



Government Gazette Staatskoerant

REPUBLIC OF SOUTH AFRICA
REPUBLIEK VAN SUID-AFRIKA

Vol. 539

Pretoria, 31 May
Mei 2010

No. 33238

PART 1 OF 2

N.B. The Government Printing Works will not be held responsible for the quality of "Hard Copies" or "Electronic Files" submitted for publication purposes



AIDS HELPLINE: 0800-0123-22 Prevention is the cure

IMPORTANT NOTICE

The Government Printing Works will not be held responsible for faxed documents not received due to errors on the fax machine or faxes received which are unclear or incomplete. Please be advised that an "OK" slip, received from a fax machine, will not be accepted as proof that documents were received by the GPW for printing. If documents are faxed to the GPW it will be the sender's responsibility to phone and confirm that the documents were received in good order.

Furthermore the Government Printing Works will also not be held responsible for cancellations and amendments which have not been done on original documents received from clients.

CONTENTS • INHOUD

<i>No.</i>		<i>Page No.</i>	<i>Gazette No.</i>
BOARD NOTICES			
76	Financial Advisory and Intermediary Services Act (37/2002): Financial Services Board: Determination of Compliance Report for Category 1 Authorised Financial Services Providers without a Compliance Officer, 2010	3	33238
77	do.: do.: Determination of Compliance Report for Category I Authorised Financial Services Providers with a Compliance Officer, 2010.....	24	33238
78	do.: do.: Determination of Compliance Report for Category II, IIA and Forex Authorised Financial Services Providers, 2010	52	33238
79	do.: do.: Determination of Interim Compliance Report for Category IIA Financial Services Providers, 2010	94	33238
80	do.: do.: Determination of Compliance Report for Category II and Forex Authorised Financial Services Providers, 2010	107	33238
81	do.: do.: Determination of Compliance Report for Category III Authorised Financial Services Providers, 2010	146	33238
82	do.: do.: Determination of Interim Report for Category III Authorised Financial Services Providers, 2010	185	33238
83	do.: do.: Determination of Compliance Report for Category IV Authorised Financial Services Providers, 2010.....	198	33238
84	do.: do.: Determination of Compliance Report for Authorised Foreign Financial Services Providers, 2010.....	220	33238
85	do.: do.: Determination of Compliance Report for Financial Services Providers Changing or Appointing Compliance Officers, 2010.....	235	33238

BOARD NOTICE 79 OF 2010**FINANCIAL SERVICES BOARD****FINANCIAL ADVISORY AND INTERMEDIARY SERVICES ACT, 2002
(ACT NO. 37 OF 2002)****DETERMINATION OF INTERIM COMPLIANCE REPORT FOR CATEGORY IIA
FINANCIAL SERVICES PROVIDERS, 2010**

In terms of section 17(4) 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, by this notice with its schedule, determine the manner in which the interim compliance report of Category IIA Financial Services Providers must be submitted, and the matters which it must have regard to. This determination was made after consultation with the Advisory Committee on Financial Services Providers.

- (a) Written reports for the reporting periods, by completing the schedule attached hereto, or by completing electronically, online the schedule on the web site of the Financial Services Board (www.fsb.co.za), must be submitted by the following dates:
- (i) 30 September 2010;
 - (ii) 31 December 2010; and
 - (iii) 30 March 2011.
- (b) Answers should not be provided in columns that are shaded in grey in the schedule.
- (c) In this Notice and the schedule, unless the context indicates otherwise –
- (i) any word or expression shall have the meaning that it was assigned in the Act (including any measure contemplated in the definitions of "this Act" as defined in section 1(1) of the Act);
 - (ii) "Code of Conduct" means any Code published under section 15 of the Act;
 - (iii) "Determination of Fit and Proper Requirements" means the Determination of Fit and Proper Requirements for Financial Services Providers, 2008;
 - (iv) "Developmental area" means any control, process or compliance issue that has been identified during the monitoring of compliance as an area in respect of which the need for improvement of such control, process or compliance issue has been identified by the provider, and plans are in place to effect such improvements within a reasonable time;
 - (v) "FICA" means the Financial Intelligence Centre Act, 2001 (Act No.

38 of 2001);

- (vi) "Forex Investment Business Code of Conduct" means the Code of Conduct for Authorised Financial Service Providers, and their Representatives, involved in Forex Investment Business, 2004;
- (vii) "FSP" and "financial services provider" means an authorised financial services provider, and includes, where applicable, any representative of the provider;
- (viii) "General Code of Conduct" or "General Code" means the Code of Conduct for Authorised Financial Services Providers and their Representatives, 2003;
- (ix) "Regulations" means the Financial Advisory and Intermediary Services Regulations, 2003;
- (x) "reporting date" means:
 - (i) 31 August 2010;
 - (ii) 30 November 2010; and
 - (iii) 28 February 2011.
- (xi) "reporting period" means the latter of-
 - (aa) the date of authorisation as financial services provider in terms of section 8 of the Act;
 - (bb) the first day of the month following the reporting period for the previous compliance report submitted; or
 - (cc) the date of appointment of the compliance officer of the FSP,until the reporting date.

This Determination is called the Determination of Interim Compliance Report for Category IIA Financial Services Providers, 2010, and comes into operation on the date of publication thereof.



D P TSHIDI,
Registrar of Financial Services Providers

SCHEDULE

Interim Compliance Report in terms of section 17(4) of the Financial Advisory and Intermediary Services Act, 2002 (Act No. 37 of 2002) ("the Act") by Compliance Officers of Category IIA Financial Services Providers for reporting period ended (Insert reporting date)

Scope

In accordance with section 17(4) of the Act, I/we (the approved Compliance Officer(s) of the Financial Services Provider hereby report as follows as regards compliance with the Act by (full name of the FSP and the FSP Number) and any representatives of the FSP, for the reporting period (date reporting period started) to (reporting date).

Question	Column				
	1	2	3	4	5
	Yes	No	Not applicable	Develop - mental area	Note No. Comment/ Annexure
SECTION 1 – GENERAL					
1. Financial Products in respect of which FSP renders financial services <i>Authorisation in terms of the licence of the FSP</i>					
1.1 Does the FSP have procedures in place to ensure that the rendering of financial services are done within the limitation on Categories and sub-categories for which the licence is issued?					
2. Operational ability and Financial soundness Parts VIII and IX of the Determination of Fit and Proper Requirements					
2.1 Did the FSP comply with the solvency requirements as required in terms of paragraph IX of the Fit and Proper requirements at all times during the reporting period?					
2.2 Did you (compliance officer) have unrestricted access to view the accounting records of the FSP at all times during the reporting period?					

Question	Column				
	1 Yes	2 No	3 Not applicable	4 Develop- mental area	5 Note No. Comment/ Annexure
SECTION 2 – HEDGE FUND FINANCIAL SERVICES PROVIDERS					
3. Does the FSP manage assets of a hedge fund? If the answer is YES, Questions 4 to 10.11.1 as well as the Statistical Information Sheet (Section 4) must be answered.					
4. Key individuals and/or representatives					
4.1 Has there been a change in key individuals and/or representatives involved in rendering financial services to hedge funds during the reporting period?					
4.2 <i>If the answer to Question 4.1 is YES –</i> Did the FSP inform the Registrar of such changes?					
4.2.1 <i>If the answer to question 4.2 is NO –</i> In a separate annexure, provide details of changes in key individuals and/or representatives as well as reasons for not informing the Registrar of such changes, indicate the annexure number in column 5.					
5. Determination of Fit and Proper Requirements					
5.1 If any changes occurred in key individuals and/or representatives without informing the Registrar, list the names and experience of the Key individuals, representatives and juristic representatives in respect of their particular hedge fund strategy in a separate annexure. In the case of juristic representatives, list the key individuals of the juristic representatives and all natural persons rendering financial services on behalf of the juristic representative). Indicate the annexure number in column 5.					
5.2 Does the FSP have procedures in place to ensure that representatives and key individuals of representatives are competent to render financial services to hedge fund portfolios, taking into account the requirements of the Determination of Fit and Proper Requirements?					
6. Code of Conduct for Discretionary FSPs, 2003 <i>and Notice on Hedge Fund FSP Disclosures, 2008</i>					
6.1 Did you (compliance officer) perform monitoring procedures to ensure that the hedge fund FSP complied with paragraph 8A (1) to 8A.(4) of the Code of Conduct for Discretionary FSPs, 2003 for the reporting period?					

Question	Column				
	1	2	3	4	5
	Yes	No	Not applicable	Developmental area	Note No. Comment/Annexure
6.2 Did you (compliance officer) perform monitoring procedures to ensure that the risk disclosure document as stipulated in paragraph 8A(2)(b)) of Code of Conduct for Discretionary FSPs, 2003 and Notice on Hedge Fund FSP Disclosures, 2008 has been included in the mandate?					
7. Financial products and underlying assets					
7.1 Did any change occur during the reporting period in respect of the financial products that comprise the hedge fund portfolios of the FSP?					
7.2 <i>If the answer to question 7.1 is YES -</i> In a separate annexure, list all financial products that comprise the hedge fund portfolios of the FSP. Indicate the changes that were made to the hedge portfolios. Indicate the annexure number in column 5.					
8. Structure of Hedge Fund FSP					
8.1 Did any change occur on the structures that are used to contain or house the hedge fund portfolios since the last reporting period?					
8.2 <i>If the answer to question 8.1 is YES -</i> In a separate annexure, provide details on the change of structure. Indicate the annexure number in column 5.					
8.3 In a separate annexure, outline the process followed in respect of flow of funds from the time when the client makes a deposit to when the funds are utilised by the portfolio manager. Indicate the annexure number in column 5.					
9 Risk management Part IX of the General Code of Conduct					
9.1 Does the Hedge Fund FSP have a risk management plan in place in accordance with Part IX of the General Code of Conduct describing the risk management process in respect of the hedge fund management business?					

Question		Column				
		1	2	3	4	5
		Yes	No	Not applicable	Develop - mental area	Note No. Comment/ Annexure
9.2	Did the FSP disclose the risks as published in <i>Notice on Hedge Fund FSP Disclosures, 2008</i> in respect of hedge funds to its investors in the hedge fund portfolios at all times during the reporting period?					
9.3	Did the person(s) responsible for risk management of hedge fund portfolios change during the reporting period?					
9.4	<i>If the answer to question 9.3 is YES -</i> In a separate annexure, provide details (Names, ID numbers, qualifications and experience) of the person(s) responsible for risk management of hedge fund portfolios. If the function is outsourced, provide full details of the entity to which it is outsourced as well as the details of the responsible persons within the outsourced company. Indicate the annexure number in column 5.					
10	General					
10.1	Did the person(s) responsible for the administration of hedge fund portfolios change during the reporting period?					
10.2	<i>If the answer to question 10.1 is YES -</i> In a separate annexure, provide full details (names, ID numbers, qualifications and experience) of the person(s) responsible for the administration of the hedge fund portfolio. If the function is outsourced, provide full details of the entity to which it is outsourced as well as details of the responsible person(s) at the outsourced party. Indicate the annexure number in column 5.					
10.3	Did the person(s) responsible for the valuations of the hedge fund portfolios change during the reporting period?					
10.4	<i>If the answer to question 10.3 is YES -</i> In a separate annexure, provide details (Names, ID numbers, qualifications and experience) of the person(s) responsible for the valuation of the hedge fund portfolios. If the function is outsourced, provide full details of the entity to which it is outsourced, as well as details of responsible person(s) at the outsourced party. Indicate the annexure number in column 5.					
10.5	Did the FSP provide valuations during the reporting period for any instruments to the fund administrators					

Question	Column				
	1	2	3	4	5
	Yes	No	Not applicable	Develop - mental area	Note No. Comment/ Annexure
which, to the best of the FSPs knowledge, are relied upon by the administrator in valuating the fund?					
10.6 In a separate annexure, indicate the name(s) of the auditing firm(s) that signed the most recent audit opinion. Indicate the annexure number in column 5.					
10.7 In a separate annexure, indicate the name(s) of prime broker(s) used during the reporting period. Indicate the annexure number in column 5.					
10.8 In a separate annexure, indicate the name(s) of third party administrator(s) used during the reporting period. Indicate the annexure number in column 5.					
10.9 Have any changes occurred in the operational ability of the FSP during the reporting period?					
10.10 If the answer to Question 10.9 is YES – In a separate annexure, attach an updated Form 15B (available as part of the application form), clearly indicating the changes in operational ability.					
10.11 Did the Registrar approve all specimen mandate/s of the hedge fund portfolios used during the reporting period?					
10.11.1 If the answer to Question 10.11 is NO – Attach a copy of the mandate/s to be approved as a separate annexure and indicate the annexure number in column 5.					

SECTION 4 - STATISTICAL INFORMATION SHEET

4.1 Total market value of assets under management at reporting date for each of the following type of hedge fund clients:	Local (Rand amount)	Foreign (Rand amount)	Total (Rand amount)
Trusts			
Partnerships			
Companies			
Other (Please specify)			
TOTAL			

4.2 CATEGORY OF INVESTOR INVESTED IN HEDGE FUNDS			
Total market value of assets under management at reporting date for the following type of hedge fund clients:	Local (Rand amount)	Foreign (Rand amount)	Total (Rand amount)
Private clients (individuals or entities not listed below)			
Retirement funds			
Collective Investment Schemes			
Long-term Insurers			
Short-term Insurers			
Other (Please specify)			
TOTAL			

To be completed and signed by the compliance officer

Name of compliance officer of FSP

ID number of the compliance officer

Name of the compliance practice (if applicable)

Reference number of compliance officer/practice

Signature of the compliance officer

Date

Address

Telephone number

Fax number

E-mail address

To be completed and signed by one of the key individuals of the FSP in the case of a juristic entity, or the sole proprietor in the case of a natural person to acknowledge that they are aware that the report will be forwarded to the Registrar

Name of the FSP

FSP Number

Name of key individual

ID number of the key individual

Date appointed as key individual

Signature

Date

Please note that all reports that have not been signed by BOTH the Compliance Officer and one of the Key Individuals in the case of a juristic entity, or the sole proprietor in the case of a natural person, will be regarded as "Not Submitted".

DECLARATION TO BE SIGNED BY THE COMPLIANCE OFFICER SUBMITTING THE REPORT

Compliance Report in terms of section 17(4) of the Financial Advisory and Intermediary Act, 2002 (Act No. 37 of 2002) by Compliance Officers/Financial Services Providers for the reporting period _____ (insert date) until _____ (insert reporting date).

In accordance with section 17(4) of the Act, I/we _____ (being the approved Compliance Officer(s) of the Financial Services Provider hereby report as follows as regards compliance by _____ (insert full names of FSP and FSP number) and any representatives and/Key Individuals of the FSP with the Act, for the reporting period _____.

Having completed the attached annual compliance report for the abovementioned FSP, I/we hereby confirm without any reservations that, to the best of my/our knowledge and ability all the information contained in the attached annual compliance report is both true and correct in all respects/aspects.

I/we are aware that the information contained in the attached annual compliance report may be subject to verification by the Registrar of Financial Services Providers at any time, and should I/we in my/our capacity as compliance officer knowingly submit false, incorrect or misleading information to the Registrar, this may impact on my/our compliance with the fit and proper requirements with regard to personal character qualities of honesty and integrity as determined by section 8(1) of the Act.

Signed on this the _____ day of _____ (month) _____ (year).

Name of compliance officer: _____

Signature: _____