



The South African Institute of Chartered Accountants

9 May 2008

The Secretary to Parliament  
c/o Mr Bradley Viljoen  
Committee Section  
Parliament of the RSA  
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Cape Town  
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Dear Sir

**COMMENT ON THE GENERAL FINANCIAL SERVICES LAWS  
AMENDMENT BILL, 2008**

In response to your request for comments on the General Financial Services Laws Amendment Bill, 2008 (the Bill), attached please find the comment letter prepared by the South African Institute of Chartered Accountants (SAICA).

We thank you for the opportunity to provide comments on the Bill. Please do not hesitate to contact us should you wish to discuss any of our comments.

Yours sincerely

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Project Director – Financial Services



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*A member of the International Federation of Accountants (IFAC) and the Eastern Central and Southern African Federation of Accountants (ECSAFA)*

**COMMENT ON THE GENERAL FINANCIAL SERVICES LAWS AMENDMENT BILL, 2008**

**General**

Overall we support the proposed amendments in the Bill and specifically the amendments to provide for the registration and regulation of beneficiary funds, to define unclaimed benefits and to extend the powers of the Financial Services Board.

**Amendment of section 8 of the Pension Funds Act (Act 24 of 1956, as amended)**

We agree with the proposal in sections 8(5)(a) and (b) that the FSB should be able to terminate the appointment of a Principal Officer if there is evidence to support that the incumbent is no longer fit and proper to hold that position or that it is not in the public interest that the he/she hold that position.

We do not, however, agree with the inclusion of sections 8(5)(c)(i) and (ii). These sections are open to interpretation. For example how will the following be determined?

- The “*soundness of judgement*” of the Principal Officer.
- The “*diligence with which the person concerned is likely to fulfil those responsibilities*”.

We also submit that the content of section 8(5)(c)(iii) is covered in section 8(5)(iv).

We therefore recommend that sections 8(5)(c)(i), (ii) and (iii) be deleted and that the content of these sections be incorporated into section 8(5)(iv) which already covers some of the requirements.

**Amendment of section 9(3) of the Pension Funds Act (Act 24 of 1956, as amended)**

Please refer to our comments on section 8 of the Pension Funds Act above.

**Amendment to Section 13(b) of the Financial Advisory and Intermediary Services Act, (Act 37 of 2002)**

Please amend the typing error: “*lonpetent*” should be “*competent*”.

**Amendment to section 19 of the Financial Advisory and Intermediary Services Act, (Act 37 of 2002)**

We appreciate that Financial Service Providers may not be subject to the Companies Act and therefore may not be required to prepare financial statements in terms of an accounting framework. However, some of the wording in section 19 may clash with changes to financial reporting standards where a framework is applied.

We therefore recommend that “*generally accepted accounting practice*” be clearly defined. For companies we recommend that the term “*financial reporting standards*” as defined in section 1 of the Companies Act be used.

In section 19(a), we recommend that references to components of financial statements such as “*income statement*”, “*balance sheet*”, “*statement of changes in equity*” and “*cash flow statement*” be removed and replaced with a reference to the components of financial statements as set out in the financial reporting standards.

We recommend using the words “*financial instruments*” instead of “*financial products*” in section 19(d) to align with the wording used in the financial reporting standards.