

PART VIII OPERATIONAL ABILITY

8. (1) An FSP must have and be able to maintain the operational ability to fulfill the responsibilities imposed by the Act on authorised financial services providers, including but not limited to the following:
- (a) A fixed business address;
 - (b) adequate access to communication facilities including at least a full-time telephone or cell phone service, and typing and document duplication facilities;
 - (c) adequate storage and filing systems for the safe-keeping of records, business communications and correspondence;
 - (d) an account with a registered bank including, where required by the Act, a separate bank account for client funds; and
 - (e) an FSP who is an accountable institution as defined in the Financial Intelligence Centre Act, 2001, must have in place all the necessary policies, procedures and systems to ensure full compliance with that Act and other applicable anti-money laundering or terrorist financing legislation.
- (2) An FSP that utilises any third party to render administrative or system functions in relation to the rendering of financial services on its behalf must have in place a detailed service level agreement, specifying the agreed services, time standards, roles and responsibilities and any penalties that might be applicable.
- (3) An FSP must ensure that internal control structures, procedures and controls are in place which include at the least the following-
- (a) segregation of duties and roles and responsibilities where such segregation is appropriate from an operational risk mitigation perspective;
 - (b) application of logical access security;
 - (c) access rights and data security on electronic data, where applicable;
 - (d) physical security of the providers assets and records, where applicable;
 - (e) documentation relating to business processes, policies and controls, and technical requirements;
 - (f) system application testing, where applicable;
 - (g) disaster recovery and back-up procedures on electronic data, where applicable;
 - (h) appropriate training for all key individuals and/or representatives regarding the requirements of the Act;
 - (i) training for all key individuals and/or representatives regarding the giving of advice and/or rendering of intermediary services by the provider; and
 - (j) a business continuity plan.
- (4) An FSP must ensure that the necessary system controls and compliance measures are in place to manage and monitor the relevant system(s) in use.
- (5) An FSP must record all financial and system procedures to ensure that the FSP is able to report in terms of applicable accounting requirements.
- (6) An FSP must have general administration processing, accounting transactions and risk control measurements in place to ensure accurate,

complete and timeous processing of data, information reporting and the assurance of data integrity.

- (7) An applicant must, if and to the extent required by the Registrar, maintain in force suitable guarantees or professional indemnity insurance or fidelity insurance cover to cover the risks of losses due to fraud, dishonesty or negligence.
- (8) A key individual, in respect of an FSP, must have and be able to maintain the operational ability to fulfill the responsibilities imposed by the Act on FSPs, including oversight of the financial services (regarding the giving of advice and rendering of intermediary services) provided by the representatives of the FSP.

PART IX FINANCIAL SOUNDNESS

- 9. (1) An FSP must not be an unrehabilitated insolvent or under liquidation or in provisional liquidation.
- (2) An FSP in respect of category I that does not hold client assets or receive premiums or money must comply with the following requirement, namely, that the assets of the FSP (excluding goodwill, other intangible assets and investments in related parties) must at all times exceed the FSP's liabilities (excluding loans validly subordinated in favour of all other creditors).
- (3) An FSP in respect of Category I that holds client assets or receive premiums or money must at all times comply with the following requirements:
 - (a) The assets of the FSP (excluding goodwill, other intangible assets and investments in related parties) must exceed the FSP's liabilities (excluding loans validly subordinated in favour of all other creditors);
 - (b) the FSP must maintain current assets which are at least sufficient to meet current liabilities; and
 - (c) the FSP shall at all times maintain liquid assets equal to or greater than 4/52 weeks of annual expenditure.
- (4) An FSP in respect of Category II must at all times comply with the following requirements:
 - (a) The assets of the FSP (excluding goodwill, other intangible assets and investments in related parties) must exceed the FSP's liabilities (excluding loans validly subordinated in favour of all other creditors);
 - (b) the FSP must maintain current assets which are at least sufficient to meet current liabilities; and
 - (c) the FSP shall at all times maintain liquid assets equal to or greater than 8/52 weeks of annual expenditure.
- (5) An FSP in respect of Categories IIA and III must at all times comply with the following requirements:
 - (a) The assets of the FSP (excluding goodwill, other intangible assets and investments in related parties) must exceed the FSP's