



**CONFLICT OF INTEREST MANAGEMENT POLICY FOR BEN SURE CONSULTANTS**  
(WITH SPECIFIC REFERENCE TO THE FAIS GENERAL CODE OF CONDUCT)

**EXECUTIVE SUMMARY**

The objective of the Ben Sure Consultants (“BSC”) Conflict of Interest (COI) Policy is to provide a framework within which to address areas where conflicts of interest may arise. It aims to establish broad principles and guidance, and it prescribes processes that are essential to ensuring compliance with regulatory measures (e.g. the FAIS Act).

This policy aims to promote transparency and fairness in the interest of consumers, employees, providers and BSC. The policy defines how conflicts of interest are to be managed, that is, to identify potential conflicts, to avoid conflicts where possible and, how to disclose same. The policy also sets out processes and procedures to ensure compliance and highlights the consequences of non-compliance.

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Approved Financial Services Provider / Licence No. 1137

## **INDEX**

- 1. Definition (3)**
- 2. Introduction (5)**
- 3. Objective (5)**
- 4. Policy statement (6)**
- 5. Managing the risk of conflicts of interest developing (6)**
  - 5.1. Identifying conflicts of interest**
  - 5.2. Avoidance of conflict of interest**
  - 5.3. Disclosure of conflicts of interest**
- 6. Processes and procedures to ensure compliance (8)**
- 7. Accessibility of COI policy (9)**
- 8. Training and awareness (9)**
- 9. Consequence of non-compliance (9)**
- 10. Revision (10)**

## **ANNEXURES**

- A. List of third parties that BSC holds an ownership interest in.
- B. Framework to evaluate the providing of services in support of a FSP
- C. Guidelines to evaluate the providing of “immaterial financial” interests to FSPs.

## 1. DEFINITIONS

### 1.1 “Associate”

(A) In relation to a natural person, means -

- i. a person who is recognized in law or the tenets of religion as the spouse, life partner or civil union partner of that person;
- ii. a child of that person, including a stepchild, adopted child and a child born out of wedlock;
- iii. a parent or stepparent of that person;
- iv. a person in respect of which that person is recognized in law or appointed by a
- v. Court as the person legally responsible for managing the affairs of or meeting the daily care needs of the first mentioned person;
- vi. a person who is the spouse, life partner or civil union partner of a person referred to in subparagraphs (ii) to (iv);
- vii. a person who is in a commercial partnership with that person;

(B) In relation to a juristic person -

- i. which is a company, means any subsidiary or holding company of that company, any other subsidiary of that holding company and any other company of which that holding company is a subsidiary;
- ii. which is a close corporation registered under the Close Corporations Act, 1984 (Act No. 69 of 1984), means any member thereof as defined in section 1 of that Act;
- iii. which is not a company or a close corporation as referred to in subparagraphs (i) or (ii), means another juristic person which would have been a subsidiary or holding company of the first-mentioned juristic person-
  - had such first-mentioned juristic person been a company; or
  - in the case where that other juristic person, too, is not a company, had both the first-mentioned juristic person and that other juristic person been a company;
- iv. means any person in accordance with whose directions or instructions the board of directors of or, in the case where such juristic person is not a company, the governing body of such juristic person is accustomed to act;

(C) In relation to any person -

- i. means any juristic person of which the board of directors or, in the case where such juristic person is not a company, of which the governing body, is accustomed to act in accordance with the directions or instructions of the person first-mentioned in this paragraph;
- ii. includes any trust controlled or administered by that person.

1.2 “**COI Policy**” means the BSC Conflicts of Interest Management Policy.

1.3 “**CO**” means the BSC Compliance Officer

1.4 “**Conflict of interest**” means any situation in which a person has an actual or potential interest that may, in rendering a financial service to a client,:

- i. influence the objective performance of their obligations towards such client; or
- ii. prevent a person from rendering an unbiased and fair financial service to that client, or from acting in the interests of that client, including but not limited to – a financial interest; an ownership interest; any relationship with a third party.

1.5 “**Employee**”, for the purpose of this policy, will include:

- i. All directors and full-time employees of BSC;
- ii. All temporary contracted employees;
- iii. All employed or contracted representatives including independent financial advisors and tied agents.

1.6 “**EXCO**” means the BSC Executive Committee.

1.7 “**FAIS**” means the Financial Advisory and Intermediary Services Act, No. 37 of 2002.

1.8 “**Fair value**” means the amount for which an asset could be exchanged, or a liability settled, between knowledgeable, willing parties in an arm’s length transaction (as set out in the reporting standards adopted in terms of the Companies Act (Act No. 61 of 1973).

1.9 “**Financial interest**” means any cash, cash equivalent, voucher, gift, service, advantage, benefit, discount, domestic or foreign travel, hospitality, accommodation, sponsorship, other incentive or valuable consideration, other than -

- i. an ownership interest;
- ii. training, that is not exclusively available to a selected group of providers or representatives, on -
  - products and legal matters relating to those products;
  - general financial and industry information;
  - specialized technological systems of a third party necessary for the rendering of a financial service; but excluding travel and accommodation associated with that training.

1.10 “**FSP**” means a Financial Services Provider.

1.11 “**financial service provider**” means any person, other than a representative, who as a regular feature of the business of such person –

- i. furnishes advice; or
- ii. furnishes advice and renders any intermediary service; or
- iii. renders an intermediary service.

1.12 “**financial service**” means any service contemplated in paragraph (i), (ii) or (iii) of the definition of “financial services provider”, including any category of such services.

1.13 “**Immaterial financial interest**” means any financial interest with a determinable monetary value, the aggregate of which does not exceed R 1 000 in any calendar year from the same third party in that calendar year received by -

- i. a provider who is a sole proprietor; or
- ii. a representative for that representative’s direct benefit;
- iii. a provider, who for its benefit or that of some or all of its representatives, aggregates the immaterial financial interest paid to its representatives.

1.14 “**Ownership interest**” means -

- i. any equity or proprietary interest, for which fair value was paid by the owner at the time of acquisition, other than equity or an proprietary interest held as an approved nominee on behalf of another person; and
- ii. includes any dividend, profit share or similar benefit derived from that equity or ownership interest;

1.15 “**Provider**” means an authorized FSP registered as such with the FSB.

1.16 “**Representative**” means any person, including a person employed or mandated by such first-mentioned person, who renders a financial service to a client for or on behalf of a financial services provider, in terms of conditions of employment or any other mandate, but excludes a person rendering clerical, technical, administrative, legal, accounting or other service in a subsidiary or subordinate capacity, which service –

- i. does not require judgment on the part of the latter person; or
- ii. does not lead a client to any specific transaction in respect of a financial product in response to general enquiries;

1.17 “**BSC**” refers to Ben sure Consultants CC (FSP 1137).

1.18 “**BFCCP**” means the BSC Financial Crime Combating Policy.

1.19 “**The Code of Ethical Conduct**” means the BSC Code of Ethical Conduct.

1.20 “**Third party**” means -

- i. a product supplier;
- ii. another provider;
- iii. an associate of a product supplier or a provider;
- iv. a distribution channel;
- v. any person who in terms of an agreement or arrangement with a person referred to in paragraphs (i) to (ii) above provides a financial interest to a provider or its representatives

**Note**

Please refer to **Annexure A** which lists:

Product suppliers that supply BSC with financial products and in which BSC holds an ownership interest;

Financial Services Providers in which BSC holds an ownership interest; and

Financial Services Providers that provide BSC with financial interests in terms of an agreement or an arrangement.

## **2. INTRODUCTION**

BSC is committed to ensuring that all business is conducted in accordance with the standards of good corporate governance. According the manner in which BSC conducts business is based on integrity and ethical and equitable behavior.

## **3. OBJECTIVE**

Consumerism has led to regulatory measures that have been developed to protect the interests of consumers, including the FAIS General Code of Conduct and the Financial Institutions (Protection of Funds) Act (No. 28 of 2001) which is directed towards, *inter alia*, the duties of persons dealing with the funds of clients and financial institutions; observing the utmost good faith and exercising proper care and diligence with regard to the funds of such clients and institutions; and ensuring a consistent manner of dealing with conflicts of interest and the disclosure thereof.

One of the consequences of implementing this legislation is that consumers will be exposed to fewer conflicts of interest and where such conflicts have been identified, (but could not be avoided) these would be effectively mitigated (managed), and adequate disclosure would have been made to all impacted parties. The objective of the COI Policy is to provide a framework within which to address areas where conflicts of interest may arise. It aims to establish broad principles and guidance, and it prescribes processes that are essential to ensuring compliance with the Code of Ethical Conduct applicable to BSC as well as other regulatory measures (e.g. the FAIS Act).

In conjunction with the Code of Ethical Conduct, this policy aims to promote transparency and fairness in the interest of consumers, employees, providers and BSC.

#### 4. POLICY STATEMENT

BSC has formulated and implemented detailed measures to proactively ensure compliance with these standards, with due regard for the specific business environment within which BSC operates.

This COI Policy is related to and must be read with the Code of Ethical Conduct, the BFCCP and the BSC Policy on the Giving and Receipt of Gratifications. This COI Policy applies to all employees, third parties where applicable and associates as defined.

#### 5. MANAGING THE RISK OF CONFLICTS OF INTEREST DEVELOPING

Once a conflict of interest has been identified, it must be appropriately and adequately managed.

##### 5.1 Identifying Conflicts of Interest

5.1.1. No person (including BSC) may avoid, limit or circumvent, or attempt to avoid, limit or circumvent compliance with the COI Policy via an associate or third party or an arrangement involving an associate or a third party.

5.1.2. BSC and its employees (i.e. representatives) may only receive or offer the following financial interest from or to a third party. The financial interest includes but is not limited to:

- i. Commission authorized in terms of the Short-term Insurance Act. Commission is strictly monetary amounts paid to a FSP, designated as such and determined on a basis specified prior to payment;
- ii. Fees authorized in terms of the Short-term Insurance Act if those fees are reasonably commensurate to a service being rendered;
- iii. Fees for the rendering of a financial service in respect of which commission or fees referred to in paragraph (a) or (b) above is not paid, if those fees – are specifically agreed to by a client in writing; and may be stopped at the discretion of the client;
- iv. Fees or remuneration for the rendering of a service to a third party, which fees or remuneration are reasonably commensurate to the service being rendered;
- v. Subject to other legislation, an immaterial financial interest;
- vi. A financial interest not referred to in paragraphs (a) to (e) above, for which a consideration, fair value or remuneration that is reasonably commensurate to the value of the financial interest, is paid by the provider or its representatives at the time of receipt thereof;
- vii. Sales tools or services (electronic or otherwise) that BSC wishes to provide to a FSP, on condition that the tools and services provided to a FSP are: essential in enabling the provider to prepare, submit and finalise any business transaction in accordance with BSC's business requirements; not essential, but offers value to the provider in terms of enhancing/ supplement the provider's interaction with clients; and regarded as other services. (Refer also to the decision framework in **Annexure B**)
- viii. Services that are essential in enabling the provider to prepare, submit and/ or finalize BSC transaction documentation, may be offered unless it would influence the FSP in the objective performance of its functions or prevent the FSP from rendering unbiased service. (Refer also to the decision framework in **Annexure B**)
- ix. Services that are not essential in enabling the FSP to do business with BSC, but which offers the FSP value in terms of enhancing or supplementing the FSP's interaction with clients may be provided if there is clear proof of benefiting the client and it does not create a conflict of interest. (Refer also to the decision framework in **Annexure C**)
- x. Services that do not form part of those described in (h) or (i) above may be made available to a FSP at a fair market value.

- 5.1.3. BSC shall only provide bona fide training to FSPs on:
- i. Products or legal matters relating to those products;
  - ii. General financial and industry information; and
  - iii. Specialized technological systems of a third party necessary for the rendering of a financial service. This would include BSC sales and administrative processes aimed at enabling other FSP's to do business with BSC. BSC may provide reasonable costs directly related to the training provided, such as venue costs, speaker fees and meals. The reasonable costs associated with providing meals and refreshments should not be regarded as part of immaterial financial interests, and need not be recorded. BSC or its associates may not provide for the travel and accommodation associated with the training and may not offer the training to an exclusive group of FSPs only. Other forms of training not mentioned in (a) – (c) above, may be provided subject to a consideration or remuneration (based on fair value) being paid for the training so provided to FSPs (or their representatives) receiving the training.
- 5.1.4. BSC shall **not** offer any financial interest to its representatives for:
- i. Giving preference to the quantity of business secured to the exclusion of the quality of the service rendered to clients; or
  - ii. Giving preference to a specific product supplier, where a representative may recommend more than one product supplier to a client; or
  - iii. Giving preference to a specific product of a product supplier, where a representative may recommend more than one product of that product supplier to a client.

## **5.2 Avoidance of Conflicts Of Interest**

5.2.1 Once an actual or potential conflict of interest has been identified, steps must be taken to (wherever possible) to avoid such a conflict. Should such avoidance not be possible, steps must be taken to mitigate such an actual or potential conflict of interest and must be disclosed to all impacted parties.

## **5.3 Disclosure of Conflicts of Interest**

5.3.1 BSC and its representatives must at the earliest reasonable opportunity disclose to a client any conflict of interest in respect of that client (and all other impacted parties).

5.3.2 The disclosure must be made in writing to the client and contain the following information which includes, but is not limited to:

- i. The measures taken, in accordance with this policy to avoid or mitigate the conflict;
- ii. Any ownership interest or financial interest, other than an immaterial financial interest, that BSC or its employees may become eligible for;
- iii. The nature of any relationship or arrangement with a third party that gives rise to a conflict of interest. Sufficient detail in terms of the nature and extent of the relationship that creates or gives rise to the conflict must be disclosed to the client. Such disclosure should enable the client to make a reasonable assessment as to whether to proceed with a transaction; and
- iv. Informing the client of the existence of the COI Policy and how this document may be accessed.

## 6. PROCESSES AND PROCEDURES TO ENSURE COMPLIANCE

6.1. BSC adopts this policy as the standard according to which businesses conducting business in terms of the BSC license (FSP 1137) shall conduct business in relation to the identification, avoidance and managing of conflicts of interest.

6.2. The Compliance Officer of BSC is responsible for managing (and updating) the COI Policy and will provide guidance to BSC management thereon (including the preclearance of business processes that potentially may cause a conflict of interest).

6.3. The onus is on the individuals subject to this COI Policy to avoid creating conflicts of interest, and if this is unavoidable, to take effective steps to mitigate such a COI and ensure that proper disclosure is made in respect thereof.

6.4. All employees are responsible for identifying specific instances of conflicts of interest and are required to notify the CO of any conflicts of interest they become aware of. The CO will escalate the conflict of interest to EXCO with a recommendation as to how the conflict of interest should be managed (if it cannot be avoided).

6.5. Documented guidelines to management on the provision of “immaterial financial interest” are set out in **Annexure C**. These guidelines may be adapted from time-to-time to address specific business needs.

6.6. Documentation and processes which have been formulated to identify, avoid, mitigate and disclose conflicts of interest include the following:

- i. The framework to evaluate whether the providing of services in support of providers create an actual or potential conflict of interest, is set out in **Annexure B**.
- ii. The framework to evaluate whether the providing of immaterial financial interests to providers create an actual or potential conflict of interest, and whether it is allowable in terms of the financial conditions imposed by regulation (R1 000 per annum), is set out in **Annexure C**.
- iii. The central register for the recording of conflicts of interest, including the persons involved and the controls implemented has been created.
- iv. Measures will be implemented to ensure continuous monitoring of compliance to the COI Policy.
- v. Where monitoring has identified non-compliance with either the COI policy, the compliance risk should be assessed and escalated to EXCO with a recommendation as to the measures that will be taken to mitigate the compliance risk; and
- vi. Specific instances of conflicts of interest may require management intervention in addition to the documented controls already in place. This may include escalation to EXCO for a decision on how the conflict should be managed, for example, disclosure to the client or declining to act.

6.7. All employment contracts must include the necessary termination and/or sanctions clauses to manage the risk of an actual or potential conflicts of interest situations created by employees’ acts or omissions.

6.8. Disciplinary procedures in BSC must provide for the review of any breach by employees and determine appropriate sanctions.

6.9. If employees are of the view that their own conduct has caused this policy to be breached, they must inform their manager at the earliest available opportunity after they have become aware of the breach. Management must report this breach to the CO for further investigation.

6.10. When employees reasonably suspect that a co-worker or contractor is in breach of this COI Policy, they must report it as soon as possible and in the strictest of confidence, to their line manager or the CO for further investigation.



## **7. ACCESSIBILITY OF THE COI POLICY**

This COI Policy will be made available on the BSC intranet as well as the BSC website to ensure that it is easily accessible for inspection by employees, clients and third parties at all reasonable times.

## **8. TRAINING AND AWARENESS**

8.1. All BSC employees, contractors and temporary workers will annually receive appropriate training and awareness on this policy.

8.2. All newly recruited employees must attend a training session during their induction program.

8.3. The BSC Human Resources department will co-ordinate and facilitate training interventions for BSC employees.

8.4. Training and training materials provided to representatives must include a reference to, and information on the content and application of this policy.

## **9. CONSEQUENCES OF NON-COMPLIANCE**

9.1. The FAIS Act provides for penalties in the event that a person is found guilty of contravening the Act, or of non-compliance with the provisions of the Act. The penalty for non-compliance of specific provisions of the Act, is an amount of up to R1 million or a period of imprisonment for up to 10 years.

9.2. The Registrar of FAIS is empowered to refer instances of non-compliance to an Enforcement Committee of the FSB that may impose administrative penalties on offenders.

9.3. The FAIS Act also gives the Registrar the powers to revoke the license of a FSP.

9.4. Employees' failure to make the necessary disclosures could be seen as a transgression of the Code of Ethical Conduct and will be dealt with in terms of BSC's Disciplinary Code.

9.5. Certain transgressions of this policy may result in civil or criminal prosecution. Please refer to the BFCCP in this regard.

9.6. All potential transgressions of this policy must be investigated fairly and objectively and be reported by the CO to EXCO for a decision.

## **10. REVISION**

This COI Policy will be reviewed on an annual basis and submitted by the CO to the EXCO and the BSC Board of Directors for evaluation and amendment, where necessary.

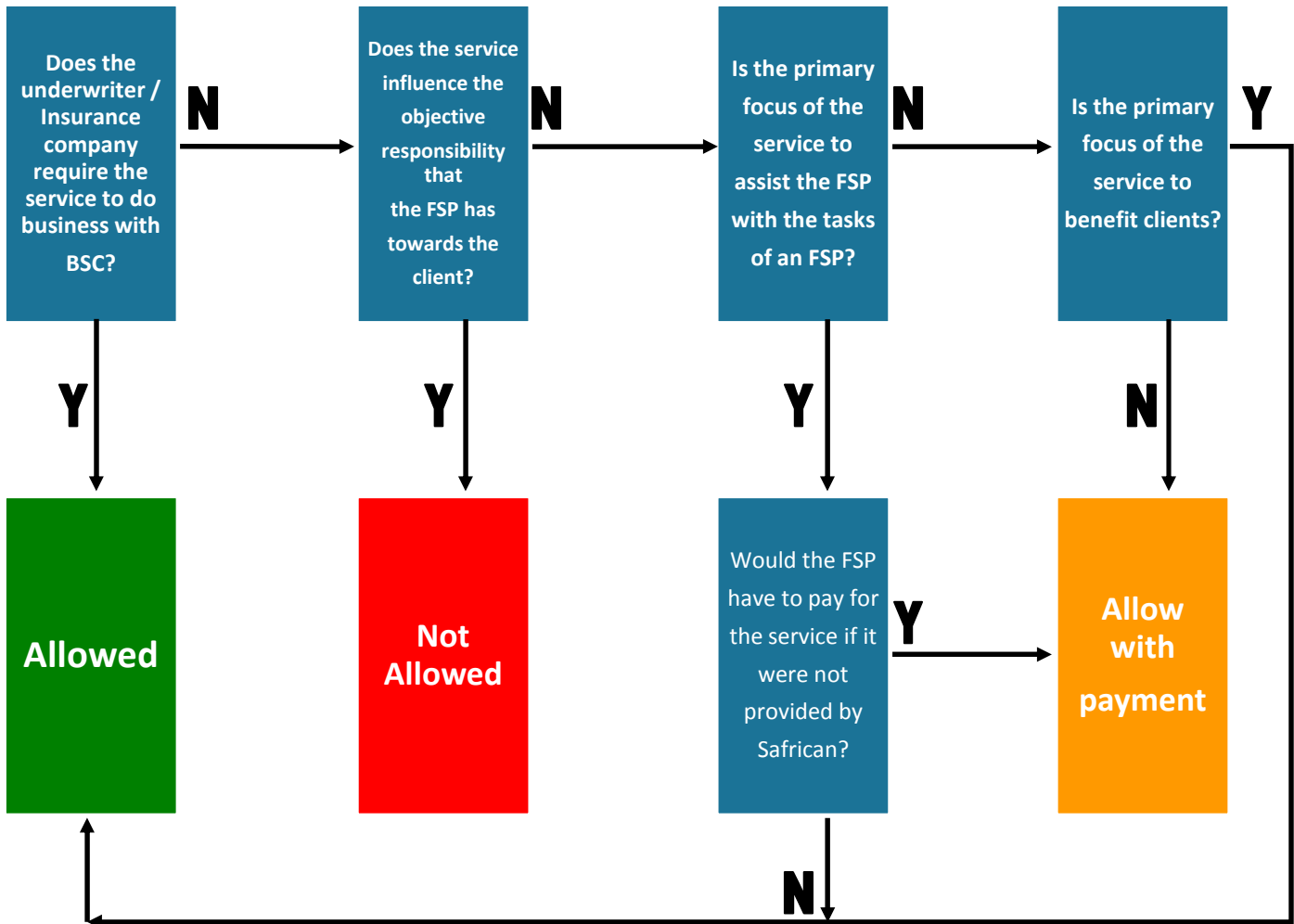


**ANNEXURE “A”**

**LIST OF THIRD PARTIES IN WHICH BSC HOLDS AN OWNERSHIP INTEREST AS AT  
31 DECEMBER 2010**

<b>A. Product Suppliers that supply BSC (FSP 1137) with financial products and in which BSC holds an ownership interest</b>					
<b>Number</b>	<b>Product Supplier</b>	<b>Nature of ownership interest</b>	<b>Extent of ownership interest</b>	<b>Relevant Associates (only apply to Product Suppliers and Providers that are regarded as associates of the underwriters and Insurance Companies)</b>	<b>Agreements / arrangements where a financial interest is provided to a provider or its representative (applies to Product Suppliers, Providers, Relevant Associates and Distribution Channels)</b>
1.	None				
<b>B. Financial Services Providers that SAFRICAN (FSP 15123) has an ownership interest in</b>					
1.	None				
<b>C. Financial Services Providers that provide SAFRICAN (FSP 15123) with financial interests in terms of an agreement or arrangement (in addition to those listed in A above)</b>					
1.	None				

## FRAMEWORK TO EVALUATE THE PROVIDING OF SERVICES IN SUPPORT OF A FSP



**GUIDELINES TO EVALUATE THE PROVIDING OF “IMMATERIAL FINANCIAL INTERESTS”  
TO FINANCIAL SERVICES PROVIDERS**

**1. LEGISLATIVE REQUIREMENTS**

In terms of the General Code of Conduct (issued in terms of the FAIS Act), the following requirements are set for managing conflicts of interests that may be created between an FSP and his/her client:

“Conflict of Interest” – This means any situation where an FSP or representative has an actual or potential interest (financial<sup>1</sup> or otherwise) that may influence the objective exercise of his/her obligations to a client. The focus is on any relationship (e.g. with a product provider) that would prevent such a person from offering unbiased and fair advice (or intermediary service) or from acting in the interest of a client.

- Principle based requirement

The following principle applies:

*“BSC or its representative must avoid and where this is not possible mitigate any conflict of interest between BSC and a client or the representative and a client.”*

- Rule based requirement  
BSC is not allowed to offer FSPs (and they are not allowed to receive) any financial interest other than:
  - a) Statutory commission and fees;
  - b) Fees applicable to the investment industry as agreed to by the client;
  - c) Fees for rendering a service to a third party (this provides for outsourcing arrangements, e.g. back office services rendered in the collective investments environment);
  - d) Immaterial financial interest<sup>2</sup>. The focus is on the immateriality of the financial interest that is given, but is subject to an overall maximum amount of R1 000 in a calendar year per annum; and
  - e) Financial interest for which the Broker pays a fair value.

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<sup>1</sup> “Financial Interest” – means any cash, cash equivalent, voucher, gift, service, advantage, benefit, discount, domestic or foreign travel, hospitality, accommodation, training, sponsorship, other incentive or valuable consideration, other than an ownership interest.

<sup>2</sup> “Immaterial Financial Interest” – means any financial interest with a determinable monetary value, the aggregate of which does not exceed R1 000 in any calendar year, received by a provider or its associate, or representative from the same third party or an associate of that third party in that calendar year.

## **2. GENERAL INTENTION OF THE REGULATIONS**

The general intention of the Regulations is to eradicate the opulence that business courtesies have been known to create. Normal business courtesies (as indicated by the examples used in this document) are still acceptable provided they fall within the limitations set out below.

## **3. APPLICATION OF IMMATERIAL FINANCIAL INTEREST**

In terms of the definition of “immaterial financial interest”, the amount of R1 000 would apply to a provider who is a sole proprietor (i.e. a Key Individual who is also a representative), a representative of an FSP who stands to benefit, and an FSP who may benefit all or some of its representatives.

It would follow that the limitation of the R1 000 amount is aimed at providers (FSP`s) and their representatives. As the FSP may also be a legal entity, it would follow that such reference would include the Key Individuals (in their capacity as representatives) linked to such FSP`s.

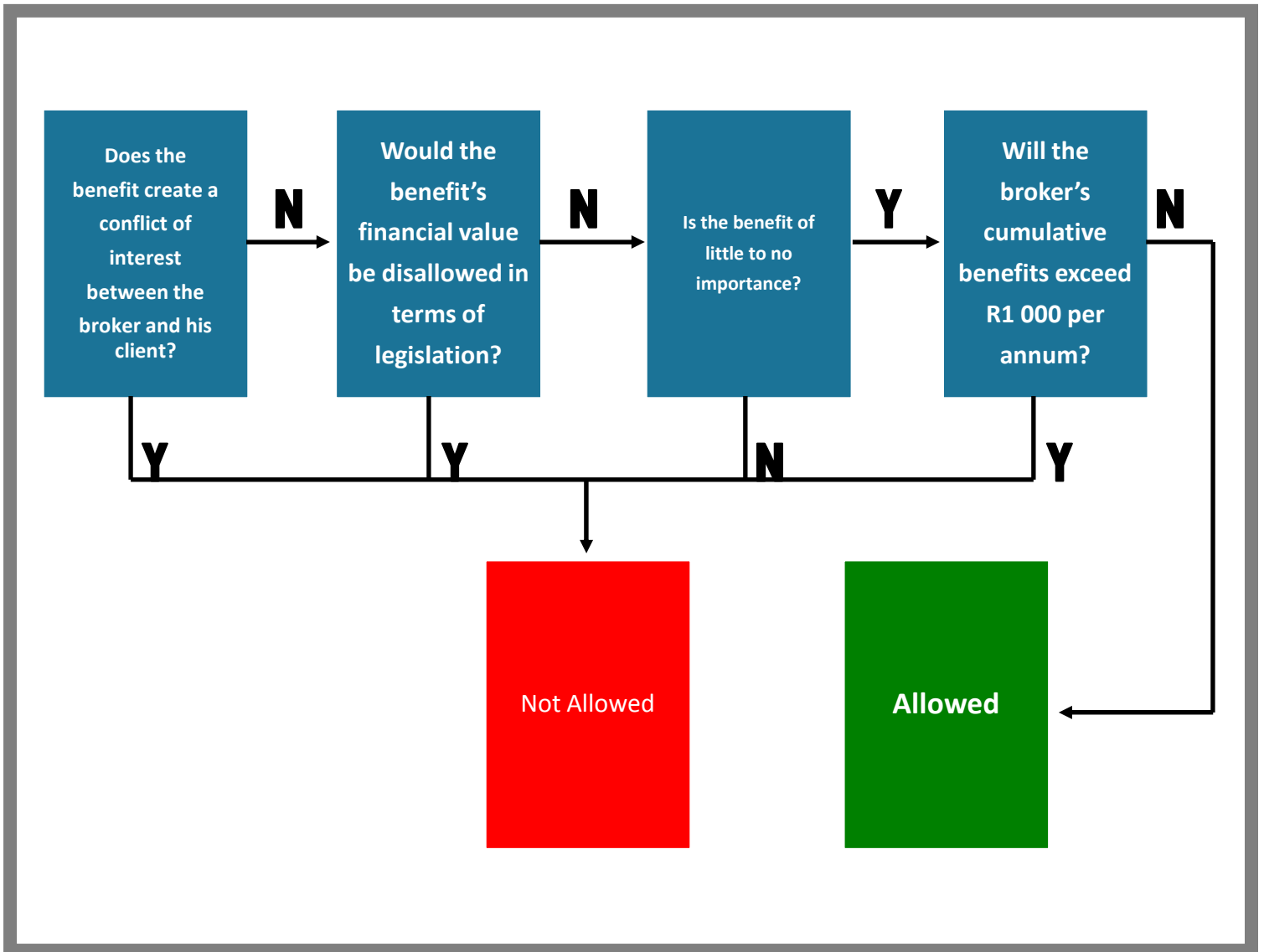
This can be illustrated by way of an example: A corporate brokerage who is an FSP may have 100 representatives. The limitation on providing “immaterial financial interests” is limited to a R1 000 per individual (and does not apply to the aggregation of 100 representatives (100 X R1000 for the FSP)). This means that you cannot multiply the R1 000 by the 100 representatives and regard this as an immaterial financial interest that accrues to the FSP.

In practical terms, BSC would be allowed (as an FSP) to spend a maximum of R1 000 per broker on “immaterial financial interests” in a calendar year.

The requirements in Board Notice 58 of 2010 applies to all relationships between the FSP and other FSP`s, product suppliers and representatives, in respect of services rendered in South Africa but regardless of whether they are domiciled in South Africa or internationally.

## **4. FRAMEWORK FOR DECISION MAKING**

The following decision-tree is suggested as a guide to assist in deciding whether a specific benefit is allowable:



## 5. EXAMPLES

### A. Extending Invitations to brokers

#### i. Golf Invitations

An invitation to a broker to attend a golf game is acceptable, and is not viewed as creating an unallowable conflict of interest. The limitation is however that this may only include reasonable expenses to be paid for by the FSP. Reasonable expenses would be linked to the specific circumstances of an event, but always limited to an overall maximum amount of R1 000 per calendar year. As such an invitation falls within the definition of an allowable financial interest, this would need to be recorded and will be subject to the R1 000 pa immaterial financial interest limit.

- ii. Sporting and similar events  
As part of its normal marketing activities, BSC may at times host (or be asked to participate in) a charity event (e.g. sponsoring a golf event or hole).  
When an FSP invites brokers to play (as part of the benefits afforded to the FSP for its sponsorship), this is not regarded as creating an unallowable conflict of interest. The limitation set out in (a) (i) above applies.
- iii. Invitations to cultural events  
The same limitation as set out in (a)(i) above applies.

#### B. Hosting Events for brokers

- i. Golf Day  
Hosting a golf day for brokers is regarded as creating an unallowable conflict of interest.
- ii. Hunting/fishing  
Hosting a social trip for brokers is regarded as creating an unallowable conflict of interest.

#### C. Inviting brokers to conduct a “due diligence” visit to a BSC Office

Inviting brokers (and their managers) to interact with BSC staff is not regarded as an unallowable conflict of interest. The limitation would however be that no travel or accommodation costs may be paid for by the FSP. Normal business courtesies (linked to reasonable expenses) would be allowable, but would be subject to the overall maximum of R1 000 per annum in any calendar year.

#### D. Providing clients & businesses with marketing material to conduct promotional projects

Providing clients & businesses with a complimentary supply of BSC specific branded material to conduct his/her own promotional activities, is regarded as creating an unallowable conflict of interest.

Providing marketing material to underwriters, insurance companies and clients at the normal distribution price is acceptable.

(Bear in mind that providing free promotional material and including this as an “immaterial financial interest” is not allowed.)

#### E. Hosting product seminars on behalf of Insurance Company & Underwriters

An FSP may invite its clients to a function where its products are explained. At such a function the FSP is the host, and sends out invitations to its clients (and prospective clients).

#### F. Personal & Promotional gifts of nominal value

Providing a client with a gift of a nominal value at special occasions e.g. at the end of the year, at birthdays, anniversaries is allowed provided that the cost of such gift should be included in the calculation of “immaterial financial interest”.