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## IRREGULARITY REPORTING POLICY

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### Introduction

Etude Risk Management (Pty) Ltd (hereinafter "Etude") bases its business on principles of loyalty, correctness, honesty, transparency and integrity, with due regard for the law and best business practices, lending particular attention to the establishment of in-house rules of conduct to implement these principles and to the training of its personnel in these matters.

The adoption of the new Irregularity Policy at a meeting of the Board of Directors held on *the 10th of October 2017*, constitutes one of the main measures for the implementation of a corporate governance culture at Etude.

The Irregularity Report Policy aims to implement the provision of section 17(1)(c) of the FAIS Act, in line with the recommendations of the Compliance Institute of Southern Africa and the Generally Accepted Compliance Practice, which forms the foundation of our culture.

### 1. Purpose

This Policy on Reporting Irregularities aims to allow any stakeholder related to Etude, in particular personnel, directors and clients to have an understanding of what is viewed as an irregularity and what the procedures entail. The policy aims to establish a uniform protocol for reporting and responding to such concerns.

### 2. Definitions

**"Irregularity"** An event of non-compliance with or a breach of, the FAIS Act and any event that has, or has a potential to have, an adverse effect on the regulatory authorisation of the FSP or the clients of such provider will be referred to as an "irregularity" and any reference to "irregularity" will include a reference to "suspected irregularity";

**"Material"** may be defined as being of real importance or great consequence. Reportable matters would thus be those that will have a significant adverse effect on the regulatory authorisation of the FSP or the clients of such provider;

**Sec 17(1)(c)** The provisions of section 19(4), (5) and (6), relating to an auditor of an authorised financial services provider, apply with the necessary changes to a compliance officer.

**Section 19(4)** Despite anything to the contrary contained in any law, the auditor of an authorised financial services provider must report to and inform the registrar in writing of any irregularity or suspected irregularity in the conduct or the affairs of the authorised



financial services provider concerned of which the auditor became aware in performing functions as an auditor and which, in the opinion of the auditor, is material

### 3. Policy/Procedure

Section 17(1)(c) of the FAIS Act read together with section 19(4) provides that the compliance officer of an authorised Financial Services Provider (FSP) must report to and inform the Registrar in writing of any irregularity or suspected irregularity in the conduct or the affairs of the authorised FSP concerned of which the compliance officer became aware in performing functions as a compliance officer, and which, in the opinion of the compliance officer, is material.

#### 3.1 Reporting responsibilities

Etude believes in the principles of loyalty, correctness, honesty, transparency and integrity, with due regard for the law. Our compliance officers have the obligation in terms of the FAIS Act to report on irregularities that have been detected in the Financial Service Providers we service. With regards to Irregularity Reports, it remains the compliance officer's responsibility to determine their FAIS obligations. At Etude we strive for coherency and all our compliance officers will abide by this Irregularity Policy.

#### 3.2 Decision on the materiality of irregularity

Whether an irregularity is material or not will depend on the individual circumstances. The nature, scale and complexity of the business of the FSP will affect whether a certain irregularity is a material. This decision remains the compliance officer's responsibility.

To determine materiality the compliance officer will consider the following factors:

- a) the impact of the irregularity on the FSP's ability to render financial services in terms of the authorisation granted to the FSP in terms of the FAIS Act;
- b) the actual potential financial loss to the client/s of the FSP and/or to the FSP as a result of the irregularity and;
- c) the number and frequency of similar previous irregularities;

#### 3.3 Immediate and delayed reporting

Irregularities may be divided into immediate and delayed reporting categories. Reporting of material irregularities will **not** be delayed until the official bi-/annual compliance report. The procedure for immediate reports will be discussed below in 4.4.

##### 3.3.1 Immediate reporting

Immediate irregularity reports will be based on irregularities that are material breaches and have a serious effect on the FSP or its clients. After consideration of the circumstances and materiality of an irregularity, Etude sees the following events as material irregularities that need to be reported immediately. This is not an exhaustive list and may be amended at any



time. If the list of material irregularities is amended, it must be communicated to all employees of Etude as well as the clients of Etude.

- a) An FSP continuing to conduct business after its authorisation has been refused, suspended or withdrawn or after the authorisation has voluntarily lapsed.
- b) An FSP rendering financial services in respect of a category or product for which the FSP has not authorised e.g. furnishing advice in respect of shares when the FSP is not licensed to do so.
- c) Where the accreditation of an FSP with the Council for Medical Schemes has been lapsed or suspended and the FSP continues to render financial services in respect of Health Services Benefits.
- d) An FSP conducting financial services related business with a person rendering financial services if that person is not authorised/licensed as an FSP or representative to render financial services.
- e) Misrepresentation/manipulation of information submitted in support of the FSP's application for authorisation.
- f) False or misleading declarations in respect of the fit and proper status of a key individual.
- g) Non-declaration of an adverse change in a key individual's status in respect of compliance with the Fit and Proper Requirements in terms of FAIS e.g. the key individual is sequestered.
- h) A person who acts as a key individual but is appointed as a director/shareholder to conceal that such person does not meet the fit and proper requirements for a key individual.
- i) A representative which has been debarred renders financial services on behalf of the FSP.
- j) Failure to debar representatives.
- k) Manipulation of the register of representatives, e.g. to influence the number of levies to be paid to the FSB.
- l) An FSP preventing its auditor from performing the functions of the auditor.
- m) Any act of fraud, corruption, undue influence or an act deemed illegal will affect the fit and proper requirement of the person involved.
- n) An FSP preventing its compliance officer(s) from performing the functions of the compliance officer(s).
- o) An FSP purporting to be licensed to render financial services as an authorised FSP in respect of a product if that product is not defined in the FAIS Act and the authorisation of the FSP is thus not relevant to services being rendered in respect of such product.
- p) An FSP creating/operating/utilising product structures (e.g. structures facilitating the aggregation of investments from clients/pooling vehicles) in contravention of legislation regulating such structures. A Category II, IIA or III FSP selling financial products owned by such FSP to clients or buying financial products owned by clients for its account. Refer to the Specific Code of Conduct for Administrative and Discretionary FSPs.
- q) Continued non-compliance after the compliance officer directed that rectification was required.

### 3.3.1 Delayed reporting

Delayed reports are events of a lesser serious nature, this will include, but is not limited to, failing to notify the FSB of a name, address or management change. In the case of delayed



reports, the compliance officer can allow an appropriate time for the FSP to rectify the breach. The appropriate period will depend on the individual circumstances surrounding the irregularity and must be appropriate to the nature, scale and complexity of the business of an FSP. Once the allocated period has lapsed and nothing has been done to rectify the breach, further action will be taken and the compliance officer will submit a delayed irregularity report to the FSB.

Etude sees the following events as irregularities that must be reported to the FSB if not addressed by the client within an appropriate period since being notified thereof include, but are not limited to:

- a) An FSP operating without a key individual where the FSP is not a sole proprietor.
- b) Representatives rendering financial services on behalf of the FSP are not authorised or not authorised in respect of the required product category.
- c) An FSP is not maintaining records as required in terms of section 18 of the FAIS Act.
- d) An FSP is not maintaining full and proper accounting records.
- e) Non-compliance with requirements in respect of the accounting for funds and financial products held on behalf of clients.
- f) Failure to request approval/notify the Registrar of FSPs of a change in the financial year-end of the FSP.
- g) Non-compliance with requirements in respect of the operational ability of the FSP.
- h) Non-compliance with requirements in respect of financial soundness.
- i) Non-compliance with requirements in respect of suitable guarantees or professional indemnity or fidelity insurance cover.
- j) Non-compliance with requirements in respect of advertising.
- k) Non-compliance with requirements in respect of complaints handling.
- l) Non-compliance with requirements in respect of the termination of agreements or business.
- m) Non-compliance with requirements in respect of nominees of administrative and discretionary FSPs.
- n) Non-compliance with requirements in respect of reporting to clients of administrative and discretionary FSPs.
- o) Client mandate breaches by administrative and discretionary FSPs.
- p) Non-compliance with licence conditions.

### 3.4 Procedure when non-compliance is detected

When a compliance officer detects an irregularity the following procedure must be followed by said compliance officer:

- a) The compliance officer must use his/her discretion and decide whether the irregularity is deemed as a material irregularity and whether said irregularity is of a delayed or immediate reporting nature.
- b) After the above has been contemplated and it has been deemed as an immediate material reporting irregularity, the compliance officer must report said irregularity to the client, if the compliance officer is under supervision, to his/her supervisor, without



undue delay. (Unless it can be proved that a reasonable person would have believed disclosing the irregularity to the client, would enable the client to use the time to hide the information etc.)

- c) In the notification to the client, it must be stated that the matter will be reported, the details of the matter and give them reasonable opportunity to provide written comments as to why the irregularity is not material and/or the steps that will be taken to address it.
- d) Thereafter, the matter must be reported to the FSB without undue delay, including any response by the client as to why the irregularity should not be considered material and steps taken by the client since being informed of the irregularity, to rectify it.