar plus the total number of representatives appointed by the financial services provider, as at 30 September of the levy year, as the case may be

- (3) Subject to subitem (4), a person who is authorized in terms of section 8 of the Financial Advisory and Intermediary Services Act, 2002, as a Category II or III financial services provider as defined in the *Determination of Fit and Proper Requirements for Financial Services Providers* referred to in subitem (1), must pay on or before 30 November of the levy year a levy calculated as follows:

(a) a base amount of R3 680; and

(b) $A \times 0.00001$; and

(c) $B \times R285$

where -

A = the total value of investments managed on behalf of clients in terms of the authorisation as a financial services provider on 30 March 2005 of the previous levy year subject to a maximum of R68,032 billion: Provided that investments under management held in foreign currency, must be included at the exchange rate published in the Press as at that date; and

B = the total number of key individuals of the financial services provider approved by the registrar plus the total number of representatives appointed by the financial services provider, as at 30 September of the levy year.

- (4) Multiple authorised financial services providers who form part of the same legal entity are jointly and severally liable for payment of a single levy as referred to in subitem (2) or (3), as the case may be. For the purpose of such payment, the key individuals and the representatives of such authorised financial services providers are deemed to be the key individuals and representatives of one authorised financial services provider.
- (5) This item does not affect the operation of any provision of Board Notice 1 of 2005 (*Gazette* No. 27162 of 10 January 2005), which remains, subject to its terms and objectives, applicable within its ambit of application.

Levy for Funding of Office of Ombud for Financial Services Providers

16. (1) Subject to subitem (3), a person who is authorized in terms of section 8 of the Financial Advisory and Intermediary Services Act, 2002 (Act No. 37 of 2002), as a Category I, II or III financial services provider as defined in the *Determination* referred to in item 15(1), must pay the levy referred to in subitem (2) before or on 30 November of the levy year.
- (2) The levy, which is subject to a maximum of R68 500, is calculated as follows:
- (a) a base amount of R342, and

(b) $A \times R114$

where -

A = the total number of key individuals of the financial services provider approved by the registrar plus the total number of representatives appointed by the financial services provider, as at 30 September of the levy year.

- (3) Multiple financial services providers who form part of the same legal entity are jointly and severally liable for payment of a single levy as referred to in subitem (2). The key individuals and the representatives of such authorized financial services providers are for the purpose of payment of the levy deemed to be the key individuals and representatives of one authorised financial services provider.
- (4) This item does not affect the operation of any provision of Board Notice 1 of 2005 (*Gazette* No. 27162 of 10 January 2005), which remains, subject to its terms and objectives, applicable within its ambit of application.

Levy on central securities depositories

- 17.(1) In respect of STRATE Ltd., licenced in terms of section 32 of the Securities Services Act, 2004 (Act No. 36 of 2004), the levy is an amount of R1 216 380.
- (2) The levy referred to in subitem (1) must be paid not later than 12 May of the levy year.

Levy on financial markets in respect of market abuse

- 18.(1) The levy for the payment of the costs of performing the functions of the Board and the Directorate of Market Abuse in terms of the Securities Services Act, 2004 (Act No. 36 of 2004), is payable by the exchanges of South Africa, namely the JSE Securities Exchange South Africa and the Bond Exchange of South Africa. The total levy for the levy year amounts to R8 094 000.
- (2) The total levy is calculated and payable on the following basis:

- (a) The JSE Securities Exchange South Africa pays the amount of R1 618 800, being 20% of the total levy, before or on 12 May of the levy year.
 - (b) The Bond Exchange of South Africa pays the amount of R809 400, being 10 % of the total levy, before or on 12 May of the levy year.
 - (c) The balance of the total levy, being R5 665 800, is payable in four instalments on a user-pay basis by the exchanges where market abuse investigations were executed. The amount is payable in quarterly instalments before or on 30 June, 30 September, 31 December and 31 March of the levy year.
- (3) In addition to the total levy referred to in subitem (1), the legal costs actually incurred by the Board in respect of market abuse litigation are payable quarterly in arrears by the relevant exchange.

GENERAL

Payment of levies

19. (1) The levies and interest (if any) referred to in this Notice shall, subject to the provisions of this Notice, be payable by a financial institution concerned to the Board by means of a cheque, postal order or money order, or a money transfer.
- (2) On amounts of overdue levies, interest will be charged at a rate equal to the prevailing prime overdraft rate of the Standard Bank of South Africa Ltd.
- (3) The levies referred to in this Schedule includes VAT.

Application for exemption

20. (1) An application by any financial institution for the granting under section 15A(4) of the Act of exemption from a provision of this Notice shall be submitted in writing to the Executive Officer, Financial Services Board, P O Box 35655, Menlo Park, 0102, on a date at least one month before the date on which the exemption is in accordance with the application to take effect.

- (2) Such application shall contain full particulars of the financial institution, the authorisation of the persons signing the application and the date on which the exemption is to take effect, if granted, and shall set out fully the reasons for the application.
- (3) The application shall -
 - (a) contain an affirmation by the financial institution concerned to provide, on receipt of any such request, the Executive Officer of the Board forthwith with any other or further information or particulars which the Board may require in connection with the institution or application concerned; and
 - (b) contain particulars of the address at which the institution will accept service by the Board of any notice contemplated in section 15A(4)(b)(ii) of the Act.
- (4) A notice referred to in section 15A(4)(b)(ii) of the Act shall on the authority of the Board be served by the Executive Officer by registered post at the address furnished by the financial institution in accordance with subitem (3)(b) in its application for exemption.

Consolidated payments

- 21.** Where in any particular levy year a body regarded by the Board as fully representative of a category of financial institutions, offers to make a consolidated payment of levies on behalf of that category in terms of an agreement concluded between such category and the body, the Board may accept such offer if the payment is made in accordance with the provisions of this Notice: Provided that if for any reason such consolidated payment is not so made on the relevant dates of payment, every individual financial institution concerned shall remain fully responsible for the individual payment payable by it, plus interest (if any) on that amount calculated in accordance with item 19 (2).

Withdrawal of notices and saving

- 22.** (1) Board Notice 54 of 7 May 2004 is, subject to subitem (2), withdrawn.
- (2) If on the date of coming into operation of this Notice a financial institution has not yet fully paid a levy and interest due thereon, as imposed in terms of a provision of

a notice mentioned in subitem (1), any such provision, together with any other provision of such notice which relates to the first-mentioned provision, shall be deemed in respect of the institution concerned and the relevant due amount not to be withdrawn by subitem (1) until such debt is fully discharged.