

# **FINANCIAL SERVICES BOARD**

## **REPUBLIC OF SOUTH AFRICA**

### **FINANCIAL MARKETS ACT OF 2011**

#### **APPLICATION FOR APPROVAL OF THE ACQUISITION OR THE HOLDING OF SHARES OR ANY OTHER INTEREST IN A SELF-REGULATORY ORGANISATION ("SRO") IN TERMS OF SECTION 68 OF FINANCIAL MARKETS ACT OF 2011 ("ACT")**

##### **A. Instructions for completion and submission**

1. This form must be properly completed and signed. Questions must be answered either in full or not applicable ("n/a"). The signatory(ies) must be duly authorised to make the application.
2. The format of this form or the wording of questions may not be changed. However, this form may be reproduced.
3. Answers may be in hand or typewriting.

##### **3.1 If the form is completed on a computer –**

- (a) delete the solid lines in those areas provided for answers before the answers are typed or use the overtype mode whilst the answers are typed.

(b) rows may be inserted where insufficient space is provided for answers.

3.2 If the form is completed by hand, should the space provided not be sufficient, the detail can be provided on a separate page, duly cross-referenced to the relevant question.

3.3 If the form that is submitted contains any changes to typed or written information, those changes must be signed.

4. The completed form does not need to be accompanied by any number of copies.

5. The application must be submitted at least one month before the approval is needed to allow the registrar to consider it and seek information or clarification, where necessary.

#### B. General information

1. The form must be accompanied by the fees prescribed by the registrar in terms of section 114 of the Act.

#### C. Legal and policy framework

1. Section 68 (limitation on control of and certain shareholding or other interest in certain self-regulatory organisations) requires the following:

- (1) S68(3) - A person may not, without the prior approval of the registrar acquire or hold shares or any other interest in a self-regulatory organisation, if the acquisition or holding results in that person, directly or indirectly, alone or with an associate, exercising control within the meaning of subsection 64(2) over the self-regulatory organisation.
- (2) S68(4) - A person may not, without the prior approval of the registrar, acquire shares or any interest in a self-regulatory organisation, in excess of that approved under subsection 68(3) but not exceeding 49 per cent.
- (3) S68(2) defines "control" as follows:

“For the purposes of this section, a person controls a self-regulatory organisation –

- (a) that is a company if that person, alone or with associates,—
- (i) holds shares in the self-regulatory organisation of which the total nominal value represents more than 15 per cent of the nominal value of all the issued shares thereof;
  - (ii) is directly or indirectly able to exercise or control the exercise of more than 15 per cent of the voting rights associated with securities of that company, whether pursuant to a shareholder agreement or otherwise or
  - (iii) has the right to appoint or elect, or control the appointment or election of, directors of that company who control more than 15 per cent of the votes at a meeting of the board;
- (b) that is a close corporation, if that person, alone or with associates, owns more than 15 per cent of the members’ interest, or controls directly, or has the right to control, more than 15 per cent of members’ votes in the close corporation; or
- (c) that is a trust, if that person, alone or with associates, has the ability to control more than 15 per cent of the votes of the trustees or to appoint more than 15 per cent of the trustees, or to appoint or change more than 15 per cent of the beneficiaries of the trust.”

2. The application must set out all the reasons for, and information relevant to, the application for approval.

#### D. Specific information

I, the undersigned hereby apply for the following approval(s):

To acquire or hold shares or any other interest in a self-regulatory organisation (‘SRO’) contemplated in section 68(3) of the Act that will result in the person(s) in item 2.1 of Part D, directly or indirectly, alone or with an associate, exercising control over that SRO<sup>1</sup>.

To acquire or control shares or any other interest in a SRO contemplated in section 68(4) of the Act in excess of that approved under subsection (3) but not exceeding 49 per cent<sup>1</sup>.

1. Mark the applicable box(es) with an "X".

The following information is provided in support of the application.

1. Details of the SRO

1.1 Furnish the name of the SRO.

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1.2 Furnish the name(s) of the current shareholder(s) or other person(s) exercising control

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2. Background details of the applicant.

2.1 Furnish the name of the applicant.

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2.2 Give a brief history of the persons in question 2.1 of Part D where the person is –



prior to the date of this application or audited financial statements, as the case may be.

2.5 Indicate which of the following will be acquired:

Type	%	Mark applicable box with an "X"
Shares (in the case of a company)		
Interest (in the case of a close corporation)		

2.6 Indicate how control, whether directly or indirectly, will be exercised:

Type	Mark applicable box with an "X"
That where the entity is a company, the person, alone or with associates,—	
(i) holds shares in the self-regulatory organisation of which the total nominal value represents more than 15 per cent of the nominal value of all the issued shares thereof;	
(ii) is directly or indirectly able to exercise or control the exercise of more than 15 per cent of the voting rights associated with securities of that company, whether pursuant to a shareholder agreement or otherwise or	
(iii) has the right to appoint or elect, or control the appointment or election of, directors of that company who control more than 15 per cent of the votes at a meeting of the board	
That where the entity is a close corporation, the person, alone or with associates, owns more than 15 per cent of the members' interest, or controls directly, or has the right to control, more than 15 per cent of members' votes in the close corporation; or	
That where the entity is a trust, the person, alone or with associates, has the ability to control more than 15 per cent of the votes of the trustees or to appoint more than 15 per cent of the trustees, or to appoint or change more than 15 per cent of the beneficiaries of the trust	

2.7 Describe the structure of the deal, state the purchase price of the shares and the manner of payment and indicate whether own assets or borrowed assets were used for this purpose. Attach a copy of the draft agreement entered into.

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2.8 What is the strategic intent of the applicant where it assumes control over the SRO?

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2.9 Give reasons why the applicant is of the opinion that this application, if approved, will not defeat the objects of the Act referred to in section 2 of the Act.

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3. Directors

3.1 Indicate whether the acquisition of shares or other interest in the SRO will result in a change in the composition of the board of the SRO. If the response is in the affirmative, please indicate what will be the changes to the board of directors and how this will comply with the corporate governance principles as envisaged by the King 3 Code on Corporate Governance.

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4. Management of the SRO

4.1 Indicate whether the acquisition of shares or other interest in the SRO will result in a change in the executive management of the SRO.

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5. Business plan.

5.1 Indicate whether there will be a material change in the business strategy of the SRO as a result of the acquisition of shares or other interest in the SRO and if so, please provide details.

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7. I hereby enclose -

7.1 the payment or proof of payment of the prescribed fee of R5 000-00.

7.2 a copy of the structural chart in question 2.3 of Part D.

7.3 copies of the audited financial statements or net worth statements in question 2.4 of Part D.

7.4 the draft agreement in question 2.7 of Part D.

7.5 the other documents, if any, mentioned in Part D of this form in support of the application.

8. I certify, to the best of my knowledge, that the information given in the answers to the above questions are complete, accurate and true and not misleading in any respect.

Full forename(s) and surname of –

the Applicant

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or his duly authorised representative

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SIGNATURE

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DATE