**Notice is hereby given that Board Notice 566 of 2008 in Gazette No. 31244 of 14 July 2008 is hereby repealed and replaced with the following:**

**BOARD NOTICE 85 OF 2008**

**FINANCIAL SERVICES BOARD**

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

**DETERMINATION OF FORM OF EXTERNAL AUDITOR'S REPORT (SECTION 19(3) OF THE ACT)**

In terms of section 19(3) of the Financial Advisory and Intermediary Services Act, 2002 (Act No. 37 of 2002) ("the Act"), I Dube Phineas Tshidi, Registrar of Financial Services Providers ("the Registrar"), by this notice and its annexure, determine the form and manner in which the report referred to in section 19(3) of the Act ("section 19(3) auditor's report") must be submitted, and the following matters regarding thereto:

(a) If the provider's financial year end is after 30 June 2008, such provider must submit a written section 19(3) auditor's report to the Registrar conforming to the report in the annexure, simultaneously with the financial statements referred to in section 19(2) of the Act.

(b) If the provider's financial year end is before or on 30 June 2008, such provider must submit a written section 19(3) auditor's report conforming to the report in the annexure, or conforming to the report determined in the Determination of Form of External Auditor's Report (Section 19(3) of the FAIS Act), 2005, simultaneously with the financial statements referred to in section 19(2) of the Act.

(c) Where report options are granted in the wording of the annexure, or a non-applicable section appears therein, the non-applicable option or section must be deleted and initialled;

(d) Any additional comments which the auditor wishes to make must be attached in separate signed attachments;

(e) In this notice and the annexure, unless the context indicates otherwise –

(i) any word or expression shall have the meaning that it was assigned in the Act;

(ii) "General Code of Conduct" means the General Code of Conduct for Authorised Financial Services Providers and Representatives,

2003, as published by Board Notice No. 80 of 2003 in *Gazette* No. 25299 of 8 August 2003;

(iii) "Provider" means an authorised financial services provider.

This Determination is called the Determination of Form of External Auditor's Report (Section 19(3) of the Act), 2008, and comes into operation on the date of publication thereof in the *Gazette*.

**D P Tshidi**
***Registrar of Financial Services Providers***

## ANNEXURE

*<The members / partners / directors>*

*<Insert name of financial services provider>*

*<Insert address of financial services provider>*

The Registrar of Financial Services Providers

Financial Services Board

P O Box 35655

Menlo Park

Pretoria

0102

Dear Sirs,

**Limited Assurance Report of the Independent Auditor to the Provider/Members/Partners/Directors[1] of [*Name of Financial Services Provider*] and the Registrar of Financial Services Providers (the "registrar") in compliance with Section 19(3) of the Financial Advisory and Intermediary Services Act (the "Act")**

### Introduction

We have completed our limited assurance engagement of *[insert Name of Financial Services Provider]* ("the provider") for the year ended *[insert year end date]* in order to report to the provider and the registrar in accordance with Section 19(3) of the *Financial Advisory and Intermediary Services Act*, 2002 (Act No 37 of 2002) (the "Act"):

- Regarding the amount of money and assets at year end held by the provider on behalf of, clients[2];
- That such money and assets were throughout the financial year kept separate from those of the business of the provider, and in the case of non-compliance, the extent thereof; and
- Any other information required by the registrar[3].

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1 Delete whichever is "Not Applicable"

2 The Registrar requires money and assets held on behalf of clients by the Provider and related liabilities or obligations at the financial year end, to be disclosed in the annual financial statements of the provider, whether included in the Notes to the Financial Statements or by way of a separate Annexure.

3 This requirement is addressed in the form of **Schedule A** and **Schedule B** attached to this Report to be submitted by the auditor of the entity in providing the Section 19(3) report.

**Schedule A** sets out money and assets at year end held by the provider on behalf of clients. **Schedule B** sets out work performed and our findings in respect the provider's key controls and procedures to meet the objectives of Section 19(3) and Section 10 of the *General Code of Conduct for Authorised Financial Services Providers and Representatives* (the "Code"). We have initialed both schedules for identification purposes.

**Provider's Responsibilities**

The provider who receives or holds money and assets, including financial products, for or on behalf of clients is required in terms of Section 19 (1)(a) to "*maintain full and proper accounting records on a continual basis, brought up to date monthly*" and in accordance with Section 10 of the Code, "*must account for such products or funds properly and promptly*" as at < *insert year end date*> and throughout the financial year then ended. Section 19 of the Act, Section 10 of the Code and client mandates set out specific responsibilities of the provider. Consequently the provider is responsible for designing, implementing and maintaining internal financial controls relevant to the administration of such funds that will facilitate the prevention and detection of fraud and error, and establish policies and procedures to achieve compliance with the requirements of the Act.

**Auditor's responsibility**

Our responsibility is to express our limited assurance conclusion and to report on instances of non-compliance based on our work performed. We conducted our limited assurance engagement in accordance with the International Standard on Assurance Engagements ISAE 3000 *International Standard on Assurance Engagements other than Audits or Reviews of Historical Financial Information*. This standard requires us to comply with ethical requirements and to plan and perform our assurance engagement to obtain sufficient appropriate evidence to support our limited assurance conclusion, expressed below.

The objectives specified in **Schedule B** are those contained in Section 19(3) of the Act and Section 10 of the Code and form the criteria to evaluate the provider's compliance. The Act and the Code do not specify an internal control framework, which provides objective criteria for assessing the design or operation of internal controls to evaluate the provider's compliance.

In order to report our findings on the design and implementation of key internal controls to meet the objectives of this engagement, we have exercised our professional judgement regarding the appropriateness of the internal financial controls implemented, based on our understanding of the provider and its environment, including its internal controls, obtained during our audit of the financial statements for the year ended <insert year end date>. Our audit of the financial statements was not, however, for the purpose of expressing an opinion on the provider's internal controls. Our audit was completed in accordance with International Standards on Auditing and in our auditor's report on those financial statements, dated <*insert date*>, we expressed an unmodified opinion[4].

4 If the auditor's opinion on those financial statements was modified the auditor indicates whether the opinion was qualified, whether an adverse opinion was expressed or the opinion was disclaimed.

**Summary of work performed**[5]

We planned and performed our work to obtain all the information and explanations that we considered necessary to provide sufficient evidence for us to express our limited assurance conclusion expressed below. It should be appreciated that in a limited assurance engagement the evidence gathering procedures are more limited than for a reasonable assurance engagement and therefore less assurance is obtained than in a reasonable assurance engagement.

Our summary of work performed and findings as set out more fully in the attached **Schedule B**, included:

- Inquiries, primarily of persons responsible for financial and accounting matters affecting client's money and assets held on behalf of clients throughout the year and inquiries of the provider's compliance officer/s regarding any instance of non-compliance reported to the registrar that may be material to the financial statements or to "trust funds" under management by the provider;
- Analytical and other evidence gathering procedures, inter alia:
  - Inspection of client mandates relating to a sample of transactions selected to determine that they were in accordance with such mandates;
  - Obtaining confirmations of trust account bank and asset balances as at the year end; re-performing bank reconciliations for material balances and tracing outstanding items to subsequent bank statements;
  - Physically inspecting other (non-cash) assets held on behalf of clients, and/or obtaining confirmations of such assets held in safe custody by third parties;
- Obtaining written representations from management regarding matters relevant to this engagement.

We believe that the evidence obtained as part of our limited assurance engagement is sufficient and appropriate to provide a basis for our findings and instances of non-compliance set out in **Schedules A** and/or **B** and our conclusion expressed below.

**Conclusion**

In our opinion, based on our work performed, nothing has come to our attention that causes us to believe that:

- money and assets held on behalf of clients of the provider at year end are not as reflected on Schedule A;
- such money and assets were not kept separate from those of the business of the provider throughout the financial year ending *<insert year end date>*; and
- any instances of material non-compliance with the requirements of the Act have arisen.

***OR***

5 The auditor (assurance provider) should amend the *Summary of work performed* to reflect that actually performed. It is not intended to set out full audit programmes, but merely a "*Summary*"

- with the exception of the extent of any instances of non-compliance with the requirements of the Act identified during the course of our assurance engagement and reported in our findings in the attached Schedule A and / or Schedule B, any instances of material non-compliance with the requirements of the Act have arisen.

**Restriction on use and distribution**

Our report is presented solely for the purpose set out in the first paragraph of our report and for the information of the provider and the registrar and may not be suitable for another purpose and is not to be used for any other purpose, nor to be distributed to any other parties.

Name

Registered Auditor

Address & Date

**Schedule A**

**1 Money and assets held on behalf of clients of the provider at year end**

| Trust Account/s held | <Insert year end date> | | |
|---|---|---|---|
| | Balances per provider's records<br>R | Balance per Bank statement<br>R | Differences (Note 1)<br>R |
| <Insert details> | | | |

**Note 1:**

Indicate whether outstanding deposits or withdrawals have been reconciled and dealt with in accordance with Section 10 of the Code and client mandates, and have been cleared to subsequent bank statements.

Report any instances of non-compliance identified.

**2 Other assets held on behalf of clients of the provider at year end**

| Indicate nature of "Other Assets" | <Insert year end date> | | | |
|---|---|---|---|---|
| | Balances per provider's records<br>R | Assets Physically inspected<br>R | Confirmation received from 3rd Parties holding assets in safe custody<br>R | Differences (Note 2)<br>R |
| <Insert details> | | | | |

**Note 2:**

Indicate reason for differences / assets not found / confirmations not received or not dealt with in accordance with Section 10 of the Code and client mandates.

Report any instances of non-compliance identified.

**Schedule B**

**Instructions to auditors:**

**A.** The objectives are derived from the requirements of Section 19(3) of the Act and Section 10 of the Code.

**B.** Briefly document key controls implemented by the Provider to account for such products or trust funds of a client "*properly and promptly*". (The FSB requires such records to be separately identifiable as "*clients' trust funds*" from the Provider's own business accounting records and assets and liabilities).

**C.** Brief summary of work performed to assess the appropriateness of the design of the key controls implemented by management and determine that such controls have been implemented by inquiries, primarily of persons responsible for financial and accounting matters affecting client's money and assets held on behalf of clients throughout the year, and performing walkthrough procedures. In addition to the key controls, work performed may also include substantive analytical and other evidence gathering procedures including samples selected for testing of transactions or balances to or from supporting documents, and obtaining confirmations from third parties, to identify instances of material non-compliance. (***Note: procedures indicated in Column C are examples which are not exhaustive and should be modified to reflect the actual work performed***).

**D.** Report findings, including weaknesses in key controls and instances of non-compliance identified during our engagement and recommendations, based on work performed and evidence obtained, or that no exceptions or material weaknesses / non-compliance were identified.

**E.** Insert provider's management comments on weaknesses in internal controls and any instances of non-compliance identified by the auditor.

| | A | B | C | D | E |
|---|---|---|---|---|---|
| | **Objectives Section 10 of the "Code"** | **Controls implemented by management** | **Work performed** | **Auditor's "Findings and instances of non-compliance" or indicate "No exceptions found"** | **Comments from the Provider's management** |
| 1 | **10(1):** Subject to the provisions of any other applicable Act, a Provider who receives or holds financial products or funds of or on behalf of a client must account for such products or funds properly and promptly and - | Indicate key controls implemented by the Provider to meet this objective | 1 Enquire and observe whether the accounting systems of the Provider are structured in such a manner that the accounting records for the *trust accounts* are maintained separately from the accounting records of the Provider.[6]<br>2 Assess the appropriateness of the design of the key controls and determine, whether they have been implemented - by inquiry and performing a walkthrough of the key controls.[7] | | |

[6] This is intended to be a high level observation regarding the accounting systems of the Provider.

[7] Note throughout the annexure: where the auditor (assurance provider) intends placing reliance on specific controls designed to prevent or detect misappropriation or material misstatement of such client funds - the auditor considers performing tests of operating effectiveness of those controls and reports the findings.[7]

| | A | B | C | D | E |
|---|---|---|---|---|---|
| | **Objectives Section 10 of the "Code"** | **Controls implemented by management** | **Work performed** | **Auditor's "Findings and Instances of non-compliance" or indicate "No exceptions found"** | **Comments from the Provider's management** |
| 2 | **10(1)(a) when documents of title** are lodged with the Provider on behalf of the client, the Provider must immediately provide written confirmation of receipt thereof which contains a description of the documents that is sufficient to identify them; | Indicate key controls implemented by the Provider to meet this objective including that written receipts issued to clients contain a description of the documents that is sufficient to identify them and that the receipts are issued immediately on receipt of funds from the client | 3 Assess the appropriateness of the design of the key controls and determine, whether they have been implemented by inquiry and performing a walkthrough of the key controls.<br>***In addition:***<br>4 Based on the auditor's assessment of the risk of material misstatement of client funds under control of the Provider, select a sample of receipts issued and: | | |
| 3 | **10 (1) (b) when a Provider receives funds into safe custody** without the mediation of a bank, the Provider must on receipt of the money, issue a written confirmation of receipt thereof; | Indicate key controls implemented by the Provider over funds held in safe custody. | **For the sample selected in the preceding step:**<br>5 Inspect deposits made into trust accounts and agree to details on supporting documentation (e.g. client mandate / correspondence from client etc.) to determine whether the deposit constitutes a valid receipt from a client; | | |

| | A | B | C | D | E |
|---|---|---|---|---|---|
| | **Objectives Section 10 of the "Code"** | **Controls implemented by management** | **Work performed** | **Auditor's "Findings and Instances of non-compliance" or indicate "No exceptions found"** | **Comments from the Provider's management** |
| | | | 6 Inspect evidence that the deposits are made within one business day of receipt of the funds (or comprise direct deposits or EFT transfers from the client to the Trust Account of the Provider); and<br><br>7 Agree receipts and payments on the Provider's business bank account with supporting documentation such as bank deposit books or slips or cheques confirming whether any trust monies have been erroneously dealt with as business monies.<br><br>8 Assess the appropriateness of the design of the key controls and determine, whether they have been implemented by inquiry and performing a walkthrough of the key controls. | | |

| | A | B | C | D | E |
|---|---|---|---|---|---|
| | **Objectives Section 10 of the "Code"** | **Controls implemented by management** | **Work performed** | **Auditor's "Findings and Instances of non-compliance" or indicate "No exceptions found"** | **Comments from the Provider's management** |
| 4 | 10 (1) (c) where the **Provider, or a third party on behalf of either of them, is in control of such financial products or funds**, take reasonable steps to ensure that they are **adequately safeguarded**; | Indicate key controls implemented by the Provider over financial products or funds controlled by the Provider or third party to ensure that they are adequately safeguarded. | **Non-monetary assets held on behalf of clients**<br>9 Assess the appropriateness of the design of the key controls and determine, whether they have been implemented by inquiry and performing a walkthrough of the key controls.<br>10 Obtain a schedule of non-monetary assets held at year-end on behalf of clients, held in the name of the Provider and enquire about/test controls implemented to ensure assets are adequately safe guarded.<br>11 Obtain confirmations from third parties at year end regarding such non-monetary assets. | | |

| | A | B | C | D | E |
|---|---|---|---|---|---|
| | **Objectives Section 10 of the "Code"** | **Controls implemented by management** | **Work performed** | **Auditor's "Findings and Instances of non-compliance" or indicate "No exceptions found"** | **Comments from the Provider's management** |
| 5 | **10 (1)(d)**[8] open and maintain a separate account, designated for client funds, at a bank and **(d) (i – iv)** below: | Provide evidence that separate account/s designated for client funds have been opened at a bank by the Provider | 12 Inspect evidence that separate account/s designated for client funds have been opened at a bank by the Provider<br><br>13 Obtain bank confirmation letters for all trust accounts, reflected on **Schedule A** confirming whether:<br>• the balance of the trust account agrees to the balance reflected in the Provider's accounting records;<br>• any encumbrances over the trust accounts agree with those disclosed by the Provider. | | |

8 Section 10(1) (d) is not applicable to a provider subject to section 45 of the Short-term Insurance Act, 1998 (Act No. 53 of 1998), if the provider complies with the requirements contemplated in that section.

| | A | B | C | D | E |
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| | **Objectives Section 10 of the "Code"** | **Controls implemented by management** | **Work performed** | **Auditor's "Findings and Instances of non-compliance" or Indicate "No exceptions found"** | **Comments from the Provider's management** |
| | | | 14 Obtain the year-end bank reconciliations for all trust accounts, and for each reconciliation:<br>• Enquire about any old or unusual reconciling items and agree these items to supporting documentation or subsequent resolution of the reconciling item.<br>• Cast the bank reconciliation.<br>• Agree payments which appear on the bank statement 1 week after year-end to the outstanding cheque listing. Agree those payments which do not appear on the outstanding cheque listing to supporting documentation to confirm that they have been recorded in the correct period.<br>• Agree cheques which appear on the outstanding cheques list to bank statements after year-end. | | |

| | A | B | C | D | E |
|---|---|---|---|---|---|
| | **Objectives Section 10 of the "Code"** | **Controls implemented by management** | **Work performed** | **Auditor's "Findings and instances of non-compliance" or indicate "No exceptions found"** | **Comments from the Provider's management** |
| 6 | **10 (1) (d)(i)** must within one business day of receipt pay into the account all funds held on behalf of clients; | Indicate key controls implemented by the Provider | 15 Trace outstanding deposits to the next day's bank statement<br>• Assess the appropriateness of the design of the key controls and determine, whether they have been implemented by inquiry and performing a walkthrough of the key controls | | |
| 7 | **10(1)(d)(ii)** ensure that the separate account only contains funds of clients and not those of the Provider; | Indicate key controls implemented by the Provider | 16 Assess the appropriateness of the design of the key controls and determine, whether they have been implemented by inquiry and performing a walkthrough of the key controls; and<br>17 Review transactions recorded for evidence that only client's funds are in the separate account/s | | |

| | A | B | C | D | E |
|---|---|---|---|---|---|
| | **Objectives Section 10 of the "Code"** | **Controls implemented by management** | **Work performed** | **Auditor's "Findings and Instances of non-compliance" or indicate "No exceptions found"** | **Comments from the Provider's management** |
| 8 | **10(1)(d)(iii)** pay all bank charges in respect of the separate account except that bank charges specifically relating to a deposit or withdrawal of the funds of the client are for the client's own account; and | Indicate key controls implemented by the Provider | 18 Assess the appropriateness of the design of the key controls and determine, whether they have been implemented by inquiry and performing a walkthrough of the key controls; and<br><br>19 Inspect the trust account bank statements for evidence of banking charges. ( Note: *Only fees relating to deposits and withdrawals of the client's funds are for the client's own account in terms of Section 10(1)(d)(iii) of the Code*).<br><br>20 Confirm whether fees which are not for the Provider's trust account are charged to the business account of the Provider by agreeing the fees identified in the trust account as being for the Provider' account to the Provider's business account. | | |

| | A | B | C | D | E |
|---|---|---|---|---|---|
| | **Objectives Section 10 of the "Code"** | **Controls implemented by management** | **Work performed** | **Auditor's "Findings and instances of non-compliance" or indicate "No exceptions found"** | **Comments from the Provider's management** |
| 9 | **10(1)(d)(iv)** ensure that any interest accruing to the funds in the separate account is payable to the client or the owner of the funds; | Indicate key controls implemented by the Provider | 21 Assess the appropriateness of the design of the key controls and determine, whether they have been implemented by inquiry and performing a walkthrough of the key controls; and<br><br>22 Inspect the trust account bank statements for interest accruing.<br><br>23 Confirm whether interest accruing is credited to the trust account and not the Provider's business by agreeing interest earned to the trust account accounting records. (*Section 10(1)(d)(iv) and Section* 10(3) of the Code) | | |
| 10 | **10 (1)(e)(i)** that at all times such financial products or funds are dealt with strictly in accordance with the mandate given to the Provider; | Indicate key controls implemented by the Provider | 24 Assess the appropriateness of the design of the key controls and determine, whether they have been implemented by inquiry and performing a walkthrough of the key controls; and | | |

| | A | B | C | D | E |
|---|---|---|---|---|---|
| | **Objectives Section 10 of the "Code"** | **Controls implemented by management** | **Work performed** | **Auditor's "Findings and instances of non-compliance" or indicate "No exceptions found"** | **Comments from the Provider's management** |
| | | | 25 Select a sample of transactions of financial products or funds processed by the provider during the year and inspect client mandates and other supporting documentation to determine that the transactions are dealt with strictly in accordance with those mandates.<br><br>26 Enquire whether or not there are any restrictions on trust accounts and confirm whether these restrictions were breached. | | |
| 11 | **10(1)(e)(ii)** that client financial products or funds are readily discernible from private assets or funds of the Provider; and | Indicate key controls implemented by the Provider | 27 Assess the appropriateness of the design of the key controls and determine, whether they have been implemented by inquiry and performing a walkthrough of the key controls. | | |

| | A | B | C | D | E |
|---|---|---|---|---|---|
| | **Objectives Section 10 of the "Code"** | **Controls implemented by management** | **Work performed** | **Auditor's "Findings and Instances of non-compliance" or indicate "No exceptions found"** | **Comments from the Provider's management** |
| 12 | **10(1)(e)(III)** that, subject to any applicable contractual or statutory provisions, a client has ready access to any amount paid into the separate account, less any deductions which are authorised, and charges and fees required or authorised to be paid by law. | Indicate key controls implemented by the Provider | 28 Assess the appropriateness of the design of the key controls and determine, whether they have been implemented by inquiry and performing a walkthrough of the key controls; and<br><br>29 Agree a sample of payments made during the year from trust accounts to supporting documentation confirming whether the payment was made in terms of a valid client instruction/mandate.<br><br>30 Agree a sample of payments made from the trust account into the Provider's business bank account to supporting documentation, confirming whether transfers which represent fees were made in terms of the contract with the client. | | |

| | A | B | C | D | E |
|---|---|---|---|---|---|
| | **Objectives Section 10 of the "Code"** | **Controls implemented by management** | **Work performed** | **Auditor's "Findings and instances of non-compliance" or indicate "No exceptions found"** | **Comments from the Provider's management** |
| 13 | 10(2) Where a transaction or agreement has been recorded in writing, the Provider who dealt with the client, must ensure that the original agreement is delivered to the client for safe custody | Indicate key controls implemented by the Provider | 31 Assess the appropriateness of the design of the key controls and determine, whether they have been implemented by inquiry and performing a walkthrough of the key controls; and<br>32 Select a sample of client correspondence files / records: trace current year movements referred to in the file to the transactions recorded, and inspect evidence that the original agreement (in terms of the client mandate) has been delivered to the client for safe custody. | | |