

DETERMINATION OF REQUIREMENTS FOR REAPPOINTMENT OF DEBARRED REPRESENTATIVES, 2003

Published under

BN 82 in GG 25299 of 8 August 2003

[with effect from 30 September 2004 *]

I, Jeffrey van Rooyen, Registrar of Financial Services Providers, after consultation with the Advisory Committee on Financial Services Providers, hereby under section 13(1)(b)(ii) of the Financial Advisory and Intermediary Services Act, 2002 (Act 37 of 2002), determine the requirements for the reappointment of debarred representatives as set out in the Schedule.

(Signed)

J VAN ROOYEN

Registrar of Financial Services Providers

SCHEDULE

1 Definitions

In this Schedule **'the Act'** means the Financial Advisory and Intermediary Services Act, 2002 (Act 37 of 2002), any word or expression to which a meaning has been assigned in the Act shall have that meaning and, unless the context otherwise indicates—

'applicant' means a debarred representative who applies to an authorised financial services provider for reappointment;

'appointing provider' means the authorised financial services provider who reappoints a debarred representative ;

'date of reappointment', in relation to an applicant, means the date on which the reappointment of a debarred representative is to take effect;

'debarment date' means the date on which the name of a debarred representative has been removed from the register referred to in section 13(3) of the Act;

'debarred representative' means a representative of an authorised financial services provider who has under section 14(1) of the Act been prohibited by the relevant provider to render any new financial services and whose name has been removed from the register referred to in section 13(3) of the Act;

'debarring provider', in relation to an applicant, means the authorised financial services provider who debarred the applicant;

'reappointment', in respect of a debarred representative, means the reappointment of any such person as a representative of any authorised financial services provider (whether being the provider which debarred such person or not), in order to act in accordance with the provisions of section 13(1)(b)(i) of the Act.

2 Requirements for reappointment of debarred representatives

The requirements for the reappointment of a debarred representative shall be as follows, namely, that the applicant must be a person who, on the date of reappointment, complies with the following, which compliance must, where necessary, be proved by the submission to the appointing provider by the applicant and, where appropriate, the debarring provider or any other person, of relevant original substantiating documentation or certified copies thereof, including affidavits (if any):

* GN 270 in GG 26080 of 5 March 2004

- (a) At least 12 (twelve) months since the debarment date must have elapsed, unless the debarment was consequent on the applicant not having qualified as contemplated in section 13(2) (a) of the Act, and the applicant has within that period qualified as so contemplated;
- (b) all unconcluded business of the applicant as former representative, referred to in the proviso to section 14(1) of the Act, has been properly concluded;
- (c) all—
 - (i) complaints or legal proceedings (if any) submitted by clients to the applicant or the debarring provider, or the Ombud or any court of law; or
 - (ii) other administrative or legal procedures or proceedings in terms of the Act or any other law, arising out of any acts or omissions in which the applicant was directly or indirectly involved prior to the debarment date, have been properly and lawfully resolved or concluded, as the case may be, and that the applicant has fully complied with any decision, determination or court order in connection therewith, given or issued in respect of the applicant;
- (d) all fit and proper requirements as contemplated in section 8(1) (a) and (b), read with section 13(2), of the Act are complied with.

3 Short title and commencement

This Determination is called the Determination of Requirements for Reappointment of Debarred Representatives, 2003, and comes into operation on the date determined by the Minister under section 7(1) of the Act.