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## BOARD NOTICES

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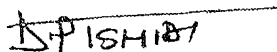
### BOARD NOTICE 37 OF 2009

#### FINANCIAL SERVICES BOARD

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

#### NOTICE ON REQUIREMENTS FOR PROFESSIONAL INDEMNITY AND FIDELITY INSURANCE COVER FOR PROVIDERS, 2009

I, Dube Phineas Tshidi Registrar of Financial Services Providers, hereby under section 13 of the General Code of Conduct for Authorised Financial Services Providers and Representatives, 2003, require all providers to maintain suitable professional indemnity and fidelity insurance cover to the extent set out in the Schedule.



DP TSHIDI,

*Registrar of Financial Services Providers*

## SCHEDULE

### NOTICE ON REQUIREMENTS FOR PROFESSIONAL INDEMNITY AND FIDELITY INSURANCE COVER FOR PROVIDERS, 2009

#### Interpretation

1. In this Schedule-

“**the Act**” means the Financial Advisory and Intermediary Services Act, 2002, (Act No. 37 of 2002), and any word or expression to which a meaning is assigned in the Act or in any code of conduct or other measure promulgated under the Act, has that meaning except where it is clearly inappropriate or the context indicates otherwise;

“**date of commencement**” means the date on which this Notice, in terms of paragraph 6 of this Schedule, comes into operation;

“**General Code**” means the General Code of Conduct for Authorised Financial Services Providers and Representatives, 2003.

#### Application

2. This Schedule only applies to providers and not to representatives.

#### Categories I, II, IIA, III and IV providers

3. Subject to the provisions of this Schedule-

- (a) A person who is a Category I provider on the date of commencement must, with effect from a date 12 months after that date, maintain in force in respect of clients-
  - (i) suitable professional indemnity of a minimum of R1 million; or
  - (ii) suitable guarantees of a minimum of R1 million.
- (b) A person who is a Category I or IV provider and who receives or holds clients financial products or funds of or on behalf of a client on the date of commencement must, with effect from a date 12 months after that date, maintain in force in respect of clients-
  - (i) suitable guarantees of a minimum R1 million; or
  - (ii) suitable fidelity insurance cover of a minimum of R1 million.
- (c) The provisions of paragraphs (a) and (b) apply to any person who after the commencement date becomes a Category I or IV provider.
- (d) A person who is a Category II or IIA and who receives or hold clients financial products or funds of or on behalf of a client on the date of commencement must, with effect from a date six months after that date, maintain in force in respect of clients-
  - (i) suitable guarantees of a minimum amount of R5 million, or
  - (ii) suitable professional indemnity or fidelity insurance cover of a minimum of R5 million, respectively.

- (e) A person who is a Category III provider and who receives or hold clients financial products or funds of or on behalf of a client on the date of commencement must, with effect from a date six months after that date, maintain in force in respect of clients-
    - (i) suitable guarantees or of a minimum amount of R5 million; or
    - (ii) professional indemnity and fidelity insurance cover of a minimum amount of R5 million, respectively.
  - (f) The provisions of paragraphs (d) and (e) apply to any person who after the commencement date becomes a Category II, IIA or III provider.
4. Any person who is licensed as a financial services provider after this Notice has become effective, must comply with the requirements in terms of Paragraph 3 above, within 6 weeks of the date of authorisation.

#### **Amendments and adjustments**

5. (a) The Registrar may at any time by notice in the *Gazette* amend any provision of this Schedule to the extent as the Registrar may deem necessary.
- (b) The Registrar may at any time adjust the application of paragraph 2 of this Schedule in the case of a provider-
- (i) on the Registrar's own initiative; or
  - (ii) on written application of the provider.

#### **Construction of Notice**

6. No provision of this Notice shall be construed as in any way restricting or otherwise prejudicially affecting a legally enforceable claim of any person for delictual or contractual damages against a provider resulting from or connected with the rendering of financial services by the provider to such person.

#### **Short title and commencement**

7. This Notice is called the Notice on Requirements for Professional Indemnity and Fidelity Insurance Cover for Providers, 2009, and comes into operation on the date of publication in the *Gazette*.