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BOARD NOTICES
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BOARD NOTICE 87 OF 2007

FINANCIAL SERVICES BOARD

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

AMENDMENT OF DETERMINATION OF FIT AND PROPER REQUIREMENTS FOR FINANCIAL SERVICES PROVIDERS, 2006

I, Robert James Gourlay Barrow, Registrar of Financial Services Providers, hereby, after consultation with the Advisory Committee on Financial Services Providers, amend under section 8(1) of the Financial Advisory and Intermediary Services Act, 2002 (Act No. 37 of 2002), the Determination of Fit and Proper Requirements for Financial Services Providers, 2006, as set out in the Schedule.

RJG Barrow
Registrar of Financial Services Providers

SCHEDULE

AMENDMENT OF DETERMINATION OF FIT AND PROPER REQUIREMENTS FOR FINANCIAL SERVICES PROVIDERS, 2007

[General Note: In this Schedule words underlined with a solid line indicate insertions in existing enactments, and words in bold type square brackets indicate deletions from existing enactments.]

Definitions

1. In this Schedule "**the Determination**" means the Determination of Fit and Proper Requirements for Financial Services Providers, 2006.

Amendment of Part I of Determination

2. Part I of the Determination is hereby amended-

(a) in subparagraph (1) of paragraph 1-

(i) by the substitution for the definition of "**Category I**" of the following definition:

"'**Category I**', in relation to a financial services provider, means all persons, other than persons referred to in **[Category II and III]** Categories II, IIA and III, who require licences to render the financial services (other than financial services mentioned in Categories II, IIA and III) as set out in the relevant application";

(ii) by the insertion after the definition of "**Category II**" of the following definition:

"'**Category IIA**', in relation to a financial services provider, means all persons who require licences as hedge fund FSPs as set out in the relevant application;";

(iii) by the deletion after paragraph *(b)* of the definition of "**experience**" of the word "and", and by the substitution for paragraph *(c)* of that definition of the following paragraphs:

"*(c)* with regard to providers of Category II, at least 50% of such minimum prescribed experience relates directly to the financial products in respect of which financial services are to be rendered; and

(d) with regard to providers of Category IIA, the applicant must have a track-record of managing particular hedge fund strategies and is able to adequately demonstrate knowledge, skill and competency in managing all instruments and asset classes comprising a hedge fund portfolio as optimised by and in conjunction with the requisite hedge fund strategies employed from time to time,

and irrespective of whether the experience is gained-

(i) in the capacity as owner, trustee, associate, director, member, partner, employee, consultant or otherwise, of the business involved; or

(ii) in the course of undergoing practical training or a learnership: ";

(iv) by the insertion after the definition of **"health services benefit"** of the following definitions:

"hedge fund" means a hedge fund as defined in the Codes of Conduct for Administrative and Discretionary FSPs Amendment Notice, 2006;

"hedge fund FSP" means a hedge fund FSP as defined in the Codes of Conduct for Administrative and Discretionary FSPs Amendment Notice, 2006;"; and

(v) by the substitution for paragraph (b) of the definition of **"subcategory"** of the following paragraph:

"(b) a subcategory of minimum experience as appears from Tables B, **[and]** C and D in paragraphs 3(2), (2A) and 3(3) of this Determination, as the case may be."; and

(b) in subparagraph (2) of paragraph 1-

(i) by the substitution for subparagraph *(a)* of the following subparagraph:

"(a) a qualification mentioned in Column Two, Three or Four of Table A, B, **[or]** C or D in paragraphs 3(1), (2), (2A) or 3(3) of this Determination, as the case may be, must, subject to subparagraph (c) below, be construed as a reference to any such qualification obtained in the Republic (or a foreign qualification recognized by the Registrar) before or after the date of coming into operation of this Determination, irrespective of whether completion of requirements for the qualification occurred before such date, including a qualification or skills programme consisting of unit standards registered by SAQA, and registered within the National Qualifications Framework, and which qualification may be or may have been obtained in part by Recognition of Prior Learning (RPL);"; and

(ii) by the substitution for subparagraph (d) of the following subparagraph:

"*(d)* Category I, II, IIA or III, or to any subcategory, shall not be construed as preventing an applicant from applying for a licence in respect of one or more financial products of more than one Category or subcategory, subject to compliance with the requirements of this Determination as regards each and every such Category or subcategory; and".

Amendment of Part III of Determination

3. Part III of the Determination is hereby amended-

(a) by the insertion in paragraph 3 in Part III of the Determination of the following subparagraph after subparagraph (2):

"(2A) **Financial Services Providers, Category IIA (Hedge Fund FSPs)**

Subject to the provision of the Act, an applicant for a licence to act as a Financial Services Provider, Category IIA, and, where applicable, any key individual of any such provider, must be a person who, in respect of the applicable subcategory of experience appearing in Column One of Table C hereunder for which the applicant qualifies-

(a) has the minimum experience in managing hedge funds applicable to that subcategory appearing in Column One of that Table, and is able to adequately demonstrate knowledge, skill and competency in managing all instruments and asset classes comprising a hedge fund portfolio as optimised by and in conjunction with the requisite hedge fund strategies employed from time to time;

(b) has achieved the minimum academic standard, qualifications or professional status applicable to that subcategory as stated in Column Two of that Table; and

(c) will after licensing be subject to the conditions/restrictions as indicated in Column Three of that Table (if any), in addition to any other conditions/restrictions imposed by the registrar on the applicant in terms of the Act (if any), as indicated on the relevant licence when granted:

Table C

COLUMN ONE: Minimum experience	COLUMN TWO: Minimum academic standard, qualifications, professional status	COLUMN THREE: Conditions/restrictions
5 years	• Grade 12 (Standard 10 or an equivalent qualification) or FETC	The applicant must within 4 years after the date of licensing or, in the case of a Key Individual, after the date of appointment, complete an appropriate NQF level 6 certificate listed on the NLRD, consisting of a minimum of 360 credits (full business honours degree)

4 years	• An appropriate National Certificate at NQF level 5; or • A minimum of an appropriate NQF level 6 skills programme consisting of unit standards registered by SAQA and quality assured by an ETQA (minimum 120 credits)	The applicant must within 4 years after the date of licensing or, in the case of a Key Individual, after the date of appointment, complete an appropriate NQF level 6 certificate listed on the NLRD, consisting of a minimum of 360 credits (full business honours degree)
3 years	An appropriate business degree at NQF level 6	

; and

(b) by the substitution in subparagraph (3) of paragraph 3 in Part III of the Determination for the expression "Table C" wherever it occurs in that subparagraph, including in the heading row of the Table in that subparagraph, of the expression "Table D".

Short title and commencement

4. This Determination is called Determination of Fit and Proper Requirements for Financial Services Providers Amendment Determination, 2006, and comes into operation on a date eight months after the date of publication of this Determination in the *Gazette*.