

Market Notice

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Update on Consumer Protection Act No. 68 of 2008

Member firms are reminded that the Consumer Protection Act, 2008 ("CPA") took effect yesterday, 31 March 2011.

Securities services as regulated in terms of the Securities Services Act, 2004 ("SSA") **do not** enjoy specific exclusion from the CPA.¹ Discussions with the Financial Services Board ("FSB"), the National Treasury and the Department of Trade & Industry ("the dti") regarding a possible exemption from the CPA for "securities services" are on-going. An exemption may be granted by the Minister of Trade & Industry, and is subject to the advice of the National Consumer Commission. Members will be kept informed of developments.

In the interim –

- Goods and services provided by regulated persons in terms of the SSA, as well as the functions and activities of self-regulatory organisations, will continue to be regulated under the SSA (and by the JSE's Rules and directives, where appropriate)
- Existing dispute resolution mechanisms should apply; in other words, a complaint or dispute with respect to "securities services" should be channeled via the JSE Complaints & Disputes Scheme (the JSE Ombud scheme registered under the Financial Services Ombud Schemes Act, 2004 ("FSOS"))

The JSE will continue to engage with the FSB on how to minimise any regulatory conflicts that arise from applying both the SSA and the CPA.

Members are encouraged to take appropriate steps and consult with their professional advisors as to how best to ensure their compliance with the CPA.

Members can access copies of the CPA and the regulations on the dti website www.dti.gov.za.

For CPA queries relating to the JSE, please contact Louis Cockeran (louisc@jse.co.za) or Graeme Brookes (graemeb@jse.co.za).

¹ However, the CPA **does provide for an exclusion** in respect of advice or intermediary services that are already regulated under the Financial Advisory and Intermediary Services Act, 2002 ("FAIS"). This exclusion recognises that financial advisory and intermediary services are sufficiently regulated under FAIS, and that to include these services within the ambit of the CPA could lead to undesirable consequences and duplicated regulation.



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