

BN 122 of 24 October 2003

Determination of Procedure for Approval of Key Individuals

FINANCIAL SERVICES BOARD

I, Jeffrey van Rooyen, Registrar of Financial Services Providers, after consultation with the Advisory Committee on Financial Services Providers, hereby under section 8 (4) (b) of the Financial Advisory and Intermediary Services Act, 2002 (Act No. 37 of 2002), determine the procedure for the approval of key individuals referred to in the said section, as set out in the Schedule.

(Signed)

J VAN ROOYEN

Registrar of Financial Services Providers

SCHEDULE

ARRANGEMENT OF REGULATIONS

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1. Definitions.

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, read with 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 contemplated in subparagraph (i), (ii) or (iii) of section 8 (4) (b) of the Act who applies to the registrar for approval;

“approval”, in relation to an applicant, means an approval by the registrar contemplated in section 8 (4) (b) of the Act to take part in the conduct or management or oversight of a business of a licensee in relation to the rendering of financial services.

2. Procedure.

An applicant must prior to taking part in the conduct or management or oversight of the relevant licensee’s business in relation to the financial services rendered, submit a written or electronic application for approval to the registrar, signed by both the applicant and the relevant licensee, and containing the following information:

- (a) The applicant’s full name, postal and physical address, e-mail address, telephone and facsimile number and website (if any);
- (b) full particulars on whether the applicant is a person contemplated in subparagraph (i), (ii) or (iii) of section 8 (4) (b) of the Act and—
 - (i) if the applicant is a person contemplated in the said subparagraph (i) or (ii), full particulars on the person’s compliance with the fit and proper requirements referred to in section 8 (1) (i) and (ii) of the Act; and
 - (ii) if the applicant is a person contemplated on the said subparagraph (iii), a full disclosure on the relevant change in personal circumstances which render or may render the applicant a person who does not qualify as regards the fit and proper requirements referred to in the said section 8 (1) (i) or (ii); and
 - (iii) in a case referred to in subparagraph (ii), subject to paragraph 3 hereunder, a full disclosure on steps that the applicant and the licensee intends to take in order to comply fully with the said requirements in due course.

3. Exemption.

Where an applicant contemplated in paragraph 2 (b) (ii), is or will be unable to comply fully with the fit and proper requirements referred to in that paragraph, the applicant may in addition submit an application to the registrar for an appropriate exemption contemplated in section 44 (4) of the Act, accompanied by a full statement of reasons or grounds on which the exemption is sought.

4. Further information.

An applicant and the relevant licensee must on request by the registrar in full provide the registrar with any other information required by the registrar for purposes of considering an approval of the applicant and, where applicable, an application for an exemption referred to in paragraph 3.

5. Disposal of application.

The registrar, after consideration of an application, must inform the applicant whether the required approval is granted or refused and, where an application for an exemption referred to in paragraph 3 has also been submitted, whether such application is granted or refused and, in the case of a granting of an application for exemption, of any conditions to be attached to the exemption as contemplated in section 44 (2) of the Act: Provided that in case of any such refusal, the registrar must provide reasons for the refusal.

6. Short title and commencement.

This Determination is called the Determination of Procedure for Approval of Key Individuals, 2003, and comes into operation on the date determined by the Minister under section 7 (1) of the Act.