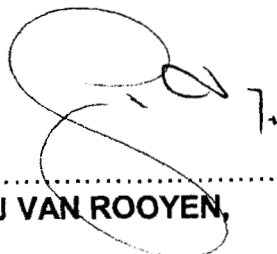


NOTICE 80 OF 2003**FINANCIAL SERVICES BOARD****FINANCIAL ADVISORY AND INTERMEDIARY SERVICES ACT, 2002
(ACT NO. 37 OF 2002)****GENERAL CODE OF CONDUCT FOR AUTHORISED FINANCIAL SERVICES
PROVIDERS AND REPRESENTATIVES**

I, Jeffrey van Rooyen, Registrar of Financial Services Providers, hereby under section 15 of the Financial Advisory and Intermediary Services Act, 2002 (Act No. 37 of 2002), publish a general code of conduct for authorised financial services providers, and their representatives, as contained in the Schedule hereto, which I have drafted after consultation with the Advisory Committee on Financial Services Providers.

This notice is called the Notice on the General Code of Conduct for Authorised Financial Services Providers and Representatives, 2003, and comes into operation on the date determined by the Minister of Finance in terms of section 7(1) of the said Act.



.....
J VAN ROOYEN,

Registrar of Financial Services Providers

SCHEDULE

GENERAL CODE OF CONDUCT FOR AUTHORISED FINANCIAL SERVICES PROVIDERS AND THEIR REPRESENTATIVES

Section 15 of Financial Advisory and Intermediary Services Act, 2002
(Act No. 37. of 2002)

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PART I

INTRODUCTORY PROVISIONS

Definitions, construction and application

1. (1) In this Code "the Act" means the Financial Advisory and Intermediary Services Act, 2002 (Act No. 37 of 2002), a word or expression to which a meaning has been assigned in the Act shall have that meaning, and, unless the context indicates otherwise—

"advertisement", in relation to a provider, means any written, printed, electronic or oral communication (including a communication by means of a public radio service), which is directed to the general public, or any section thereof, or to any client on request, by any such person, which is intended merely to call attention to the marketing or promotion of financial services offered by such person, and which does not purport to provide detailed information regarding any such financial services; and "advertising" or "advertises" has a corresponding meaning;

"Direct marketing", means the rendering of financial services by way of telephone, internet, media insert, direct mail, or electronic mail,

excluding any such means which are advertisements not containing transaction requirements.

"Direct marketer" means a provider who, in the normal course of business, provides all or the predominant part of the financial services concerned in the form of direct marketing.

"provider" means an authorised financial services provider, and includes a representative;

"transaction requirement" means any application, proposal, order, instruction or other contractual information required to be completed for, or submitted to, a product supplier by or on behalf of a client relating to the purchase of or investment in any financial product, including any amendment thereof or variation thereto;

"writing" includes communication by telefax or any appropriate electronic medium that is accurately and readily reducible to written or printed form; and "written" has a corresponding meaning.

- (2) (a) This Code must be construed-
 - (i) in conjunction with the provisions of the Act and in manner conducive to the promotion and achievement of the objectives of codes of conduct as stated in section 16 of the Act; and
 - (ii) as being in addition to any other law not inconsistent with its provisions and not as replacing any such law.
- (b) In the case of any inconsistency or conflict between-
 - (i) a provision of this Code and a provision of any other specific Code drafted under section 15 of the Act, the last mentioned provision shall prevail; and
 - (ii) a provision of this Code and a provision of any other law specifically regulating market conduct in the rendering of financial services in respect of one or more specific financial products, the last mentioned provision, unless inconsistent or in conflict with the Act, shall prevail.
- (3) The provisions of this Code apply, unless stated otherwise in this Code or otherwise by law, to all financial services providers and representatives.

PART II

GENERAL PROVISIONS

General duty of provider

2. A provider must at all times render financial services honestly, fairly, with due skill, care and diligence, and in the interests of clients and the integrity of the financial services industry.

Specific duties of provider

3. (1) When a provider renders a financial service—
 - (a) representations made and information provided to a client by the provider—
 - (i) must be factually correct;
 - (ii) must be provided in plain language, avoid uncertainty or confusion and not be misleading;
 - (iii) must be adequate and appropriate in the circumstances of the particular financial service, taking into account the factually established or reasonably assumed level of knowledge of the client;
 - (iv) must be provided timeously so as to afford the client reasonably sufficient time to make an informed decision about the proposed transaction;
 - (v) may, subject to the provisions of this Code, be provided orally and, at the client's request, confirmed in writing within a reasonable time after such request;
 - (vi) must, where provided in writing or by means of standard forms or format, be in a clear and readable print size, spacing and format;
 - (vii) must, as regards all amounts, sums, values, charges, fees, remuneration or monetary obligations mentioned or referred to therein and payable to the product supplier or the provider, be reflected in specific monetary terms: Provided that where any such amount, sum, value, charge, fee, remuneration or

monetary obligation is not reasonably pre-determinable, its basis of calculation must be adequately described; and

- (viii) need not be duplicated or repeated to the same client unless material or significant changes affecting that client occur, or the relevant financial service renders it necessary, in which case a disclosure of the changes to the client must be made without delay;
 - (b) the provider must disclose to the client the existence of any personal interest in the relevant service, or of any circumstance which gives rise to an actual or potential conflict of interest in relation to such service, and take all reasonable steps to ensure fair treatment of the client;
 - (c) non-cash incentives offered and/or other indirect consideration payable by another provider, a product supplier or any other person to the provider could be viewed as a potential conflict of interest
 - (d) the service must be rendered in accordance with the contractual relationship and reasonable requests or instructions of the client, which must be executed as soon as reasonably possible and with due regard to the interests of the client which must be accorded appropriate priority over any interests of the provider;
 - (e) transactions of a client must be accurately accounted for; and
 - (f) the provider involved must not deal in any financial product for own benefit, account or interest where the dealing is based upon advance knowledge of pending transactions for or with clients, or on any non-public information the disclosure of which would be expected to affect the prices of such product.
- (2) (a) A provider must have appropriate procedures and systems in place to-
- (i) record such verbal and written communications relating to a financial service rendered to a client as are contemplated in the Act, this Code or any other Code drafted in terms of section 15 of the Act;