

## NOTICE OF 2011

### FINANCIAL SERVICES BOARD

### FINANCIAL MARKETS ACT OF 2011

#### MATTERS TO BE REPORTED ON BY AUDITOR OF A REGULATED PERSON

Under section 98(2)(b) of the Financial Markets Act, 2011 (Act No. of 2011), I, Dube Phineas Tshidi, Registrar of Securities Services hereby prescribe the matters to be reported on by an auditor of a regulated person, as set out in the Schedule.

**D P TSHIDI**  
**REGISTRAR OF SECURITIES SERVICES**

#### SCHEDULE

##### 1. Definition

In this Notice “**the Act**” means the Financial Markets Act, 2011 (Act No. of 2011), and any word or expression to which a meaning has been assigned in the Act, bears the meaning so assigned to it.

##### 2. General Matters

In addition to the reporting requirements prescribed by section 98(2)(a) of the Act, an auditor of a regulated person or where applicable, of a nominee of that regulated person, must report on whether or not securities which, according to the relevant accounting records, have been entrusted to the regulated person or nominee of that regulated person or for which the regulated person or nominee of that regulated person is accountable to any person, are in the possession of the regulated person or nominee of that regulated person or a custodian, and whether confirmations or statements of holdings have been obtained from the persons who maintain the record of ownership of such securities.

##### 3. Matters in respect of authorised user

In addition to the matters prescribed in paragraph 2, the auditor of an authorised user must report on whether or not the authorised user complies with –

- (a) section 21 of the Act which relates to the maintenance and operation of a trust account;
- (b) sections 22 of the Act which relates to the maintenance and operation of a securities account;
- (c) the exchange rules made under section 17(2)(c) of the Act regarding capital adequacy. If an authorised user did not maintain the required capital at any time during the period under review, such failure must be stated in the auditor's report.

#### **4. Matters in respect of participant**

In addition to the matters prescribed in paragraph 2, the auditor of a participant must report on whether or not the participant complies with the –

- (a) requirements of the depository rules and the Act regarding the maintenance of securities accounts; and
- (b) the depository rules relating to the reconciliation of securities accounts to the central securities account kept by the central securities depository.

#### **5. Matters in respect of clearing members of an independent clearing house**

In addition to the matters prescribed in paragraph 2, the auditor of a clearing member of an independent clearing house must report on whether or not the clearing member complies with the clearing house rules made under section 53(2)(b) of the Act regarding capital adequacy. If a clearing member of an independent clearing house did not maintain the required capital at any time during the period under review, such failure must be stated in the auditor's report.

#### **6. Matters in respect of nominees of regulated persons**

The auditor of a nominee must report on whether or not the nominee complies with the

- (a) maintenance and operation of a trust account in terms of the memorandum of agreement between the holding company and the nominee; and

- (b) requirement as set out in section 5.2.2.6 of Notice number \_\_\_ that the nominee has adequate and prospective financial resources which must be maintained at all times. If a nominee did not maintain the required financial resources at any time during the period under review, such failure must be stated in the auditor's report.

## **7. Cessation of business**

The auditor of a regulated person must report, within three months of the date on which the regulated person ceased to do business, on whether or not the regulated person has complied with the requirements contained in paragraphs 8(2)(b) and 8(2)(c) of the registrar's notice dealing with accounting records to be maintained by a regulated person.

## **8. Commencement**

This Notice comes into operation on the date on which the Act comes into operation.