BOARD NOTICE

NOTICE 94 OF 2004

FINANCIAL SERVICES BOARD

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

EXEMPTION IN RESPECT OF CERTAIN APPLICANTS FOR AUTHORISATION

I, Jeffrey van Rooyen, Registrar of Financial Services Providers, hereby exempt under section 44(1) of the Financial Advisory and Intermediary Services Act, 2002 (Act No. 37 of 2002), certain applicants for authorisation from section 7(1) of that Act, 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 IN RESPECT OF CERTAIN APPLICANTS FOR AUTHORISATION

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 (including any measure or decision referred to in the definition of "this Act" in section 1(1) of the Act), has that meaning and, unless the context otherwise indicates-

   "applicant" means a person who has, before or on 29 September 2004, submitted an application to the Financial Services Board for a licence as authorised financial services provider, and has complied with paragraphs a, b and d in the Introduction of the Schedule to the Application by Financial Services Providers for Authorisation by the Financial Services Board, as promulgated in Board Notice 98 of 2003 (*Gazette* No. 25523 of 3 October 2003);

   "**client**", in relation to a applicant, means a person to whom the applicant renders or is to render any financial service;

   "complaint" means a complaint as defined in section 1(1) of the Act;

   "**finally granted**", in relation to a application, means the granting by the registrar of the application referred to in section 8(3)(a) of the Act, followed by the issue of a licence to the applicant referred to in section 8(5)(a);

   "**finally refused**", in relation to an application, means the refusal by the registrar of an application referred to in section 8(3)(b) of the Act.

Objective of exemption

2. The objective of the exemption is to accommodate late applicants for authorisation in terms of section 8 of the Act, whose applications may not be finalised as on 30 September 2004, on which date the Act becomes fully operative (see the Determination of Date in terms of section 7(1) of the Financial Advisory and Intermediary Services Act, 2002, as published in Notice 270 of 2004 in *Gazette* No. 26080 of 5 March 2004). The exemption in effect permits them to carry on with current business activities relating to the rendering of financial services until such finalisation of their applications. Where their applications are then finally granted, they will be able to carry on such business activities as licensees under the said Act without any further need for an exemption. But in the case of final refusal of applications, the carrying on of their current business activities as regards the rendering of financial services will have to cease, just as in the case of other persons who

need such authorisations in terms of the said Act but who have not applied for a licence at all.

The registrar is satisfied that such an exemption under section 44(1) of the Act will comply with the requirements of paragraphs (b) and (c) of that section.

Extent of exemption

3. An applicant whose application has not before or on 29 September 2004 been finally granted or finally refused by the registrar, and is on that date still pending in the office of the registrar, is hereby exempted from section 7(1) of the Act, subject to the condition set out in paragraph 4 and the period of currency of the exemption set out in paragraph 5.

Condition of exemption

4. The exemption referred to in paragraph 3 is subject to the condition that the applicant must during the currency of the exemption referred to in that paragraph inform in writing (including any electronic communication) 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 applicant's application by the registrar.

Period of currency of exemption

5. The exemption referred to in paragraph 3 endures, in the case of an individual applicant, until the date on which the application of the applicant is finally granted or the date on which the application is finally refused, by the registrar.

Amendment and withdrawal of exemption

6. The exemption set out in paragraph 3 may-

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

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

Short title and commencement

7. This Exemption is called the Exemption in respect of certain Applicants for Authorisation, 2004, and comes into operation on the date determined by the Minister in terms of section 7(1) of the Act.