

South Africa

Financial Advisory and Intermediary Services Act, 2002

## Determination of Fit and Proper Requirements, 2017

Board Notice 194 of 2017

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## South Africa

### Financial Advisory and Intermediary Services Act, 2002

## Determination of Fit and Proper Requirements, 2017

### Board Notice 194 of 2017

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Provisions	Status
Chapter 1 (section 1â6); Chapter 2 (section 7â10); Chapter 3, Part 1, section 11â12, section 13(1), 13(2), 13(4), 13(6), 13(7), 13(8); Part 2 (section 14â21); Part 3 (section 22â24); Part 4 (section 25â27); Part 5, section 28, section 29(1), 29(3), 29(4), 29(5), 29(6), 29(7), section 30; Chapter 4 (in part); Chapter 5, section 35â37, section 39â42; Chapter 6 (section 43â50); Chapter 7 (section 51â53)	commenced on 1 April 2018.
Chapter 3, Part 1, section 13(3), 13(5); Part 5, section 29(1)(b); Chapter 5, section 38	commenced on 1 May 2018.
Chapter 4, section 31â34	commenced on 1 June 2018.
Chapter 3, Part 5, section 29(1)(a), 29(2)	commenced on 1 August 2018.
Chapter 5, section 37(2)(b)(iii)(aa), 37(2)(b)(iii)(bb), 37(2)(b)(iii)(cc), 37(2)(b)(iii)(dd), 37(2)(b)(iv), section 40(5); Chapter 7, section 52(18)	commenced on 26 June 2020.

*[This is the version of this document from 26 June 2020.]*

*[Amended by [Amendment of the Determination of Fit and Proper Requirements, 2020 \(Government Notice 707 of 2020\)](#) on 26 June 2020]*

I, Caroline Dey da Silva, the Deputy Registrar of Financial Services Providers, hereby under section 6A of the Financial Advisory and Intermediary Services Act, 2002 ([Act No. 37 of 2002](#)), determine the fit and proper requirements for financial services providers as set out in the Schedule.

### Chapter 1

#### Interpretation, purpose and application of determination

##### 1. Definitions

In this Schedule a word or expression to which a meaning has been assigned in the Financial Advisory and Intermediary Services Act, 2002 ([Act No. 37 of 2002](#)), has the same meaning as in that Act, and—

“**accredited provider**” means a person that is recognised and certified or accredited by a Quality Council as having the capacity or provisional capacity to offer a qualification or part-qualification registered on

the NQF at the required standard, or a foreign person that is so recognised and certified or accredited by a foreign authority that is equivalent to a Quality Council;

“**administration of assistance policies**” means work performed by a person relating to the offsetting of claims, processing of claims or payment of fees or commission in respect of an assistance policy;

“**Administrative Code of Conduct**” means the code of conduct for administrative FSPs published under section 15 of the Act;

“**administrative FSP**” means an administrative FSP as defined in the Administrative Code of Conduct;

“**applicant**” means a person who submits an application for authorisation;

“**assessed**” in relation to competence requirements, means the structured process of gathering reliable evidence to determine the level of a person’s competence in relation to a pre-determined standard, and the extent to which the person’s competence meet the pre-determined standard;

“**assistance business FSP**” means a person that performs the administration of assistance policies and includes a person who is a binder holder as defined in the Regulations under the Long-term Insurance Act, where such administration is performed by that binder holder;

“**assistance policy**” means an assistance policy as defined in section 1 of the Long-term Insurance Act;

“**automated advice**” means the furnishing of advice through an electronic medium that uses algorithms and technology without the direct involvement of a natural person;

“**Banks Act**” means the Banks Act, 1990 ([Act No. 94 of 1990](#));

“**bonds**” in relation to financial product means—

- (a) bonds as contemplated in the definition of “securities” as defined in the Financial Markets Act; and
- (b) bonds as contemplated in paragraph (a) that have a foreign currency denomination;

“**cash**” means—

- (a) physical currency consisting of Reserve Bank notes and coins;
- (b) any balance in an account with a—
  - (i) bank as defined in section 1(1) of the Banks Act;
  - (ii) ‘branch’, ‘branch of a bank’ or a ‘mutual bank’ as defined in section 1(1) of the Banks Act;
  - (iii) bank established in a country other than the Republic and which lawfully conducts in such other country a business similar to the business of a bank, excluding a facility that extends credit;

*[definition of “cash” substituted by section 2(a) of [Government Notice 707 of 2020](#)]*

“**category of FSP**”, means a specific category of FSPs referred to in section 3;

“**category II financial services**” means the financial services referred to in the definition of ‘discretionary FSP’;

“**category IIA financial services**” means the financial services referred to in the definition of ‘hedge fund FSP’;

“**category III financial services**” means the financial services referred to in the definition of ‘administrative FSP’;

“**category IV financial services**” means the financial services referred to in the definition of ‘assistance business FSP’;

“**class of business**” means the respective classes of business set out in Table 1 in Annexure Four;

“**class of business training**” means the training referred to in section 29(4) in respect of a class of business and which training is provided and assessed by an accredited provider or an education institution;

“**collective investment scheme**” means a collective investment scheme as defined in section 1(1) of the Collective Investment Schemes Control Act, and includes a portfolio as defined in section 1(1) of that Act;

“**Collective Investment Schemes Control Act**” means the Collective Investment Schemes Control [Act, No. 45 of 2002](#);

“**competence**” means having the skills, knowledge and expertise needed for the proper discharge of a person’s responsibilities in the performance of his or her functions;

“**CPD**” means continuous professional development;

“**CPD activity**” means an activity that is—

- (a) approved by a Professional Body that confirmed that the activity is verifiable; and
- (b) allocated an hour value or a part thereof by that Professional Body,

and excludes—

- (i) an activity performed towards a qualification; and
- (ii) product specific training;

*[definition of “CPD activity” substituted by section 2(b) of [Government Notice 707 of 2020](#)]*

“**CPD cycle**” means a period of 12 months commencing on 1 June of every year and ending 31 May of the following year;

“**debentures and securitised debt**” in relation to financial product means—

- (a) debentures and securitised debt as referred to in paragraph (a)(ii) of the definition of ‘financial product’ in section 1 of the Act;
- (b) debentures as contemplated in the definition of “securities” as defined in the Financial Markets Act; and
- (c) debenture and securitised debts contemplated in paragraph (a) and (b) that have a foreign currency denomination;

“**derivative instrument**” in relation to financial product means—

- (a) a derivative instrument as defined in the Financial Markets Act; and
- (b) a derivative instrument contemplated in paragraph (a) that has a foreign currency denomination, excluding—
  - (i) warrants, certificates or other instruments; and
  - (ii) a forex investment;

“**Discretionary Code of Conduct**” means the code of conduct for discretionary FSPs published under section 15 of the Act;

“**discretionary FSP**” means a discretionary FSP as defined in the Discretionary Code of Conduct;

“**education institution**” has the meaning assigned to it in section 1(1) of the NQF Act;

“**examination body**” means a body that, in terms of section 6 of the Act, has been delegated the function of setting, administering and/or conducting regulatory examinations on behalf of the Registrar;

“**execution of sales**” means an intermediary service performed by a person on instruction of a client to buy, sell, deal, invest or disinvest in, replace or vary one or more financial products;

**“experience”** means continuous practical working experience that entails the active and on-going gaining of knowledge, skills and expertise relevant to a particular category of FSP, particular financial service and, where applicable, a financial product that was—

- (a) in relation to an FSP and representative, gained through the rendering of a particular financial service in respect of a particular category of FSP and a particular financial product; or
- (b) in relation to a key individual, gained through the management or oversight of the rendering of a particular financial service in respect of a particular category of FSP; and
- (c) gained either within or outside the Republic of South Africa,

with no break in service of more than 5 years between the individual’s last working experience and the date of assessment of that individual’s experience;

**“family member”** means a natural person who is—

- (a) recognised in law or the tenets of religion as a spouse, life partner or civil union partner;
- (b) a child, including a stepchild, adopted child and a child born out of wedlock;
- (c) a parent or stepparent;
- (d) a grandparent; or
- (e) dependent on a another person who is recognised in law or appointed by a Court as the person legally responsible for managing the affairs of or meeting the daily care needs of the dependent person;

**“Financial Markets Act”** means the Financial Markets Act, 2012 ([Act 19 of 2012](#));

**“financial product”** includes—

- (a) any subcategory of a financial product; and
- (b) in respect of each financial product or subcategory of a financial product, a product that is issued by a foreign product supplier that is similar in nature to such product or subcategory of product;

**“foreign professional programme”** means a programme offered by a foreign body that is equivalent to an education institution or a professional body which sets an internationally accepted standard for a specialised profession relevant to the financial services industry;

**“forex investment”** has the meaning assigned to it in section 1(1) of the Code of Conduct for Authorised Financial Services Providers and their Representatives involved in Forex Investment Business, 2004;

**“friendly society benefit”** means a benefit provided by a friendly society contemplated in paragraph (d) (ii) of the definition of “financial product” in section [1\(1\)](#) of the Act;

**“FSP”** means a financial services provider as defined in section [1\(1\)](#) of the Act;

**“fund member policy”** means a fund member policy as defined in Regulation 3.1 of the Regulations under the Long-term Insurance Act;

*[definition of “fund member policy” substituted by section 2(c) of [Government Notice 707 of 2020](#)]*

**“fund policy”** means a fund policy as defined in Regulation 1.1 of the Regulations under the Long-term Insurance Act;

*[definition of “fund policy” inserted by section 2(d) of [Government Notice 707 of 2020](#)]*

**“General Code of Conduct”** means the general code of conduct for authorised FSPs published under section [15](#) of the Act;

**“health service benefit”** means a benefit referred to in paragraph (g) of the definition of ‘financial product’ in section [1\(1\)](#) of the Act;



“**CIS hedge fund**” means a hedge fund as defined in the Declaration made by the Minister under section 63 of the Collective Investment Schemes Control Act;

“**hedge fund FSP**” means a hedge fund FSP as defined in in the Discretionary Code of Conduct;

“**Insurance Act**” means the Insurance Act, 2017 ([Act No. 18 of 2017](#));

*[definition of “Insurance Act” inserted by section 2(e) of [Government Notice 707 of 2020](#)]*

“**juristic**”, in relation to a representative, means a representative that is not a natural person;

“**key individual**” includes a key individual of a juristic representative of an FSP;

“**limited underwriting**” means where the only requirements a prospective policyholder or life insured must comply with in order for a product supplier to accept risk or pay a claim are—

- (a) the furnishing of a health declaration by such policy holder of life insured, structured as answers to no more than eight questions relating to specific medical conditions;
- (b) a requirement that the policyholder of life assured must undergo an HIV test;
- (c) the requirements imposed by the National Credit [Act, No. 34 of 2005](#); or
- (d) a combination of any of the requirements referred to in paragraphs (a), (b) and (c).

“**long-term deposit**” means a deposit as defined in section 1(1) of the Banks Act, including a foreign currency deposit, with a term exceeding 12 months but excluding a structured deposit;

“**Long-term Insurance Act**” means the Long-term Insurance Act, 1998 ([Act No. 52 of 1998](#));

“**long-term insurance subcategory A**” means an assistance policy or a life insurance policy as defined in section 1 of the Insurance Act underwritten under the Funeral class of life Insurance business as set out in Schedule 2 of the Insurance Act;

*[definition of “long-term insurance subcategory A” substituted by section 1(f) of [Government Notice 707 of 2020](#)]*

“**long-term insurance subcategory B1**” means—

- (a) disability, health and life policy as defined in section 1(1) of the Long-term Insurance Act which provides only risk benefits as contemplated in the Regulations under that Act, but excludes—
  - (i) a fund policy as defined in section 1(1) of that Act;
  - (ii) a fund member policy;
  - (iii) an investment policy as defined in Part 5B of those Regulations; or
  - (iv) a policy referred to in the definitions of long-term insurance subcategories A, B1-A, B2, B2-A and C; or
- (b) means a life insurance policy as defined in section 1 of the Insurance Act underwritten under the Risk or Credit Life classes of life insurance business as set out in Schedule 2 of the Insurance Act;

*[definition of “long-term insurance subcategory B1” substituted by section 2(g) of [Government Notice 707 of 2020](#)]*

“**long-term insurance subcategory B1-A**” means those long-term insurance policies or life insurance policies referred to in the definition of long-term insurance subcategory B1 which require no or limited underwriting;

*[definition of “long-term insurance subcategory B1-A” substituted by section 2(h) of [Government Notice 707 of 2020](#)]*

**“long-term insurance subcategory B2”** means—

- (a) a long-term policy as defined in section 1 of the Long-term Insurance Act which is—
  - (i) an investment policy as defined in Part 5B of the Regulations under that Act and which guarantees a minimum return of any premium paid at a specified future date or dates, and where such minimum is ascertainable in Rand terms at inception;
  - (ii) a disability, health or life policy that provides risk benefits as contemplated in the Regulations under that Act and has a guaranteed investment value or a materially equivalent value;
  - (iii) an annuity which guarantees a minimum annuity for the term of the policy which annuity is ascertainable in Rand terms at inception; or
  - (iv) a policy which combines the any of the policy features referred to in paragraphs (i) to (iii), but excludes a fund policy, a fund member policy and a policy referred to in the definitions of long-term insurance categories A, B1, B1-A, B2-A and C; or
- (b) a life insurance policy as defined in section 1 of the Insurance Act which is—
  - (i) an investment policy as defined in Part 5B of the Regulations under the Long-term Insurance Act and which guarantees a minimum return of any premium paid at a specified future date or dates and where such minimum is ascertainable in Rand terms at inception;
  - (ii) a combined policy underwritten under the following classes of life insurance business as set out in Schedule 2 of the insurance Act—
    - (aa) risk class or credit life class; and
    - (bb) individual investment class or income drawdown class;
 that has a guaranteed investment value or a materially equivalent value;
  - (iii) underwritten under the Life Annuity class of life insurance business as set out in schedule 2 of the Insurance Act and which guarantees a minimum annuity for the term of the policy which annuity is ascertainable in Rand terms at inception; or
  - (iv) a policy which combines the any of the policy features referred to in paragraphs (i) to (iii), but excludes a fund policy, a fund member policy and a policy referred to in the definitions of long-term insurance categories A, B1, B1-A, B2-A and C.

*[definition of “long-term insurance subcategory B2” substituted by section 2(i) of [Government Notice 707 of 2020](#)]*

**“long-term insurance subcategory B2-A”** means those long-term insurance policies or life insurance policies referred to in the definition of long-term insurance subcategory B2 which provide for the premiums to be invested in an investment portfolio managed by the product supplier with no option by the policyholder to request a change or amendment to that portfolio;

*[definition of “long-term insurance subcategory B2-A” substituted by section 2(j) of [Government Notice 707 of 2020](#)]*

**“long-term insurance subcategory C”** means a long-term policy as defined in section 1(1) of the Long-term Insurance Act, or a life policy as defined in section 1 of the Insurance Act excluding—

- (a) a fund policy as defined in section 1(1) of the Long-term Insurance Act,
- (b) a fund member policy; and

- (c) a policy referred to in the definitions of long-term insurance subcategories A, B1, B1-A, B2 and B2-A;

[definition of “long-term insurance subcategory C” substituted by section 2(k) of [Government Notice 707 of 2020](#)]

“**money-market instruments**” in relation to financial product means—

- (a) money-market instruments as referred to in paragraph (a)(iii) of the definition of ‘financial product’ in section [1](#) of the Act; and
- (b) money-market instruments contemplated in paragraph [\(a\)](#) that have a foreign currency denomination;

“**no underwriting**” means there is no requirement by a product supplier for any medical, financial, demographic or lifestyle information to be provided by a prospective policyholder or life insured in order for such product supplier to accept risk or pay a claim;

“**NQF**” has the meaning assigned to it in the NQF Act and includes the sub-frameworks as defined in section 1 of that Act;

“**NQF Act**” means the National Qualifications Framework Act, 2008 ([Act No. 67 of 2008](#));

“**offsetting of claims**” means the payment of policyholder’s claims and the offsetting of such claims against premium received from policyholders for remittance to a long-term insurer;

“**participatory interest in a CIS hedge fund**” means a participatory interest in a collective investment scheme that is a hedge fund;

“**participatory interest in a collective investment scheme**” means a participatory interest in one or more collective investment schemes as referred to in paragraph (b) of the definition of ‘financial product’ in section [1\(1\)](#) of the Act excluding a participatory interest in a CIS hedge fund;

“**particular financial product**” in relation to product specific training, means a specific product of a product supplier with its own specific characteristics, features, terms and conditions and which product is a financial product;

“**particular financial service**” means the financial services performed by a category of FSP referred to in section [3](#), and in respect of a Category I FSP, advice or intermediary services;

“**part qualification**” has the meaning assigned to it in section 1(1) of the NQF Act;

“**pension fund benefit**” means a financial product contemplated in paragraph (d)(i) of the definition of “financial product” in section [1\(1\)](#) of the Act, including a fund policy, but excluding a retail pension benefit;

“**product specific training**” means the training referred to in section [29\(5\)](#) in respect of a particular financial product and which training is assessed, including any amendments to that particular financial product;

“**professional body**” means a body recognised by the SAQA as a professional body for purposes of the NQF Act;

“**professional programme**” means a programme at post-graduate level offered by an education institution or a professional body for the purposes of providing specialised competence in a specific field of the financial services industry;

“**qualification**” means a—

- (a) qualification as defined in the NQF Act, excluding a part qualification as defined in that Act, that is offered by an education institution or an accredited provider;
- (b) professional programme; or

- (c) foreign qualification or foreign professional programme that has been evaluated by SAQA as being equivalent to a qualification or programme referred to in paragraphs (a) and (b) above;

“**Quality Council**” has the meaning assigned to it in section 1 of the NQF Act;

“**qualifying criteria**”, in relation to a regulatory examination, means the criteria against which a regulatory examination must be set;

“**RE 1**” means the regulatory examination developed in terms of the criteria set out in Table 1 of Annexure Five;

“**RE 3**” means the regulatory examination developed in terms of the criteria set out in Table 2 of Annexure Five;

“**RE 4**” means the regulatory examination developed in terms of the criteria set out in Table 3 of Annexure Five;

“**RE 5**” means the regulatory examination developed in terms of the criteria set out in Table 4 of Annexure Five;

“**recognised qualification**” means a qualification that is recognised by the Registrar in terms of section 24 and that is published as a recognised qualification on the official web site of the Financial Services Board;

“**regulatory examination**” means a regulatory examination based on the qualifying criteria set out in the Tables in Annexure Five, the purpose of which is to test a person’s knowledge, understanding and application of legislation, including a financial sector law as defined in section 1(1) of the Financial Sector Regulation Act, 2017 ([Act No. 9 of 2017](#)), the Financial Intelligence Centre Act, 2001 ([Act No. 38 of 2001](#)), and all measures promulgated in terms of those Acts, directly applicable to an FSP, representative or key individual:

“**regulatory authority**” includes—

- (a) any organ of state as defined in section 239 of the [Constitution of the Republic of South Africa, 1996](#), responsible for the supervision or enforcement of legislation, or a similar body designated in the laws of a country other than the Republic to supervise or enforce legislation of that country;
- (b) a market infrastructure that is responsible for the supervision of persons authorised by such infrastructure under the Financial Markets Act, 2012 ([Act No. 19 of 2012](#)); and
- (c) an Ombud established under Financial Services Board legislation or a recognised Scheme under the Financial Services Ombud Schemes Act, 2004 ([Act No. 37 of 2004](#));

“**related parties**” means related parties as defined in International Accounting Standard (IAS 24);

“**retail pension benefit**” means a benefit provided by a retirement annuity fund, preservation pension fund or preservation provident fund, as defined by the Income Tax Act, 1962 ([Act No. 58 of 1962](#)), and includes a benefit provided by a fund member policy, as defined in the Regulations to the Long-term Insurance Act, but excludes a pension fund benefit;

“**securities and instruments**” means—

- (a) securities and instruments that are not defined in this Determination as separate product categories; and
- (b) securities and instruments contemplated in paragraph (a) that have a foreign currency denomination,

“**shares**” in relation to financial product means—

- (a) shares referred to in paragraph (a)(i) of the definition of ‘financial product’ in section 1 of the Act; and
- (b) shares that have a foreign currency denomination;

“**short-term deposit**” means a deposit as defined in section 1(1) of the Banks Act, including a foreign currency deposit, with a term not exceeding 12 months but excluding a structured deposit;

“**Short-term Insurance Act**” means the Short-term Insurance Act, 1998 ([Act No. 53 of 1998](#));

“**short-term insurance commercial lines**” means—

- (a) short-term insurance policies referred to in the Short-term Insurance Act purchased by juristic persons and natural persons acting in a business capacity; or
- (b) a non-life insurance policy as defined in section 1 of the Insurance Act but excludes a policy referred to in the definition of 'personal lines' as defined in that Act;

*[definition of “short-term insurance commercial lines” substituted by section 2(l) of [Government Notice 707 of 2020](#)]*

“**short-term insurance personal lines**” means—

- (a) short-term insurance policies referred to in the Short-term Insurance Act purchased by natural persons acting otherwise than in a business capacity, but excludes a policy referred to in the definition of short-term insurance personal lines A1; or
- (b) a non-life Insurance policy as defined in section 1 of the Insurance Act, where the policyholder is a natural person acting otherwise than solely for the purposes of the person's own business;

*[definition of “short-term insurance personal lines” substituted by section 2(m) of [Government Notice 707 of 2020](#)]*

“**short-term insurance personal lines A1**” means—

- (a) the short-term insurance policies referred to in the definition of 'short-term insurance personal lines', excluding—
  - (i) marine policies; and
  - (ii) engineering policies and guarantee policies as defined in section of the Short-term Insurance Act; or
- (b) a non-life insurance policy referred to in the definition of 'short-term insurance personal lines' but excluding non-life insurance policies underwritten under the following class of non-life insurance business as set out in Schedule 2 of the insurance Act—
  - (i) Marine; and
  - (ii) Engineering;

and which policies—

- (aa) require no or limited underwriting;
- (bb) define policy benefits or obligations as a sum insured, provide for the replacement of the Insured asset or provide for the settlement of outstanding balances due and payable to credit providers;
- (cc) have contract terms of 24 months or less;
- (dd) are not subject to the principle of average; and
- (ee) do not provide for any exclusions or conditions from liability of the insurer other than—
  - (aA) exclusions relating to unlawful conduct, provided that such exclusions may only be applied or relied on if there is a direct link between the cause of the loss and the unlawful conduct;
  - (bA) special risks referred to in the Conversion of the SASRIA [Act, No. 134 of 1998](#);
  - (cA) exclusions relating to the condition of any asset insured at inception of the policy other than exclusions relating to the wear and tear of the asset;

- (dA) exclusions relating to the maintenance and usage of the insured asset under a policy that insures against unforeseen mechanical or electrical component failure;
- (eA) exclusions relating to consequential loss; or
- (fA) any combination of (aA) to (eA);

[definition of “short-term insurance personal lines A1” substituted by section 2(n) of [Government Notice 707 of 2020](#)]

“**SAQA**” has the meaning assigned to it in section 1 of the NQF Act;

“**structured deposit**” means a—

- (a) combination of a short-term deposit or a long-term deposit and another Tier 1 financial product; or
- (b) a short-term deposit or long-term deposit where the return or value is dependent on the performance of or is derived from the return or value of one or more underlying financial product, asset, rate or index, on a measure of economic value or on a default event;

“**sole proprietor**”, in relation to an FSP, means an FSP who is a natural person;

“**the Act**” means the Financial Advisory and Intermediary Services Act, 2002 ([Act No. 37 of 2002](#));

“**Tier 1 financial products**” means the financial products listed in column A of Table 1 in Annexure Three;

“**Tier 2 financial products**” means the financial products listed in column B of Table 1 in Annexure Three;

“**verifiable**” in relation to CPD activities means activities that can be objectively verified and includes evidence of the identity of the person who partook in such activities and proof of the completion thereof;

“**warrants, certificates or other instruments**” in relation to financial product means—

- (a) any warrant, certificate, and other instrument acknowledging, conferring or creating rights to subscribe to, acquire, dispose of, or convert securities and instruments as referred to in paragraph (a)(iv) of the definition of ‘financial product’ in section 1 of the Act; and
- (b) warrants, certificates or other instruments as contemplated in paragraph (a) that have a foreign currency denomination;

“**wear and tear**” means the normal expected deterioration of the insured asset arising from normal usage and age.

## 2. Purpose of Determination

The purpose of this Determination is to determine—

- (a) the categories of FSPs envisaged in section 6A of the Act; and
- (b) the fit and proper requirements for—
  - (i) each of the categories of FSPs;
  - (ii) representatives in each of the categories of FSPs; and
  - (iii) key individuals in each of the categories of FSPs.

## 3. Categories of FSPs

The categories of FSPs are:

- (a) Category I FSPs, i.e. FSPs who are not Category II, IIA, III or IV FSPs;

- (b) Category II FSPs, i.e. discretionary FSPs;
- (c) Category IIA FSPs, i.e. hedge fund FSPs;
- (d) Category III FSPs, i.e. administrative FSPs; and
- (e) Category IV FSPs, i.e. assistance business FSPs.

#### 4. Fit and proper requirements

- (1) The fit and proper requirements for each of the categories of FSPs, key individuals and representatives are—
  - (a) personal character qualities of honesty and integrity, as set out in Chapter 2;
  - (b) good standing, as set out in Chapter 2;
  - (c) competence, as set out in Chapter 3;
  - (d) continuous professional development, as set out in Chapter 4;
  - (e) operational ability, as set out in Chapter 5; and
  - (f) financial soundness, as set out in Chapter 6.
- (2) To qualify for authorisation, approval or appointment as an FSP, key individual or representative a person must comply with the fit and proper requirements to the extent applicable to FSPs, key individuals and representatives in the relevant categories.

#### 5. On-going compliance with fit and proper requirements

For an FSP, key individual or representative to remain authorised, approved or appointed that person must, as required by section 8A of the Act, at all times comply with the fit and proper requirements referred to in section 4 to the extent applicable to FSPs, key individuals and representatives in the relevant categories.

#### 6. Specific requirement for FSPs and representatives rendering financial services in respect of the financial product: Health Service Benefit

To qualify for authorisation as an FSP or appointment as a representative of an FSP or to remain so authorised or appointed to render financial services in respect of the financial product: Health Service Benefit, a person must be accredited as a broker or an apprentice broker in terms of regulation 28B of the Regulations issued in terms of section 67 of the Medical Schemes Act, 1998 ([Act No. 131 of 1998](#)).

## Chapter 2 Honesty, integrity and good standing

#### 7. Application of Chapter

- (1) The fit and proper requirements relating to honesty, integrity and good standing contained in this Chapter apply to all FSPs, key individuals and representatives.
- (2) A reference in this Chapter to the Registrar must be read as including a reference to an FSP insofar it relates to the FSP's responsibilities in respect of its key individuals and representatives.

#### 8. Honesty, integrity and good standing

- (1) A person referred to in section 7(1) must be a person who is—
  - (a) honest and has integrity; and

- (b) of good standing.
- (2) In determining whether a person complies with subsection (1), the Registrar may refer to any information in possession of the Registrar or brought to the Registrar's attention.

## 9. Incidents indicating when persons are not honest, or lack integrity or good standing

- (1) Without limiting the generality of section 8(1), any of the following constitutes *prima facie* evidence that a person does not qualify in terms of section 8(1):

The person—

- (a) has been found guilty (and that conviction has not been expunged) in any criminal proceedings or liable in any civil proceedings by a court under any law in any jurisdiction of —
  - (i) an offence under a law relating to the regulation or supervision of a financial institution as defined in the Financial Institutions (Protection of Funds) Act, 2001 ([Act No. 28 of 2001](#)) or a corresponding offence under the law of a foreign country;
  - (ii) theft, fraud, forgery, uttering a forged document, perjury or an offence involving dishonesty, breach of fiduciary duty, dishonourable or unprofessional conduct; or
  - (iii) an offence under the Prevention of Corruption Act, 1958 ([Act No. 6 of 1958](#)), the Corruption Act, 1992 ([Act No. 94 of 1992](#)) or Parts 1 to 4, or section 17, 20 or 21, of the Prevention and Combating of Corrupt Activities Act, 2004 ([Act No. 12 of 2004](#)), or a corresponding offence under the law of a foreign country;
- (b) has been convicted (and that conviction has not been expunged) of any other offence committed after the [Constitution of the Republic of South Africa, 1996](#), took effect, where the penalty imposed for the offence was or may be imprisonment without the option of a fine, or a significant fine;
- (c) has accepted civil liability for, or has been the subject of a civil judgment in respect of, theft, fraud, forgery, uttering a forged document, perjury or any conduct involving dishonesty, breach of fiduciary duty, misrepresentation, or negligent, dishonourable and unprofessional conduct;
- (d) has been the subject of frequent or material preventative, remedial or enforcement actions by the Registrar or a regulatory authority;
- (e) has been removed from an office of trust for theft, fraud, forgery, uttering a forged document, misrepresentation, dishonesty, breach of fiduciary duty or business conduct;
- (f) has breached a fiduciary duty;
- (g) has been suspended, dismissed or disqualified from acting as a director, managing executive, public officer, auditor or statutory actuary (or his or her alternate) under any law or any action to achieve one of the aforementioned outcomes has been instituted against the person;
- (h) has been refused a registration, approval, authorisation or licence to carry out a trade, business or profession, or has had that registration, approval, authorisation or licence suspended, revoked, withdrawn or terminated by a regulatory authority;
- (i) has been denied registration or membership of any professional body or has had that registration or membership revoked, withdrawn or terminated by a professional body because of matters relating to honesty, integrity, or business conduct;



- (j) has been disciplined, reprimanded, disqualified, or removed in relation to matters relating to honesty, integrity, incompetence or business conduct by a—
    - (i) professional body; or
    - (ii) regulatory authority,
 or any action to achieve one of the aforementioned outcomes has been instituted against the person;
  - (k) has knowingly been untruthful or provided false or misleading information to, or been uncooperative in any dealings with, the Registrar or a regulatory authority;
  - (l) has demonstrated a lack of readiness and willingness to comply with legal, regulatory or professional requirements and standards;
  - (m) has been found to be not fit and proper by the Registrar or a regulatory authority in any previous assessments of fitness and propriety and the reasons for being found not fit and proper have not been remedied;
  - (n) has been involved or is involved as a director, trustee, member, partner, controlling shareholder or managing executive, or is concerned in the management, of a business that has been—
    - (i) the subject of any matter referred to in subparagraphs (a), (b), (c), (d), (f), (h), (j)(ii), (k), (l), (m), or (o); or
    - (ii) placed in liquidation or business rescue;
 while that person has been connected with that organisation or within one year of that connection; or
  - (o) has failed to disclose information required to be disclosed in terms of the Act, including a failure to disclose information in accordance with section 10.
- (2) Without limiting subsection (1), compliance with section 8(1) by a person that is not a natural person must be demonstrated through its corporate behaviour or conduct and through the personal behaviour or conduct of the persons who control or govern that first mentioned person or who is a member of a body or group of persons which control or govern that person, including directors, members, trustees, partners or key individuals of that person.
- (3) Notwithstanding subsection (1), the Registrar must, in assessing whether a person meets the requirements in section 8(1) have due regard to—
- (a) the seriousness of a person's conduct, whether by commission or omission, or behaviour, and surrounding circumstances to that conduct or behaviour that has or could potentially have a negative impact on a person's compliance with section 8(1);
  - (b) the relevance of such conduct or behaviour that has or could potentially have a negative impact on the persons' compliance with section 8(1), to the duties that are or are to be performed and the responsibilities that are or are to be assumed by that person; and
  - (c) the passage of time since the occurrence of the conduct or behaviour that had a negative impact on the person's compliance with section 8(1).

## 10. Disclosure of information relating to honesty, integrity and good standing

An FSP and key individual must disclose to the Registrar, and a representative must disclose to its FSP, promptly and on own initiative, fully and accurately, all information, not limited to information in relation to matters referred to in section 9, which may be relevant in determining whether that person complies or continues to comply with the requirements relating to honesty, integrity and good standing.

## Chapter 3 Competence requirements

### Part 1 – Application and general requirements

#### 11. Application of Part

The fit and proper requirements relating to competence contained in this Part apply to all FSPs, key individuals and representatives.

#### 12. General competence requirements

An FSP, key individual and representative must—

- (a) have adequate, appropriate and relevant skills, knowledge and expertise in respect of the financial services, financial products and functions that it performs;
- (b) comply with the minimum requirements set out in Part [2](#), [3](#), [4](#) and [5](#) of this Chapter; and
- (c) maintain their competence.

#### 13. Responsibilities of an FSP

- (1) An FSP must establish, maintain and apply adequate policies, internal systems, control and monitoring mechanisms to ensure that it, its key individuals and representatives—
  - (a) comply and continue to comply with section [12](#) and, where applicable, the minimum requirements set out in Part [2](#), [3](#), [4](#) and [5](#) of this Chapter;
  - (b) are aware of the procedures which must be followed for the proper discharge of their responsibilities in the performance of their functions;
  - (c) possess appropriate general and technical knowledge so as to be able to comply with all relevant disclosure obligations to clients;
  - (d) are appropriately trained regarding the requirements of the Act and the financial services and financial products in respect of which they are appointed;
  - (e) undertake CPD to maintain and update the knowledge and skills that are appropriate for their activities;
  - (f) are able to assess whether it is appropriate to offer or provide a client a particular financial service or product taking into account the needs, circumstances, risk tolerance and capacity of the client and the client's capacity to understand the features and complexity of the service or product; and
  - (g) who do not meet the competency requirements, and staff of the FSP who are not appointed as representatives, do not render financial services.
- (2) A Category I FSP that appoints representatives to perform the execution of sales as contemplated in section [22\(b\)\(ii\)](#) must be able to demonstrate compliance with the requirements set out in that section.
- (3) An FSP must be able to demonstrate and record that it has evaluated and reviewed at regular and appropriate intervals—
  - (a) its representatives' and key individuals' competence and has taken appropriate action to ensure that they remain competent for the activities they perform; and
  - (b) the appropriateness of the training and CPD referred to in subsection 1(d) and (e).

- (4) The evaluation and review contemplated in subsection (3) must, *inter alia*, take into account—
  - (a) technical knowledge and its application;
  - (b) skills and expertise; and
  - (c) changes in the market, to financial products, financial services and legislation.
- (5) An FSP must establish, maintain and update on a regular basis a competence register in which all qualifications, successfully completed regulatory examinations, product specific training, class of business training and CPD of the FSP, its key individuals and representatives are recorded.
- (6) An FSP must, in the form and manner and at the intervals prescribed by the Registrar, furnish to the Registrar the information in the register referred to in paragraph (5).
- (7) An FSP must notify the Registrar immediately after it becomes aware, or has information which reasonably suggests, that a key individual does not comply or no longer complies with any requirement set out in this Determination.
- (8) The requirements set out in Parts 2, 3, 4 and 5 of Chapter 3 and Chapter 4 are minimum requirements and compliance with that requirements does not in itself serve as evidence that a person complies with the general competence requirements in section 12.

## Part 2 – Minimum experience

### 14. Application of Part

The competence requirements relating to experience contained in this Part apply to all FSPs, key individuals and representatives.

### 15. General experience requirement

- (1) An FSP and representative must have adequate and appropriate experience in the rendering of a particular financial service in respect of a—
  - (a) particular financial product; and
  - (b) particular category of FSP,for which it is authorised or appointed or in respect of which authorisation or appointment is sought.
- (2) A key individual must have adequate and appropriate experience to manage or oversee the rendering of a particular financial service in respect of a particular category of FSP for which it is approved or in respect of which approval is sought.

### 16. Lapsing of experience

- (1) The experience gained by an FSP or a representative lapses when the FSP or representative has not rendered the particular financial service in respect of a particular financial product relevant to a particular category of FSP for a period of five consecutive years.
- (2) The experience gained by a key individual lapses when the key individual has not managed or overseen the rendering of a particular financial service in respect of a particular category of FSP for a period of five consecutive years.

### 17. Minimum experience requirements per Category of FSPs Category I FSPs

- (1) A Category I FSP and its representatives must in relation to the financial products listed in Column A of Table 1 in Annexure One have the minimum experience listed in column B and/or C of that

Table in respect of the particular financial services for which it is authorised or appointed or in respect of which authorisation or appointment is sought.

- (2) A key individual of a Category I FSP must have at least one year's experience in the management or oversight of the rendering of a particular financial service by a Category I FSP.

### **18. Category II FSPs**

- (1) A Category II FSP and its representative must in relation to a financial product listed in Column A of Table 2 in Annexure One have the minimum experience in the rendering of Category II financial services in respect of the financial products listed in column B of the Table.
- (2) A key individual of a Category II FSP must have at least one year's experience in the management or oversight of category II financial services.

### **19. Category IIA FSPs**

- (1) A Category IIA FSP and its representatives must have at least three years' experience in the rendering of category IIA financial services.
- (2) A key individual of a Category IIA FSP must have at least one year's experience in the management or oversight of category IIA financial services.

### **20. Category III FSPs**

- (1) A Category III FSP and its representatives must have at least three years' experience in the rendering of category III financial services.
- (2) A key individual of a Category III FSP must have at least one year's experience in the management or oversight of category III financial services.

### **21. Category IV FSPs**

- (1) A Category IV FSP and its representatives must have at least one year's experience in the rendering of category IV financial services.
- (2) A key individual of a Category IV FSP must have at least one year's experience in the management or oversight of category IV financial services.

## **Part 3 – Minimum qualifications**

### **22. Application of Part**

The competence requirements relating to qualifications contained in this Part—

- (a) subject to paragraph (b), apply to all FSPs, key individuals and representatives;
- (b) do not apply to—
  - (i) a Category I FSP, its Key individuals and representatives that are authorised, approved or appointed only to render financial services or manage or oversee financial services in respect of the financial products: Long-term Insurance subcategory A and/or Friendly Society Benefits; and
  - (ii) a representative of a Category I FSP that is appointed only to perform the execution of sales in respect of a financial product provided that—
    - (aa) the representative has a Grade 12 National Certificate or an equivalent qualification;

- (bb) the execution of sales is performed—
  - (aA) in accordance with a script approved by a key individual and the relevant governance structure of the FSP; and
  - (aB) under the direct oversight of a key individual;
- (cc) where the execution of sales is performed by telephone, all conversations with clients are recorded and the recordings are stored and retrievable;
- (dd) the FSP has sufficient and adequate controls in place to ensure and to monitor that—
  - (aA) the representative does not furnish clients with advice; and
  - (aB) the sales practices and techniques employed by the representative are not misleading, false, inappropriate to the expected target clients or will not result in unfair outcomes for clients; and
- (ee) the FSP on a regular basis—
  - (aA) reviews the recordings referred to in (cc) and/or monitors the representatives, to ensure that they do not deviate from the script or supplement the script with content not approved as contemplated in (bb);
  - (aB) reviews and monitors the adequacy and efficiency of its controls and quality assurance processes in relation to the execution of sales; and
  - (aC) reviews the script for appropriateness and compliance with applicable legislation.

### 23. General requirement

An FSP, a key individual and a representative must have a qualification recognised by the Registrar in terms of section 24.

### 24. Recognition of qualifications

- (1) The Registrar, on application or on own initiative and subject to subsection (2), may recognise a qualification as appropriate for—
  - (a) each of the categories of FSPs;
  - (b) representatives of in each of the categories of FSPs;
  - (c) key individuals in each of the categories of FSPs; or
  - (d) different types of financial services and financial products.
- (2) The following criteria must be considered by the Registrar in assessing the appropriateness of a qualification:
  - (a) it must provide a person with the relevant, abilities, knowledge and skills based on an appropriate curriculum framework containing a body of knowledge and learning outcomes that is necessary for the person to discharge his or her responsibilities under the Act;
  - (b) the curriculum, body of knowledge and learning outcomes referred to in (a) must be quantitatively and qualitatively relevant to the role of and functions to be performed by the person under the Act;
  - (c) in the case of a non-unit standards based qualification—
    - (i) it must contain at least three modules/subjects that appear in the Appropriate Subject List in Table 1 in Annexure Two;

- (ii) where the qualification is at Certificate or Diploma level and it provides for major subjects, at least one of the subjects referred to in subparagraph (i) must be a major subject at final year level; and
  - (iii) where the qualification is at Degree level, at least one of the subjects referred to in subparagraph (i) must be a major subject at final year level;
  - (d) in the case of a unit standards based qualification, the core and elective unit standards must relate to at least three modules/subjects that appear in the Appropriate Subject List in Table 1 in Annexure Two; and
  - (e) for purposes of a Category II, IIA or III FSP and a key individual, or representative of such FSP, the qualification must be at degree level.
- (3) An application for recognition of a qualification must be submitted in the form and manner determined by the Registrar.

## **Part 4 – Regulatory examinations**

### **25. Application of Part**

The competence requirements relating to regulatory examinations contained in this Part—

- (a) subject to paragraph (b), apply to all FSPs, key individuals and representatives;
- (b) do not apply to—
  - (i) a Category I FSP, its key individuals and representatives that are authorised, approved or appointed only to render financial services or manage or oversee financial services in respect of the financial products: Long-term Insurance subcategory A and/or Friendly Society Benefits; and
  - (ii) a representative of a Category I FSP that is appointed only to—
    - (aa) perform the execution of sales in respect of a Tier 1 financial product provided that the requirements in section 22(b)(ii) are complied with; and/or
    - (bb) render financial services in respect of a Tier 2 financial product.

### **26. Regulatory examination requirements**

- (1) A Category I FSP, its key individuals and representatives must successfully pass the applicable regulatory examination listed in Column A of Table A.
- (2) A Category II FSP, its key individuals and representatives must successfully pass the applicable regulatory examination listed in Column B of Table A.
- (3) A Category IIA FSP, its key individuals and representatives must successfully pass applicable the regulatory examination listed in Column C of Table A.
- (4) A Category III FSP, its key individuals and representatives must successfully pass the applicable regulatory examination listed in Column D of Table A.
- (5) A Category IV FSP, its key individuals and representatives must successfully pass the applicable regulatory examination listed in Column E of Table A.
- (6) An FSP, a key individual and a representative must successfully pass the applicable regulatory examinations before that person's authorisation, approval or appointment.

<b>Table A</b>					
	<b>Column A (Category I)</b>	<b>Column B (Category II)</b>	<b>Column C (Category IIA)</b>	<b>Column D (Category III)</b>	<b>Column E (Category IV)</b>
<b>FSP</b>	RE 1	RE 1; and RE 3	RE 1; and RE 3	RE 1; and RE 4	RE 1
<b>Key Individual</b>	RE 1	RE 1; and RE 3	RE 1; and RE 3	RE 1; and RE 4;	RE 1
<b>Representative</b>	RE 5	RE 5	RE 5	RE 5	RE 5

## 27. Setting and taking of regulatory examinations

- (1) Regulatory examinations may be set and delivered by examination bodies.  
*[subsection (1) substituted by section 3 of [Government Notice 707 of 2020](#)]*
- (2) All regulatory examinations must be set in accordance with the criteria set out in the applicable Tables in Annexure Five.

## Part 5 – Class of business training and product specific training

## 28. Application of Part

- (1) Subject to subsection (2) and (3), the competence requirements relating to class of business and product specific training contained in this Part apply to all FSPs, key individuals and representatives.
- (2) The competence requirements relating to class of business training contained in this Part do not apply to—
  - (a) a Category I FSP, its key individuals and representatives that are authorised, approved or appointed only to render financial services or manage or oversee financial services in respect of the financial products: Long-term Insurance subcategory A and/or Friendly Society Benefits; and
  - (b) a representative of a Category I FSP that is appointed to only—
    - (i) perform the execution of sales in respect of a Tier 1 financial product provided that the requirements in section 22(b)(ii) are complied with; and/or
    - (ii) render financial services in respect of a Tier 2 financial product.
- (3) The competency requirements relating to product specific training contained in this Part do not apply to—
  - (a) a Category II, Category 11A or a Category III FSP or its representatives; and

- (b) key individuals of all categories of FSPs, provided they comply with section 12.
- (4) The competency requirements relating to class of business training apply to key individuals only in respect of the classes of business for which they are approved to act as key individuals or in respect of which approval is sought.

## 29. Class of business training and product specific training

- (1) An FSP and representative must, prior to the rendering of any financial service in respect of a particular financial product, complete—
  - (a) the class of business training; and
  - (b) product specific training,relevant to that financial product and for which they are authorised or appointed or in respect of which authorisation or appointment is sought.
- (2) A key individual must, prior to managing or overseeing the rendering of any financial service, complete the class of business training in respect of the classes of business it manages or oversees and for which it is approved to act as key individual or for which approval is sought.
- (3) An FSP must ensure that it, its key individuals and representatives are proficient in respect of, understand, and have completed adequate and appropriate class of business training and product specific training relevant to, the particular financial products in respect of which they render financial services or manages or oversees the rendering of financial services.
- (4) Class of business training, where appropriate, must include training on—
  - (a) the range of financial products within the class of business;
  - (b) the general characteristics, terms and features of financial products in the class of business and any specialist characteristics, terms and features in respect of financial products in the class of business;
  - (c) the typical fee structures, charges and other costs associated with products in the class of business;
  - (d) general risks associated with investing, purchasing or transacting in the products in the class of business;
  - (e) investment and risk principles, options and strategies in respect of products in the class of business;
  - (f) the appropriateness of different products or product features in the class of business for different types of clients or groups of clients;
  - (g) the typical role players or market participants in respect of products in the class of business, including their legal structure;
  - (h) the impact of applicable legislation, including taxation laws, on products in the class of business;
  - (i) the impact of applicable economic and environmental factors such as—
    - (i) the economic and business environment and cycles;
    - (ii) inflation;
    - (iii) government monetary and fiscal policies; and



- (iv) interest rates and exchange rates,  
on the products in the class of business and the performance of those products;
  - (j) any inter-relationship within and between particular classes of business; and
  - (k) industry standards and codes of conduct relevant to the class of business.
- (5) Product specific training, where appropriate, must include training on—
- (a) the specific characteristics, terms and features of the product, including any specific complexities or material differentiation from the general characteristics, terms and features of products in the class of business concerned;
  - (b) the nature and complexity of the financial product and any underlying components of that product;
  - (c) how the financial product and any underlying components of the product are structured and priced;
  - (d) the fee structure, charges and other costs associated with the product and their impact on the real return or benefits of the product;
  - (e) the nature and features of any guarantees and the costs associated with them;
  - (f) the risks associated with investing, purchasing or transacting in the product and any underlying components of the product;
  - (g) the risks associated with particular investment concepts and strategies in respect of the product;
  - (h) the impact of tax on the benefits or real return of the product;
  - (i) the potential impact of abnormal or extreme market, economic or other relevant conditions on the performance of the product;
  - (j) any investment options or strategies within the product;
  - (k) any flexible benefit or service options available within the product;
  - (l) the accessibility of benefits or funds under the product and any restrictions or limitations on such accessibility;
  - (m) the level of liquidity of the product or its underlying components;
  - (n) the intended target market of the product and the outcomes it is intended to deliver for customers, including identifying customers or groups of customers for whom the product is not expected to be suitable;
  - (o) the identity of the product supplier and the providers of any underlying components of the product, including their good standing and regulatory status;
  - (p) particular disclosures, whether or not prescribed by legislation, applicable or relevant to the product, its underlying components and the product supplier;
  - (q) the lock-in periods and relevant termination conditions, exit options and associated costs;
  - (r) the accessibility of benefits or funds under the financial product and any associated restrictions or limitations; and
  - (s) the expected outcomes that will be achieved for clients.
- (6) The class of business training may be undertaken separately from or in combination with—
- (i) product specific training; or

- (ii) a recognised qualification provided a person is able to demonstrate that the content of the qualification meets the criteria referred to in subsection (3).
- (7) Where a financial product incorporates one or more other underlying financial products, the training referred to in subsections (1) and (2) must include class of business training in respect of the underlying products.

### 30. Record keeping and reporting requirements

An FSP must—

- (a) within 15 days after the training has occurred, record in the competence register of the FSP the product specific or class of business training of the FSP, its key individuals and representatives;
- (b) retain all information and documentation relating to the training referred to in (a) for a period not less than five years after—
  - (i) the FSP or the representative on behalf of that FSP, has ceased to render financial services in respect of a particular financial product or a particular class of business; and
  - (ii) the key individual has ceased to manage or oversee the rendering of financial services by the FSP in respect of a particular financial product or a particular class of business;
- (c) within a reasonable time after being requested to do so—
  - (i) by a product supplier, provide confirmation to that product supplier that it, or its representatives have obtained the requisite class of business and product specific training, where the product supplier requires the confirmation in order to ensure compliance with its own legal obligations; and
  - (ii) by a key individual or representative of, or a former key individual or representative of the FSP, provide confirmation to the key individual or representative of the product specific and class of business training completed by that key individual or representative.

## Chapter 4 Continuous professional development

### 31. Application of Chapter

- (1) Subject to subsection (2) the fit and proper requirements relating to CPD contained in this Chapter apply to all FSPs, key individuals and representatives.
- (2) The fit and proper requirements relating to CPD contained in this Chapter do not apply to—
  - (a) a Category I FSP, its key individuals and representatives that are authorised, approved or appointed only to render financial services or manage or oversee financial services in respect of the financial products: Long-term Insurance subcategory A and/or Friendly Society Benefits; and
  - (b) a representative of a Category I FSP that is appointed to only—
    - (i) render a financial service in respect of a Tier 2 financial product; and/or
    - (ii) render an intermediary service in respect of a Tier 1 financial product.

### 32. General requirements

- (1) An FSP, key individual and representative must—
  - (a) maintain the required competence to render or manage or oversee the financial services for which the FSP, key individual and representative are authorised, approved or appointed;

- (b) comply with the minimum CPD requirements set out in this Chapter;
  - (c) ensure that the type and combination of CPD activities undertaken—
    - (i) are relevant to the functions and role of the FSP, key individual and representative;
    - (ii) contributes to the skill, knowledge, expertise and professional and ethical standards of the FSP, key individual and representative;
    - (iii) addresses any identified needs or gaps in—
      - (aa) the technical knowledge of the FSP, key individual and representative;
      - (bb) the generic knowledge and understanding of the environment in which the financial service is rendered or managed or overseen; and
      - (cc) the knowledge and understanding of applicable laws; and
    - (iv) adequately takes into account changing internal and external conditions relevant to the classes and subclasses of business, the category of financial services and the financial products for which the FSP, key individual or representative is authorised, approved or appointed.
- (2) An FSP must establish and maintain policies and procedures on CPD that include:
- (a) how the FSP, key individual and representative will—
    - (i) maintain knowledge and skills that are appropriate for their activities and responsibilities;
    - (ii) update their knowledge and skills; and
    - (iii) develop new knowledge and skills to assist with their current functions and responsibilities or functions contemplated in the future;
  - (b) training plans for each CPD cycle to ensure that CPD—
    - (i) is relevant and appropriate for the authorisation, approval and appointment of the FSP, key individual and representative;
    - (ii) addresses any identified needs, knowledge and skills gaps; and
    - (iii) continually improves the professional standards and practices of the FSP, its key individuals and representatives.
- (3) An FSP must—
- (a) within 30 days after the expiry of each CPD cycle, record in the competence register the—
    - (i) CPD activities of the FSP, its key individuals and representatives; and
    - (ii) reduction of CPD hours of a representative as contemplated in section 34;
  - (b) calculate the total number of CPD hours completed by each person referred to in (a) as at the end of each CPD cycle;
  - (c) obtain and retain relevant supporting evidence of the CPD activities recorded in the competence register;
  - (d) record the dates of, reasons for and retain supporting evidence for, any decision of the FSP to reduce CPD requirements in accordance with section 34; and
  - (e) retain the evidence referred to in (c) and (d) for a period not less than five years from the end of the CPD cycle concerned.

### 33. Minimum CPD hours

- (1) An FSP, key individual and representative authorised, approved or appointed to render or manage or oversee the rendering of financial services in respect of—
  - (a) a single subclass of business within a single class of business must complete a minimum of 6 hours of CPD activities per CPD cycle;
  - (b) more than one subclass of business within a single class of business must complete a minimum of 12 hours of CPD activities per CPD cycle; or
  - (c) more than one class of business must complete a minimum of 18 hours of CPD activities per CPD cycle.
- (2) Key individuals and representative must submit evidence of their CPD activities to the FSP within 15 days after expiry of the CPD cycle.
- (3) An FSP, key individual and representative must ensure that the CPD activities are tailored to meet the specific knowledge and skills, needs and/or gaps arising from changing internal and external conditions having cognisance of classes and subclasses of business and the financial product category for which it is authorised, approved or appointed.
- (4) An FSP, key individual and representative that is authorised, approved or appointed for a period of less than 12 months in a particular CPD cycle, must by the end of that CPD cycle complete a pro-rated minimum number of CPD hours calculated as follows:

$(X \div 12) \times Y = Z$	X = Number of annual required CPD hours
	Y = number of months authorised, approved or appointed during a particular CPD cycle
	Z = Required <i>pro rata</i> CPD hours

### 34. Reduction of CPD hours

- (1) An FSP may *pro rata* reduce the CPD hours in respect of a representative for the period of time during which that representative is continuously absent from work if that absence is due to
  - (a) maternity, paternity or adoption leave;
  - (b) long-term illness or disability; or
  - (c) the representative's responsibilities to care for a family member of that representative who has a long-term illness or disability.
- (2) The reduced CPD hours must be calculated as follows:

$(X \div 12) \times (12 - Y) = Z$	X = Number of annual required CPD hours
	Y = number of months absent from work in a particular CPD cycle
	Z = Required <i>pro rata</i> CPD hours

- (3) An FSP may not reduce the CPD hours of a representative for consecutive CPD cycles except where the absence referred to in subsection (1) commenced in a particular CPD cycle and uninterrupted continues into the consecutive CPD cycle.
- (4) The reduction referred to in subsection (3) may only be applied for a maximum period of three consecutive CPD cycles.

## Chapter 5 Operational ability

### 35. Application of Chapter

The fit and proper requirements relating to operational ability contained in this Chapter apply to the extent set out in this Chapter to FSPs, representatives and key individuals.

### 36. General requirements

- (1) An FSP must—
- (a) have the operational ability, including adequate and appropriate human, technical and technological resources, to effectively function as a particular category of FSP and to render the financial services in relation to the financial product for which it is authorised;
  - (b) adopt, document and implement an effective governance framework that provides for the fair treatment of clients and prudent management and oversight of the business of the FSP; and
  - (c) at all times have—
    - (i) a fixed physical business address from where the business is operated or controlled;
    - (ii) adequate access to communication facilities, including a full-time telephone or cell phone service;
    - (iii) adequate storage and filing systems for the safe-keeping of records, business communications and correspondence;
    - (iv) a bank account with a registered bank, including, where required in the Act, a separate bank account for client funds; and
    - (v) adequate and appropriate key individuals to effectively manage or oversee the activities of the FSP relating to the rendering of financial services, including having at least one key individual per class of business in respect of which the FSP is authorised.
- (2) The key individual referred to in subsection (1)(c)(v) insofar it relates to the requirement that the FSP must have at least one key individual per class of business in respect of which the FSP

is authorised, could be a single person responsible for managing or overseeing the rendering of financial services in respect of all or multiple classes of business of the FSP provided that it—

- (a) is approved for all such classes of business; and
- (b) has the operational ability to oversee or manage the rendering of financial services in respect of all such classes of business.

### 37. Governance requirements

The governance framework of an FSP must—

- (1) be proportionate to the nature, scale, risks and complexity of the business of the FSP;
  - (2) include, but not limited to, effective and adequate systems of corporate governance, risk management (including conduct risk management) and internal controls that subject to subsection (1) includes—
    - (a) a business plan setting out the aims and scope of the business, the business strategies and related matters;
    - (b) risk management policies, procedures and systems, including—
      - (i) effective procedures for risk assessment, which identify the risks relating to the FSP's activities, processes and systems, and where appropriate, set the level of risk tolerated by the FSP;
      - (ii) effective procedures and systems—
        - (aa) to ensure compliance by the FSP, its officers, employees, key individuals and representatives with the Act and other applicable laws, including the Financial Intelligence Centre Act, 2001 and other applicable anti-money laundering or terrorist financing legislation;
        - (bb) to ensure compliance with decisions and decision-making procedures at all levels of the FSP;
        - (cc) to detect any risk of failure by the FSP to comply with applicable legislation, and put in place measures and procedures to minimise such risk; and
        - (dd) that provide for corrective actions to be taken in respect of non-compliance, weak oversight, failure of controls or lack of sufficient management;
      - (iii) systems and procedures that are adequate to safeguard the security, integrity and confidentiality of information, including—
        - (aa) electronic data security and internal and external cybersecurity;
        - (bb) physical security of assets and records;
        - (cc) system application testing;
        - (dd) back-up and disaster recovery plans and procedures for systems and electronic data; and

*[subparagraph (iii), previously subparagraph (ii), renumbered by section 4 of [Government Notice 707 of 2020](#)]*

  - (iv) systems and processes to ensure accurate, complete and timeous processing of data, reporting of information and the assurance of data integrity;
- [subparagraph (iv), previously subparagraph (iii), renumbered by section 4 of [Government Notice 707 of 2020](#)]*

- (c) accounting policies and procedures to enable the FSP to record, report and deliver in a timely manner to the Registrar financial reports which reflect a true and fair view of its financial position and which comply with the applicable reporting and accounting standards and requirements;
- (d) sound and sustainable remuneration policies and practices which promote the alignment of interests of the FSP with those of its clients and which avoid excessive risk taking and unfair treatment of customers;
- (e) a business continuity policy aimed at ensuring, in the case of an interruption to the FSP's systems and procedures, that any losses are limited, the preservation of essential data and functions, and the maintenance of its regulated activities, or where that is not possible, the timely recovery of such data and functions and the timely resumption of those activities;
- (f) a recovery plan for the restoration of the FSP's financial situation following a significant deterioration and viable resolution plan setting out options for the orderly resolution of the FSP in the case of failure; and
- (g) provide for regular monitoring and evaluation of the adequacy and effectiveness of its systems, processes and internal control mechanisms and measures to address any deficiencies and to determine whether it serves reasonably to ensure—
  - (i) risk detection and compliance with applicable legislation;
  - (ii) the integrity of the FSP's practices, including the treatment of clients with due care, skill and diligence and in a fair, honest and professional manner; and
  - (iii) appropriate segregation of key duties and functions, particularly those duties and functions which, when performed by the same individual, may result in undetected errors or may be susceptible to abuses which expose the FSP or its clients to inappropriate risks.

### **38. Additional requirements applicable to FSPs that provide automated advice**

In addition to the requirements set out in section [37](#), an FSP that provides automated advice must—

- (a) have adequate and appropriate human resources that have the required competence to—
  - (i) understand the technology and algorithms used to provide the automated advice;
  - (ii) understand the methodological approaches, including assumptions, embedded in the algorithms;
  - (iii) understand the preferences or biases that exist in the approaches referred to in (ii);
  - (iv) understand the risks and rules underpinning the algorithms;
  - (v) identify the risks to clients arising from the automated advice; and
  - (vi) monitor and review the automated advice generated by algorithms to ensure quality and suitability of the advice and compliance with the Act;
- (b) establish, implement and maintain adequate policies and procedures—
  - (i) to monitor, review and test the algorithms and the advice generated by it;
  - (ii) to monitor, review and test the filters implemented to ensure clients for whom the automated advice is not suitable are filtered out; and
  - (iii) that set out the level of human review that will be undertaken on the advice generated;

- (c) in relation to the monitoring and testing of the algorithms and filters referred to in (b),—
  - (i) have appropriate system design documentation that sets out the purpose, scope and design of the algorithms and filters;
  - (ii) have a documented test strategy that explains the scope of testing, including test plans, test cases, test results, defect resolution, and final test results;
  - (iii) have appropriate processes for managing any changes to an algorithm and filters that include having security arrangements in place to monitor and prevent unauthorised access to the algorithms;
  - (iv) be able to control, monitor and reconstruct any changes to algorithms or filters;
  - (v) review and update algorithms whenever there are factors that may affect their relevance (such as market changes and changes in the law);
  - (vi) have in place controls and processes to suspend the provision of advice if an error within an algorithm or filters is detected; and
  - (vii) be able to frequently monitor and supervise the performance of algorithms and filters through an adequate and timely review of the advice provided;
- (d) have adequate and sufficient technological resources to—
  - (i) maintain client records and data integrity;
  - (ii) protect confidential and other information; and
  - (iii) meet current and anticipated operational needs, including in relation to system capacity.

### **39. Outsourcing of functions to a person other than a representative of the FSP**

- (1) An FSP must exercise due skill, care and diligence when entering into (including the selection process), managing or terminating any arrangement for the outsourcing to any person other than a representative of the FSP of—
  - (a) a function that the Act or another law requires to be performed or requires to be performed in a particular way or by a particular person;
  - (b) a function that is integral to the nature of the financial services for which the FSP is authorised; or
  - (c) any material important operational function of the FSP.
- (2) An FSP, where it outsources a function or activity referred to in (1), must—
  - (a) ensure that the person to whom the function or activity has been outsourced—
    - (i) has the ability, capacity, and any authorisation required by law to perform the outsourced functions, services or activities reliably and professionally;
    - (ii) is able to carry out the outsourced services effectively, to which end the FSP must establish methods for assessing the standard of performance of that person;
  - (b) have a written contract that governs the outsource arrangement and which clearly provides for all material aspects of the outsourcing arrangement, including—
    - (i) addressing the rights, responsibilities, and service-level requirements of all parties;
    - (ii) providing for access by the FSP and the Registrar to the person's business and information in respect of the outsourced function or activity;
    - (iii) addressing sub-outsourcing; and



- (iv) addressing confidentiality, privacy and the security of information of the FSP and clients of the FSP;
- (c) properly supervise the carrying out of the outsourced functions, and adequately manage the risks associated with the outsourcing, including any risks to the FSP's clients;
- (d) take appropriate action if it appears that the person may not be carrying out the functions effectively and in compliance with applicable laws and regulatory requirements;
- (e) retain the necessary expertise to supervise the outsourced functions effectively and manage the risks associated with the outsourcing;
- (f) be able to terminate the arrangement for outsourcing where necessary without detriment to the continuity and quality of its provision of financial services to clients;
- (g) establish, implement and maintain a contingency plan for disaster recovery and periodic testing of backup facilities;
- (h) have effective access to data related to the outsourced activities, including any data relating to the FSP's clients, as well as to the business premises of the person; and
- (i) ensure that the outsourcing arrangement does not—
  - (i) compromise the fair treatment of or continuous and satisfactory service to the FSP's clients; or
  - (ii) result in key decision making responsibilities being removed from the FSP.

#### 40. Appointment of representatives

- (1) An FSP must ensure that where it appoints a person as a representative—
  - (a) the person—
    - (i) is not an unrehabilitated insolvent;  
*[paragraph (a) substituted by section 5(a) of [Government Notice 707 of 2020](#)]*
    - (ii) is not under liquidation, provisional liquidation or business rescue; and
    - (iii) is not subject to any pending proceedings which may lead to an outcome referred to in subparagraph (i) to (ii);
  - (b) the person, in the case of a juristic representative, has sufficient operational ability and financial resources to perform the activities for which it is appointed as a representative; and
  - (c) such appointment does not—
    - (i) materially increase any risk to the FSP or to the fair treatment of its clients;
    - (ii) materially impair the quality of the governance framework of the FSP, including the FSP's ability to manage its risks and meet its legal and regulatory obligations;
    - (iii) compromise the fair treatment of or continuous and satisfactory service to clients;
    - (iv) prevent the FSP from acting in the best interests of its clients; or
    - (v) result in key decision making responsibilities being removed from the FSP.
- (2) An FSP must ensure that any remuneration or fee paid in respect of an activity or function for which a person is appointed as a representative—
  - (a) is reasonable and commensurate with the actual function or activity; and
  - (b) is not structured in a manner that may increase the risk of unfair treatment of clients.

- (3) An FSP must develop appropriate contingency plans to ensure the continued function of the FSP's business and continued service to its clients in the event that the appointment of the representative is terminated or becomes ineffective.
- (4) An FSP may not permit a representative to outsource or sub-delegate any activity or part thereof relating to the rendering of financial services that that representative performs on behalf of the FSP.
- (5) If a representative who is a natural person is sequestrated after the appointment referred to in subsection (1), the FSP who appointed the representative may only allow such representative to continue to act on behalf of the FSP as a representative if the FSP implements appropriate measures to mitigate any risks that may arise for clients or the FSP as a result of the representative being sequestrated.

*[subsection (5) added by section 5(b) of [Government Notice 707 of 2020](#)]*

#### **41. Representatives**

- (1) A representative of an FSP must have the operational ability to effectively function as a representative of the FSP or perform the activities for which that person was appointed.
- (2) A juristic representative must at all times have at least one key individual responsible for managing or overseeing the financial services rendered by the representative.

#### **42. Key individuals**

- (1) A key individual must have the operational ability to effectively manage and oversee the financial services related activities of the FSP or juristic representative and the financial services in relation to the financial product for which the key individual was approved or appointed.
- (2) A key individual, where he or she is—
  - (a) approved or appointed as a key individual of more than one FSP or juristic representative; or
  - (b) approved or appointed as a key individual of an FSP or juristic representative and appointed as a representative of an FSP other than the first mentioned FSP,
 must be able to demonstrate to the Registrar, in a form and manner which may be determined by the Registrar, that he or she has the required operational ability to effectively and adequately manage or oversee the financial services related activities of all the FSPs or juristic representatives for which the key individual was approved or appointed.
- (3) An FSP must, on a regular basis, assess the operational ability of its key individuals to adequately and effectively perform their functions taking into account individual circumstances, the nature, scale, range and complexity of the FSP's financial services related activities and whether the key individuals are approved as key individuals or appointed as representatives of other FSPs.

## **Chapter 6 Financial soundness**

### **Part 1 – Application and general requirements**

#### **43. Application of Chapter**

The fit and proper requirements relating to financial soundness contained in this Chapter—

- (a) subject to paragraph (b), apply to—
  - (i) all FSPs; and

- (ii) juristic representatives;
- (b) do not apply to—
  - (i) a key individual or a representative that is a natural person; and
  - (ii) an FSP who is a registered Bank as defined in section 1 of the Banks Act, or a registered insurer as defined in sections 1 of the Short-term Insurance Act or Long-term Insurance Act, provided that the FSP complies with the financial soundness requirements prescribed by those Acts.

#### 44. General requirements

- (1) An FSP and a juristic representative must at all times maintain financial resources that are adequate both as to amount and quality to carry out their activities and supervisory arrangements and to ensure that liabilities are met as they fall due.

*[Date of commencement of subsection (1): 1 March 2019, insofar as it relates to a juristic representative]*

- (2) An FSP, other than a Category I FSP that does not hold or receive monies in respect of a financial product, and a juristic representative of such FSP, must have sound, effective and comprehensive strategies, processes and systems to assess and maintain, on an ongoing basis, the amounts, types and distribution of financial resources that it considers adequate to cover:
  - (a) the nature and level of the risks to which it is, or might be, exposed;
  - (b) the risk that the FSP or juristic representative might not be able to meet the requirements set out in this Chapter.

*[Date of commencement of subsection (2): 1 March 2019, insofar as it relates to a juristic representative]*

- (3) No person may become or continue as an FSP or juristic representative if—
  - (a) declared insolvent or provisionally insolvent;
  - (b) placed under liquidation or provisional liquidation;
  - (c) subject to section 9(3), it is subject to any pending proceedings which may lead to an outcome referred to in paragraph (a) to (b); or
  - (d) subject to section 9(3), it seriously and persistently failed or fails to manage any of its financial obligations satisfactorily.
- (4) No person may become an FSP or a juristic representative if business rescue proceedings have commenced in respect of that person.

## Part 2 – Requirements for specific category I FSPs and their juristic representatives

#### 45. Application of Part and requirement

- (1) This part applies to a Category I FSP and a juristic representative of a Category I FSP that does not hold, control or has access to client assets or that does not collect, hold or receive premiums or other monies in respect of a financial product.
- (2) The assets of a—
  - (a) Category I FSP; and
  - (b) juristic representative of a Category I FSP,
 must at all times exceed the liabilities of that FSP or that juristic representative.

*[Date of commencement of section 45: 1 March 2019, insofar as it relates to a juristic representative]*

### Part 3 – Requirements applicable to specific categories of FSPs and juristic representatives

#### 46. Application of Part

- (1) The requirements contained in this Part—
  - (a) apply, subject to paragraph (b) to—
    - (i) a Category I FSP that holds, controls or has access to client assets or that collects, holds or receives premiums or other monies in respect of a financial product;
    - (ii) a Category II, IIA, III and IV FSP; and
    - (iii) a juristic representative of an FSPs referred to in subparagraph (ii);
  - (b) does not apply to—
    - (i) a Category I FSP that does not hold, controls or has access to client assets or that does not collect, hold or receive premiums or other monies payable in respect of a financial product.

#### 47. Definitions

For purposes of this Part, unless the context indicates otherwise,—

“**additional asset requirement**” means the additional asset requirement referred to in Table B of this Part;

“**annual expenditure**” means—

- (a) the expenditure set out in the latest set of financial statements of an FSP; or
- (b) in the case of an applicant commencing business, the budgeted expenditure as expressed in the budget or financial accounts,

less—

- (i) staff bonuses;
- (ii) employees’ and directors’, partners’ or members’ share in profit;
- (iii) emoluments of directors, members, partners or sole proprietor;
- (iv) other appropriation of profits to directors, members and partners;
- (v) remuneration that is linked to—
  - (aa) a percentage of the FSP’s revenue; or
  - (bb) a percentage of the revenue generated by an employee or representative of the FSP; andthat in the absence of such revenue the FSP has no obligation to pay the remuneration;
- (vi) depreciation;
- (vii) bad debts; and
- (viii) any loss resulting from the sale of assets;

*[definition of “annual expenditure” substituted by section 6(a) of [Government Notice 707 of 2020](#)]*

“**assets**” in relation to the general solvency requirement and the additional asset requirement means the assets of an FSP excluding the following assets:

- (a) goodwill;
- (b) intangible assets; and
- (c) investments in and loans to related parties;

“**general solvency requirement**” means the requirement referred to in section 48(1);

“**liabilities**” in relation to the general solvency requirement means the liabilities of the FSP excluding loans subordinated in favour of other creditors;

“**liquid assets**” means—

- (a) cash;
- (b) a participatory interest in a money market portfolio;
- (c) 70% of the market value of a participatory interest in a collective investment scheme, other than an investment in a money market portfolio or a CIS hedge fund; or
- (d) 70% of the market value of a security listed on a licensed exchange provided it does not constitute more than 50% of total liquid assets,
- (e) provided that—
  - (i) the assets referred to in paragraphs (a) and (b) are capable of being converted, without any penalty on capital in terms of the conditions of the asset, into cash as follows:
    - (aa) 50% within 7 days; and
    - (bb) 50% within 30 days; and
  - (ii) the assets referred to in paragraphs (c) and (d) are capable of being converted into cash within 7 days;

“**liquidity requirement**” means the liquidity requirement referred to in Table B of this Part;

“**money market portfolio**” means a money market portfolio as contemplated in the Collective Investments Schemes Control Act;

“**remuneration**” for purposes of the definition of 'annual expenditure', includes salaries, wages, commissions, fees and any other payment, paid directly or indirectly by an FSP to an employee or representative of that FSP either directly or indirectly;

*[definition of “remuneration” substituted by section 6(b) of [Government Notice 707 of 2020](#)]*

“**working capital requirement**” means the working capital requirement referred to in Table B of this Part.

#### 48. Specific requirements

- (1) The assets of a person referred to in section 46(1)(a) must at all times exceed the liabilities of that person.
- (2) A person referred to in section 46(1)(a) must at all times comply with the additional asset, working capital and liquidity requirements as set out in Table B.
- (3) An FSP referred to in section 46(1)(a) must submit to the Registrar Form A in Annexure Six—
  - (a) in the case of a Category II, IIA and III FSP, on a half yearly basis calculated in terms of the FSP’s financial year;
  - (b) in the case of a Category I and IV FSP, on an annual basis.

- (4) A juristic representative referred to in section [46\(1\)\(a\)](#) must submit to its FSP, on a half yearly basis calculated in terms of the representative's financial year, Form A in Annexure Six.
- (5) The form referred to in subsections [\(3\)](#) and [\(4\)](#) must be submitted—
- (a) in the case of persons referred to in subsections [\(3\)\(a\)](#) and [\(4\)](#), within 45 days after every half year-end of the FSP or juristic representative as the case may be; and
  - (b) in the case of Category I and IV FSPs, simultaneously with the financial statements of the FSP as contemplated in section [19](#) of the Act.

<b>Table B</b>			
<b>Category of FSP and juristic representative</b>	<b>Additional asset requirement</b>	<b>Working capital requirement</b>	<b>Liquidity requirement</b>
<b>Category I</b>	N/A	Current assets must exceed current liabilities	Liquid assets equal to or greater than 4/52 weeks of annual expenditure
<b>Category II</b>	N/A	Current assets must exceed current liabilities	Liquid assets equal to or greater than 8/52 weeks of annual expenditure
<b>Category IIA</b>	Assets of the FSP must exceed the FSP's liabilities by at least R3 million	Current assets must exceed current liabilities	Liquid assets equal to or greater than 13/52 weeks of annual expenditure
<b>Category III</b>	Assets of the FSP must exceed the FSP's liabilities by at least R3 million	Current assets must exceed current liabilities	Liquid assets equal to or greater than 13/52 weeks of annual expenditure
<b>Category IV</b>	N/A	Current assets must exceed current liabilities	Liquid assets equal to or greater than 4/52 weeks of annual expenditure

*[Date of commencement of section [48](#): 1 March 2019, insofar as it relates to a juristic representative.]*

#### **49. Early warning requirements**

- (1) An FSP referred to in section [46\(1\)\(a\)](#) must, in writing, immediately notify the Registrar when—
- (a) the assets of the FSP or that of its juristic representative exceed the liabilities by less than 10%;

- (b) the current assets of the FSP or that of its juristic representative exceeds the current liabilities by less than 10%;
  - (c) in respect of a Category IIA and III FSP and juristic representatives of that FSPs, the additional assets of the FSP or that of its juristic representative exceeds the minimum requirement by less than 10%;
  - (d) the FSP or its juristic representative does not meet any of the requirements in this Chapter; or
  - (e) the FSP becomes aware of an event or situation that may or will result in the effect contemplated in paragraphs (a), (b) and (c).
- (2) The notification referred to in subsection (1) must be certified by the chief executive officer, controlling member, managing or general partner, or trustee, of the FSP as the case may be.
  - (3) The requirements set out in subsection (1) apply, with the necessary changes to a juristic representative referred to in section 45(1)(a)(iii), provided that the notification referred to in that subsection must be made to the FSP of the juristic representative.
  - (4) If any of the factors in subsection (1) arises, the FSP may not directly or indirectly make any payment by way of a loan, advance, bonus, dividend, repayment of capital or a loan or any other payment or other distribution of assets to any director, officer, partner, shareholder, related party or associate without the prior written approval of the Registrar.

*[Date of commencement of section 49: 1 March 2019, insofar as it relates to a juristic representative.]*

## 50. Multiple category FSPs

A person authorised as an FSP or appointed as a juristic representative under more than one category of FSP must comply with the most onerous of the financial soundness requirements applicable to the different categories of FSPs for which that person is authorised or appointed.

## Chapter 7

### Miscellaneous: Repeal of previous Board Notices on fit and proper requirements, savings, and transitional provisions

## 51. Repeals

- (1) The following are hereby repealed:
  - (a) the Notice on Determination of Qualifying Criteria and Qualifications for Financial Services Providers, Number 1 of 2008, published by [Board Notice 105 of 2008](#) in *Government Gazette* 31514 of 15 October 2008;
  - (b) the Notice on Determination of Fit and Proper Requirements for Financial Services Providers, 2008, published by [Board Notice 106 of 2008](#) in *Government Gazette* 31514 of 15 October 2008; and
  - (c) the Notice on Exemption of Certain Persons from the Level 1 Regulatory Examination Requirements, 2012, published by [Board Notice 102 of 2012](#) in *Government Gazette* 35422 of 6 June 2012.

## 52. Transitional provisions

### (1) **Qualifications**

The qualifications obtained by an FSP, key individual or a representative—

- (a) relating to a particular financial product and particular financial service in relation to a specific category of FSP in respect of which the FSP, key individual or representative was authorised, approved or appointed prior to 1 January 2010; and
- (b) that complied with the relevant requirements set out in section 10 of the Notice referred to in section 51(1)(b),

is deemed to meet the minimum qualification requirements set out in Part 3 of Chapter 3 but only insofar it relates to that particular financial product and particular financial service in respect of which it was so authorised, approved or appointed.

- (2) The qualifications recognised by the Registrar and published on the List of Recognised Qualifications in terms of the Notices referred to in section 51(1)(a) and (b) is deemed to be recognised in terms of Part 3 of Chapter 3 for the particular financial product and particular financial service for which the qualification was recognised.

### (3) **Experience**

The experience gained by an FSP or a representative, excluding a representative working under supervision, who was authorised or appointed for a particular financial product and particular financial service in relation to a specific category of FSP prior to the commencement of this Notice is deemed to meet the minimum experience requirements set out in Part 2 of Chapter 3 for that particular financial product and particular financial service.

- (4) The experience gained by a key individual approved prior to the commencement of this Notice to manage or oversee the rendering of a particular financial service in respect of a particular financial product in relation to a specific category of FSP is deemed to meet the minimum experience requirements set out in Part 2 of Chapter 3.

### (5) **Product specific training**

Subject to subsection (6), an FSP or representative, excluding representatives working under supervision, authorised or appointed prior to the commencement of this Notice is deemed to have completed the product specific training contemplated in Part 5 of Chapter 3 for the financial products for which they were authorised or appointed.

- (6) The deeming provision in subsection (5)—
  - (a) is limited to the particular financial products for which the FSP or representatives was authorised or appointed and in respect of which financial services were rendered prior to the commencement of this Notice; and
  - (b) does not apply to the requirement to complete product specific training on amendments to particular financial products where those amendments occurred after the commencement of this Notice.
- (7) A representative working under supervision at commencement of this Notice has three months from the date on which section 29(1)(b) comes into effect to comply with the product specific training requirements set out in Part 5 of Chapter 3.
- (8) A person authorised or appointed after commencement of this Notice but prior to the date on which section 29(1)(b) comes into effect has three months from the effective date of section 29(1)(b) to comply with the product specific training requirements set out in Part 5 of Chapter 3.



**(9) Class of business training**

An FSP, key individual, other than a key individual of a Category I FSP, or representative, excluding a representative working under supervision, authorised, approved or appointed prior to commencement of this Notice is deemed to have completed the class of business training contemplated in Part 5 of Chapter 3 in respect of the financial products for which they were so authorised, approved or appointed.

(10) A key individual of a Category I FSP approved prior to commencement of this Notice is deemed to have completed the class of business training contemplated in Part 5 of Chapter 3 in respect of the financial products for which the—

- (a) key individual was approved to manage or oversee; or
- (b) Category I FSP, in respect of which the key individual was approved, was authorised, during any period prior to the commencement of this Notice.

(11) A key individual referred to in subsection (10) must—

- (a) within six months after commencement of this Notice inform the Registrar of the classes of business it currently manages and oversees in respect of all FSPs for which it is approved; and
- (b) submit the information referred to in paragraph (a) in the manner and format prescribed by the Registrar.

(12) A representative working under supervision at commencement of this Notice has 12 months from the date on which section 29(1)(a) comes into effect to comply with the class of business training requirements set out in in Part 5 of Chapter 3 for the financial products in respect of which they are working under supervision.

(13) A person authorised, approved or appointed after commencement of this Notice but prior to the date on which section 29(1)(a) comes into effect has 12 months from the effective date of section 29(1)(a) to comply with the class of business training requirements set out in in Part 5 of Chapter 3.

**(14) Restrictions on licence**

The restrictions on the licence of an FSP authorised at the date of commencement of this Notice for the financial products listed in Column A of Table C will be—

- (a) amended by the Registrar to include the corresponding financial products listed in Column B of the Table; and
- (b) deemed to be authorised for the corresponding financial products listed in column B until such time the Registrar has amended the restrictions of its licence.

<b>Table C</b>	
<b>Column A</b>	<b>Column B</b>
Short-term Insurance Personal Lines	Short-term Insurance Personal Lines A-1
Long-term Insurance subcategory B1	Long-term Insurance subcategory B1-A
Long-term Insurance subcategory B2	Long-term Insurance subcategory B2-A

- (15) The FSP referred to in subsection (14) must within three months after the amendment by the Registrar of the restrictions on its licence update the central representative register to correctly reflect the financial products in respect of which a representative is appointed to render financial services.
- (16) The first date on which an FSP, key individual or representative was authorised, approved or appointed for the financial products referred to in Column A of Table C, where that date occurred prior to the commencement of this Notice, will be deemed to be the date on which the FSP, key individual or representative was first authorised, approved or appointed for the financial products referred to in Column B.
- (17) An FSP that—
- (a) renders financial services in respect of a financial product listed in Column A of Table D; and
  - (b) at commencement of this Notice is authorised to render the services in respect of the financial product referred to in paragraph (a);
- is deemed to be authorised for the corresponding financial product listed in Column B of Table D—
- (i) provided the FSP submits an application for authorisation to render the services in respect of the financial product listed in Column B of Table D to the Registrar within three months after commencement of this Notice; and
  - (ii) until such time the Registrar has finally approved or rejected the application referred to in subparagraph (i).

<b>Table D</b>	
<b>Column A</b>	<b>Column B</b>
Participatory interest in a collective investment scheme	Participatory interest in a CIS hedge fund
Short-term deposit	Structured deposit
Long-term deposit	Structured deposit

- (18) An FSP, key individual or representative who has successfully completed a regulatory examination contemplated in the Notice referred to in section 51(1)(b) that was applicable to an FSP, key individual or representative, respectively, is deemed to meet the regulatory examination requirements set out in Part 4 of Chapter 3 applicable to an FSP, key individual or representative respectively.

*[subsection (18) added by section 7(a) of [Government Notice 707 of 2020](#)]*

### 53. Short title and commencement

- (1) This Notice is called the Determination of Fit and Proper Requirements, 2017, and comes into operation on 1 April 2018, except those sections of the Notice specified in the first column of the Table hereunder, which will take effect on the dates as indicated in the second column of the Table.

<b>Section in Notice</b>	<b>Effective date</b>
Sections 13(3) and (5)	1 May 2018
Section 29(1)(a)	1 August 2018
Section 29(1)(b)	1 May 2018
Section 29(2)	1 August 2018
Sections 31-34	1 June 2018
Section 38	1 May 2018
Sections 44(1) and (2); 45; 48 and 49 but only insofar it relates to a juristic representative	1 March 2019

**Annexure One**  
**Minimum experience**

**Table 1 – Experience requirements for and in relation to category I FSPs**

<b>Table 1: Experience requirements for and in relation to category I FSPs</b>			
	<b>Column A Financial products</b>	<b>Column B Advice: Min. experience</b>	<b>Column C: Intermediary services: Min. experience</b>
1.1	Long-term Insurance subcategory A	6 months	2 months
1.2	Short-term Insurance Personal Lines	1 year	6 months
1.3	Long-term Insurance subcategory B1	1 year	6 months
1.4	Long-term Insurance subcategory C	1 year	6 months
1.5	Retail Pension Benefits	1 year	6 months
1.6	Short-term Insurance Commercial Lines	1 year	6 months
1.7	Pension Fund Benefits	1 year	6 months
1.8	Shares	2 years	1 year
1.9	Money-market instruments	2 years	1 year
1.10	Debentures and securitised debt	2 years	1 year
1.11	Warrants, certificates or other instruments	2 years	1 year

1.12	Bonds	2 years	1 year
1.13	Derivative instruments	2 years	1 year
1.14	Participatory interest in a collective investment scheme	1 years	1 year
1.15	Forex Investment	2 years	1 year
1.16	Health Service Benefits	2 years	2 years
1.17	Long-term Deposits	6 months	3 months
1.18	Short-term Deposits	6 months	3 months
1.19	Friendly Society Benefits	6 months	2 months
1.20	Long-term Insurance subcategory B2	1 year	6 months
1.21	Long-term Insurance subcategory B2-A	1 year	6 months
1.22	Long-term Insurance subcategory B1-A	1 year	6 months
1.23	Short-term Insurance Personal Lines A1	1 year	6 months
1.24	Structured Deposits	2 years	1 year
1.25	Securities and instruments	2 years	1 year
1.26	Participatory interest in a CIS hedge fund	2 years	1 year

**Table 2 – Experience requirements for and in relation to category II FSPs**

<b>Table 2</b>		
<b>Experience requirements for and in relation to category II FSPs</b>		
	<b>Column A: Financial product</b>	<b>Column B: Minimum experience</b>
2.1.	Long-term Insurance subcategory B1	2 years
2.2	Long-term Insurance subcategory C	2 years
2.3	Retail Pension Benefits	2 years
2.4	Pension Fund Benefits	2 years
2.5	Shares	3 years
2.6	Money market instruments	3 years
2.7	Debentures and securitised debt	3 years
2.8	Warrants, certificates and other instruments	3 years
2.9	Bonds	3 years
2.10	Derivative instruments	3 years
2.11	Participatory Interests in a collective investment scheme	2 years
2.12	Forex Investment	3 years
2.13	Long-term Deposits	1 year
2.14	Short-term Deposits	1 year

2.15	Long-term Insurance subcategory B2	2 years
2.16	Long-term Insurance subcategory B2-A	2 years
2.17	Long-term Insurance subcategory B1-A	2 years
2.18	Structured Deposits	3 years
2.19	Securities and instruments	3 years
2.20	Participatory interest in a CIS hedge fund	3 years

**Annexure Two**  
**Appropriate subject list**

<b>Table 1</b>		
<b>Appropriate subject list</b>		
<b>All Categories</b>		
Accounting	Equities Settlement	Mercantile Law
Actuarial Science	Equity Investments	Micro-economics
Advanced Investment Advice	Equity/ Equities	Money Laundering Control
Agricultural Economics	Estate and Trust Law	Money laundering schemes
Applied Accountancy Skills	Estate Planning	Money Market
Applied Mathematics	Ethics	Money Market Settlement
Applied Statistics	Finance	Network Administration
Applied Time Value of Money	Finance For Non-Financial Managers	Operational Risk Management
Asset Classes & Basic Investment Principles	Financial Accounting	Payment of Entitlement
Auditing	Financial Advice	Performance and Risk Strategy
Auditing and Internal Control	Financial Analysis	Personal Financial Planning
Authorisations And Approvals (Trading)	Financial Calculations	Personal Insurance Products and Practice
Banking	Financial Engineering	Portfolio Management
Banking Operations	Financial Governance	Practical Accounting Data Processing



Basic Economic Principles	Financial Management	Primary, secondary and wholesale markets
Behavioural Finance & Economics	Financial Market Operations	Principles of Ethics in a Business Environment
Blockchain	Financial Market Regulatory Environment	Principles of Insurance
Bond and stock markets	Financial Markets	Principles of Life Insurance
Bonds	Financial Mathematics	Principles of Strategy, Financial Management and Risk
Bonds Settlement	Financial Operations	Principles of Taxation
Business Administration	Financial Planning	Process Management (Process Modeling And Control)
Business Assurance	Financial Planning Principles	Production Management
Business Economics	Financial Reporting	Prudential Requirements
Business Entities	Financial Services Industry	Quality Control In Call Centres
Business Environment	Financial Services Operations	Quantitative Economics
Business Ethics	Financial Services Preparations	Quantitative Finance
Business Finance	Financial Statements	Quantitative Investment Analysis
Business Informatics	Forex Exposure Management	Quantitative Techniques
Business Information Systems	Fundamentals of Financial Services	Regulatory Environment
Business Insurance	General Management	Responsibilities of financial institutions
Business Integration	Global Business Environment	Retirement Finance
Business Management	Governance, Risk And Compliance Management	Retirement Planning

Business Management & Financial Risk Assessment	Group Retirement Benefits	Retirement Related Legislation
Business Mathematics	Health Benefits/ Health Care Benefits	Retirement Wealth Preservation
Business to Business Marketing	Human Computer Interaction	Risk Financing
Call Centre Management	Independent audits and reviews	Risk Management
Capital market frameworks and concepts	Informatics	Risk Management and Insurance
Claims Management	Information Technology Architecture	Securities Information and Market Conditions
Client / Customer Services	Information Technology Enterprise	Securities Markets
Client Investment Needs	Insurance	Settlement (Finance)
Client Services and Financial Advice	Insurance & Risk Management	Small Business Management
Collateral Management	Interest-Bearing Investment	South African Financial System
Collective Investment Scheme Product Solutions	International Finance	Statistics or Analytical Techniques
Commercial Insurance Products and Practice	International Trade	STRATE
Commercial Law	Interpretation of Statutes	Strategic Communication Management Skills
Companies Law	Introduction to the Financial Markets	Strategic Management
Complaints And Disputes	Introductory Financial Accounting	Strategy
Compliance function	Investment Management	Structured Systems Analysis and Design

Computer Architecture	Investment or Portfolio Management	Tax/ taxation
Conduct of Business (Regulation)	Investment Planning	Taxation Law
Consumer Behaviour	Investor Psychology	Taxation Planning
Corporate Finance	Law of Contract Or Delict	The Bond Market
Corporate Financial Planning	Law of Succession	The Derivatives Market
Corporate Governance	Legal Environment	The Equity Market
Corporate Law	Legislative Impact On Financial Advisors/ Planners	The Regulation And Ethics of The South African Financial Markets
Cost Accounting	Long-Term Product Solutions	The South African Foreign Exchange Market
Costand Financial Management	Macro Economics	Trade and Business Law
Costing and Estimating	Management	Trading On The Exchange
Creation of Wealth	Management Accounting	Treasury Management
Credit Risk Management	Managing Client Assets	Trustee management
Crypto Banking	Market Conduct	Visual Programming
Crypto Currency	Market Risk Management	Wealth Creation
Debt Instrument Solutions	Marketing	Wealth Management
Descriptive Statistics and Probability	Mathematical Analysis	
E-commerce in Business	Mathematical Economics	
Econometrics	Mathematical Statistics	
Economics	Mathematics	

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Employee Benefits	Mathematics for Finance and Business	
Entrepreneurship	Medical Schemes	

**Annexure Three**  
**Tier 1 and Tier 2 financial products**

<b>Table 1</b>	
<b>Financial products</b>	
<b>Column A</b> <b>Tier 1 financial products</b>	<b>Column B</b> <b>Tier 2 financial products</b>
Structured Deposits	Short-term Insurance Personal Lines A1
Short-term Insurance Personal Lines	Long-term Insurance subcategory A
Short-term Insurance Commercial Lines	Long-term Insurance subcategory B1-A
Long-term Insurance subcategory B1	Long-term Insurance subcategory B2-A
Long-term Insurance subcategory B2	Friendly Society Benefits
Long-term Insurance subcategory C	Short-term Deposits
Retail Pension Benefits	Long-term Deposits
Pension Fund Benefits	
Participatory interest in a collective investment scheme	
Participatory interest in a CIS hedge fund	
Forex Investment	
Health Service Benefits	
Shares	
Money market instruments	
Debentures and securitised debt	

Warrants, certificates and other instruments	
Bonds	
Derivative instruments	
Securities and Instruments	

## Annexure Four

### Classes of business

1. In this Annexure—

“Accident and health policy” has the meaning assigned to it in section 1(1) of the Short-term Insurance Act, but excludes a reinsurance policy in respect of such a policy;

“Assistance policy” has the meaning assigned to it in section 1(1) of the Long-term Insurance Act but excludes a reinsurance policy in respect of such a policy;

“Engineering policy” has the meaning assigned to it in section 1(1) of the Short-term Insurance Act, but excludes a reinsurance policy in respect of such a policy;

“Fund policy” has the meaning assigned to it in section 1(1) of the Long-term Insurance Act but excludes a reinsurance policy in respect of such a policy;

“Guarantee policy” has the meaning assigned to it in section 1(1) of the Short-term Insurance Act, but excludes a reinsurance policy in respect of such a policy;

“Life investment policy” means a life policy as defined in section 1(1) of the Long-term Insurance Act other than a life risk policy;

*[definition of “Life investment policy”, previously “Long-term investment policy”, substituted by section 8(b) of Government Notice 707 of 2020]*

“Liability policy” has the meaning assigned to it in section 1(1) of the Short-term Insurance Act, but excludes a reinsurance policy in respect of such a policy;

“Life risk policy” means a disability, health or life policy as defined in section 1(1) of the Long-term Insurance Act that provides risk benefits only;

“Long-term reinsurance policy” means a reinsurance policy as defined in section 1(1) of the Long-term Insurance Act;

“Miscellaneous policy” has the meaning assigned to it in section 1(1) of the Short-term Insurance Act, but excludes a reinsurance policy in respect of such a policy;

“Motor policy” has the meaning assigned to it in section 1(1) of the Short-term Insurance Act, but excludes a reinsurance policy in respect of such a policy;

“Property policy” has the meaning assigned to it in section 1(1) of the Short-term Insurance Act, but excludes a reinsurance policy in respect of such a policy;

“Short-term reinsurance policy” has the meaning assigned to it in section 1(1) of the Short-term Insurance Act;

“Sinking fund” has the meaning assigned to it in section 1(1) of the Long-term Insurance Act but excludes a reinsurance policy in respect of such a policy;

“Transportation policy” has the meaning assigned to it in section 1(1) of the Short-term Insurance Act, but excludes a reinsurance policy in respect of such a policy.

<b>Table 1 Classes of business</b>	
<b>1.</b>	<b>Short-term Insurance: Personal Lines</b>
<b>Subclasses</b>	
1.1	Personal lines: Accident and health policy
1.2	Personal lines: Liability policy
1.3	Personal lines: Miscellaneous policy
	<i>[item renumbered by section 8(a) of <a href="#">Government Notice 707 of 2020</a>]</i>
1.4	Personal lines: Motor policy
	<i>[item renumbered by section 8(a) of <a href="#">Government Notice 707 of 2020</a>]</i>
1.5	Personal lines: Property policy
	<i>[item renumbered by section 8(a) of <a href="#">Government Notice 707 of 2020</a>]</i>
1.6	Personal lines: Transportation policy
	<i>[item renumbered by section 8(a) of <a href="#">Government Notice 707 of 2020</a>]</i>
1.7	Personal lines: Short-term reinsurance policy
	<i>[item renumbered by section 8(a) of <a href="#">Government Notice 707 of 2020</a>]</i>
<b>2.</b>	<b>Short-term Insurance: Commercial Lines</b>
<b>Subclasses</b>	
2.1	Commercial lines: Accident and health policy



2.2	Commercial lines: Engineering policy
2.3	Commercial lines: Guarantee policy
2.4	Commercial lines: Liability policy
2.5	Commercial lines: Miscellaneous policy
2.6	Commercial lines: Motor policy
2.7	Commercial lines: Property policy
2.8	Commercial lines: Transportation policy
2.9	Commercial lines: Short-term reinsurance policy
<b>3.</b>	<b>Long-term Insurance</b>
<b>Subclasses</b>	
3.1	Assistance policy
3.2	Life risk policy
3.3	Life investment, policy
3.4	Fund policy
3.5	Sinking fund policy
3.6	Long-term reinsurance policy
<b>4.</b>	<b>Pension Fund Benefits</b>
<b>5.</b>	<b>Short-term and Long-term Deposits</b>
<b>6.</b>	<b>Structured Deposits</b>
<b>7.</b>	<b>Investments</b>
<b>Subclasses</b>	

7.1	Shares
7.2	Money market instruments
7.3	Debentures and securitised debt
7.4	Bonds
7.5	Derivative instruments, warrants, certificates or other instruments
7.6	Securities and Instruments
7.7	Participatory interests in a collective investment scheme
7.8	Participatory interest in a CIS hedge fund
7.9	Retail Pension Benefits
<b>8.</b>	<b>Forex Investments</b>
<b>9.</b>	<b>Health Services Benefits</b>

**Annexure Five**  
**Regulatory examinations**

**Table 1 – Regulatory examination: FSPs and key individuals in all categories of FSPs**

Table 1				
Task No	Task	QC	Qualifying criteria	Knowledge (K) or Skill (S)
1	Demonstrate understanding of the FAIS Act as a regulatory framework	1	Describe the FAIS Act and subordinate legislation	K
		2	Explain how the FAIS Act is integrated with other Financial Services Board legislation	K
		3	Describe the requirements when interaction between FSPs takes place	K
		4	Explain in general which departments of the Registrar's office deal with which FSP matters	K
		5	Interact with the Registrar when and where required	S
		6	Explain what is the correct format of communication with the Registrar	K
		7	Explain what processes are required to	K

			remain updated with regards to published changes to legislation that will affect the FSP.	
2	Define financial products and financial services.	1	Provide an overview of the financial services and different types of financial products an FSP can deal with.	K
		2	Apply knowledge of the financial products within the financial services environment.	S
		3	Explain the different financial products with examples of products in each category.	K
3	Maintain the licence of the FSP	1	Describe the requirement for licensing of an FSP	K
		2	Apply for an FSP licence	S
		3	Describe the requirements for changing any aspect of an FSP licence	K
		4	Explain the impact of licensing conditions on an FSP.	K
		5	Manage the licensing conditions.	S

		6	Describe what changes to the FSP licensing details must be communicated to the Registrar	K
		7	Confirm that the Registrar is informed within the prescribed timeframes of any changes to the FSP licensing details.	S
		8	Describe the implications for the FSP if any of the licensing conditions are not met	K
		9	Discuss the requirements around the display of licences.	K
		10	Verify that the FSP has internal controls and procedures in place to ensure that financial services are rendered within the limitations on categories and subcategories for which the licence is issued.	S
		11	Explain the implications when a Key Individual leaves the employ of the FSP.	K
		12	Explain the implications for a Key Individual and/or FSP if an	K

		accreditation is suspended or withdrawn or lapsed in terms of the Medical Schemes Act, 1998, or any other enabling legislation	
13		Explain what levies are payable to the Registrar and when they should be paid.	K
14		Verify that there are processes in place to pay the levies within the prescribed timeframes	S
15		Explain the reasons why a licence can be suspended or withdrawn.	K
16		Describe the conditions under which suspensions, withdrawals and reinstatements of authorisation may be imposed.	K
17		Explain what recourse an FSP has where its licence has been suspended or withdrawn.	K
18		Discuss why a licence would be lapsed	K
19		Describe how lapsing a licence differs from suspension or	K

		withdrawal of a licence	
20		Discuss the effect of voluntary sequestration, winding-up or closure of a business on its licensing status	K
21		Describe the requirements where business rescue or application by Registrar for sequestration or liquidation takes place	K
22		Explain what is meant by "undesirable practices."	K
23		Check that there are processes in place to check whether the Registrar has published notices regarding undesirable practices	S
24		Verify that there are processes in place to ensure that the business is aware of declared undesirable practices and that they cease any such practices	S
25		Describe the implications for an FSP if the Registrar declares a business practice to be undesirable	K

		26	Explain the reparation measures available to the Registrar if an FSP continues with undesirable business practices.	K
		27	Explain the implications where the Registrar issues a directive	K
		28	Describe the process of On-site inspections by the Registrar	K
		29	Describe the FAIS Act offences	K
		30	Ensure that there are processes in place to avoid actions that can be regarded as offences under the FAIS Act.	S
		31	Define the recourse that an FSP has in the event of a decision made by the Registrar	K
		32	Explain the process of enforcement as provided for in legislation	K
4	Operate as a key individual in terms of the FAIS Act.	1	Describe the roles and responsibilities of key individuals as defined in the FAIS Act.	K



2	Explain the requirements for approval of a key individual by the Registrar	K
3	Describe the regulated management and oversight responsibilities of a key individual	K
4	Perform the regulated management and oversight responsibilities of a key individual	S
5	Explain the controls required to ensure sufficient management and oversight of the financial services that are rendered	K
6	Explain when an individual can commence acting as a key individual.	K
7	Describe the good standing, honesty and integrity requirements for a key individual.	K
8	Check whether a current/potential key individual meets the good standing, honesty and integrity requirements.	S
9	Explain the implications for a key individual should the	K

		key individual no longer meet the good standing, honesty and integrity requirements	
10		Take appropriate action where a current key individual no longer meets the good standing, honesty and integrity requirements.	S
11		Explain the implications for an FSP should a key individual no longer meet the good standing, honesty and integrity requirements	K
12		Describe the competence requirements for a key individual	K
13		Check whether a current/ potential key individual meets the competence requirements.	S
14		Describe the on-going training and development requirements for key individuals.	K
15		Verify that the record keeping required for the on-going meeting of fit and proper requirements for	S

			key individuals is in place	
5	Manage and oversee the operational ability of the FSP.	1	Describe the operational ability requirements prescribed in the FAIS Act.	K
		2	Confirm that there is adequate storage and filing systems for the safe keeping of records, business communications and correspondence.	S
		3	Verify that the FSP has the required bank accounts	S
		4	Implement and maintain the prescribed professional indemnity or fidelity insurance cover	S
		5	Ensure that disaster recovery and business continuity plans are in place	S
		6	Describe the financial soundness requirements for an FSP	K
		7	Confirm that the financial soundness requirements are met	S
		8	Describe the requirements when	K

			outsourcing an administration or system function relating to financial services	
		9	Ensure, where activities are outsourced, that written service level agreements are in place	S
		10	Check that there are processes in place to ensure that suitable providers are selected for any outsourced functions	S
		11	Confirm that where outsourced entities provide financial services, that they are authorised FSP's.	S
6	Adhere to the General Code of Conduct	1	Describe the general and specific duties of a provider	K
		2	Describe the processes that need to be in place to manage conflict of interest	K
		3	Describe what could possibly be a conflict of interest	K
		4	Define what needs to be in a conflict of interest policy	K
		5	Ensure that the FSP is managing	S

		potential conflicts of interest.	
6		Apply the requirements of the General Code of Conduct for FSPs and Representatives.	S
7		Explain the disclosures that need to be made before rendering a financial service	K
8		Explain disclosures that must be made when rendering a financial service	K
9		Check that disclosures are adequate to enable client's to make an informed decision.	S
10		Explain the requirements for an FSP when custody of financial products and funds occurs.	K
11		Confirm that there is a separate bank account with a registered bank into which client monies are deposited.	S
12		Explain the requirements of the General Code of Conduct for FSPs and Representatives relating to risk management and insurance	K

		13	Explain the requirements of the General Code of Conduct for FSPs and Representatives relating to marketing and advertising	K
		14	Explain the manner in which complaints are to be handled by the FSP as required by General Code of Conduct for FSPs and Representatives.	K
		15	Verify that complaints procedures and processes are in place.	S
		16	Follow the complaints procedures and processes that are in place for the FSP.	S
		17	Explain the requirements of the General Code of Conduct for FSPs and Representatives relating to the termination of agreement or business	K
7	Manage and oversee the compliance functions as required by the FAIS Act.	1	Describe the compliance arrangements required by the FSP	K

2	Explain the requirements of the compliance function within the FSP.	K
3	Establish the compliance function within the FSP.	S
4	Establish and maintain compliance and reporting arrangements for the FSP	S
5	Check that the compliance arrangements specify frequency of monitoring and reporting	S
6	Implement and maintain a documented process to ensure the adequacy of the FSP's compliance and monitoring arrangements.	S
7	Describe when a Compliance Officer should be appointed	K
8	Explain the criteria for approval of a Compliance Officer by the Registrar.	K
9	Ensure that the Compliance Officer is approved by the Registrar	S

		10	Describe the role and function of a Compliance Officer.	K
		11	Confirm that the compliance function / compliance practice has sufficient resources to provide an efficient compliance service	S
		12	Explain why it is important for the Compliance Officer to act independently from the management of the FSP.	K
		13	Confirm that the Compliance Officer / compliance practice can function objectively and sufficiently independently of the FSP and avoids conflicts of interest	S
		14	Explain why it is important for the Compliance Officer to be able to avoid conflicts of interest during the execution of their duties	K
		15	Manage potential conflict of interest where there is not a specifically appointed Compliance Officer /	S



			compliance practice	
		16	Understand the content of the compliance report(s) in order to be able to sign it off.	K
		17	Confirm that where the Compliance Officer found any instances of non-compliance that this is addressed and rectified.	S
		18	Replace the Compliance Officer if he/she does not have the required approval of the Registrar.	S
8	Comply with regulated record keeping requirements	1	Explain the record keeping obligations as prescribed by the FAIS and FIC Acts.	K
		2	Verify that record keeping and retrieval of records is carried out in terms of the obligations prescribed by the FAIS and FIC Acts	S
		3	Describe the requirements imposed when record keeping is outsourced to a third party.	K
		4	Confirm that third party outsourcing	S

			agreements are executed correctly.	
		5	Explain the security requirements for record keeping in terms of confidentiality and access to records.	K
9	Manage and oversee the accounting and auditing requirements	1	Describe the accounting and auditing requirements prescribed by the FAIS Act	K
		2	Check that the required accounting and auditing requirements are in place and carried out accurately and timeously.	S
		3	Describe the requirements for appointing an auditor or accounting officer	K
		4	Ensure that the audit report submitted to the Registrar where funds are received meets the regulatory requirements	S
10	Manage and oversee the requirements of the FIC Act and Money Laundering and Terrorist Financing control regulations, as it applies to the FSP.	1	Explain the requirements specific to an FSP prescribed by the FIC Act	K
		2	Verify that all requirements for internal rules as	S

			required by the FIC Act are in place	
		3	Verify that the FSP has processes in place to ensure compliance with the identification, verification, recordkeeping and reporting obligations under the FIC Act.	S
		4	Check that there are processes in place to ensure that employees receive training in respect of, and are aware of, their obligation to report suspicious transactions.	S
11	Deal with complaints that have been submitted to the Ombud for FSPs	1	Explain the role and authority of the Ombud for FSPs	K
		2	Discuss the obligations of the FSP in respect of an investigation conducted by the Ombud for FSPs	K
		3	Check that there are processes in place to ensure that the FSP cooperates in the case of an investigation by the Ombud.	S
12	Define the role of the representative in terms of the FAIS Act.	1	Describe the roles and responsibilities of representatives as defined in the FAIS Act.	K

		2	Explain when an individual must be appointed as a representative in terms of the FAIS Act	K
		3	Describe the purpose and requirements of the register of representatives	K
		4	Verify that the FSP maintains a register of representatives that meets the requirements of the FAIS Act	S
13	Manage and oversee the appointment of representatives.	1	Explain what needs to be in place when appointing a representative	K
		2	Verify that there are processes that enable the FSP to check that a representative meets the fit and proper requirements and can be appointed	S
14	Manage the rendering of services under supervision.	1	Explain when representatives can act under supervision.	K
		2	Confirm that there are sufficient qualified individuals to act in the role of supervisor	S
		3	Describe the requirements that must be	K

			in place when representatives act under supervision.	
		4	Ensure that the supervisors understand their role and	S
			have the capacity for the number of supervisees	
		5	Verify that there is supervision in place to oversee representatives	S
		6	Perform the necessary supervision functions on representatives	S
		7	Explain the disclosure requirements for a representative under supervision	K
15	Manage and oversee the representatives appointed by an FSP.	1	Describe the on-going Fit and Proper requirements for representatives.	K
		2	Verify that the record keeping required for the on-going meeting of Fit and Proper requirements for representatives is in place	S
		3	Implement and maintain a documented process to ensure that all representatives	S

			are competent and will provide financial services on behalf of the FSP in accordance with the FAIS Act	
		4	Check that there are processes to ensure that representatives are making progress towards the Fit and Proper requirements.	S
		5	Describe the implications if a representative no longer meets the Fit and Proper requirements	K
16	Debar representatives that have failed to comply with any provision of the FAIS Act in a material manner	1	Define the purpose of debarment	K
		2	Describe when debarment should be considered.	K
		3	Check that the employment/ mandatory agreement with representatives include scope of activities as a representative and reasons for possible debarment	S
		4	Explain the debarment process that should be followed in the event of a possible contravention of the FAIS Act	K
		5	Confirm that all role players	S

			in the FSP are informed about the reasons why debarment would be considered, the process that would be followed and any recourse that a representative may have	
		6	Verify that there are internal processes and procedures in place for the debarment of representatives	S
		7	Explain the timeframe and process to notify the Registrar of a debarment	K

**Table 2 – Regulatory examination: FSPs and key individuals in categories II and IIA FSPs**

Table 2			
No	Task	Knowledge Criteria	Skill Criteria
1	Apply the Category II and/or IIA FSP business model	Describe the characteristics of a Category II and/or IIA FSP and how that differentiates it from other financial services providers in Cat I and/or III.	Take the difference between Category II and/or IIA FSPs and other financial services providers into account when making business related decisions
		Discuss the separation of client assets from category II and/or IIA FSP's assets.	Perform the fiduciary duty of the CAT II and/or IIA FSP.
			Identify which assets belong to the client and which belong to the category II and/or IIA FSP.
			Interpret basic financial systems.
		Implement systems and processes to separate client and CAT II and/or IIA FSP assets.	
Explain the role and responsibilities of the different parties involved, including but not limited to: <ul style="list-style-type: none"> <li>• different parties/ legal entities involved,</li> <li>• nominee,</li> <li>• MANCO,</li> <li>• insurers,</li> </ul>			



		<ul style="list-style-type: none"> <li>• pension funds,</li> <li>• 3rd party FSPs,</li> <li>• Financial Advisors,</li> <li>• brokers,</li> <li>• clients</li> </ul>	
		Describe the need for relevant contractual agreements to be in place with the relevant other party.	Verify that the relevant contractual agreements are in place with the relevant other party.
			Business is conducted in accordance with the contractual agreements.
2	Manage the role of the independent nominee	Describe the duties the nominee company is responsible for.	Verify that there are processes in place to check that the nominee company executes its' responsibilities towards the Category II and/or IIA FSP.
		Explain the purpose of the nominee company.	Confirm the nominee company complies with its duties.
3	Manage and oversee client mandates	Explain why the category II and/or IIA FSP must use mandates that have been approved by the FSB.	Manage client mandates in accordance to mandatory requirements.
		Explain why a mandate cannot be used if it is not approved by the FSB.	
		Explain why a mandate cannot be used if it is not signed by the client or his duly authorised representative.	
		Explain why such a mandate must adhere to the requirements in the	

		Discretionary Code of Conduct.	
		Explain what the requirements are for mandates.	
4	Manage and oversee typical daily transactions	Explain how different products have different turnaround times and should be adhered to.	Check that the systems and processes enable the implementation and execution of different turnaround times for different products.
		Describe how there should be adequate controls in place to manage risks.	Check that the systems and processes have embedded controls to manage and contain risk.
5	Manage and oversee disclosures	Explain how to ensure transparency and manage conflict of interests.	Confirm that disclosures are adequate to enable client's ability to make an informed decision.
6	Understand the legal environment of the CAT II and/or IIA FSP	Explain the liquidity requirement.	Apply the liquidity requirements to own business.
		Explain the implications of the liquidity requirements,	
		Describe the fidelity cover requirements.	Apply the fidelity requirements to own business.
		Explain the implications of the fidelity cover requirements.	
		Describe the applicable capital requirement.	Apply the applicable capital requirements to own business.
		Explain the implications of the capital requirements.	

		Explain why the Category II and/or IIA FSP is not allowed to engage in the netting of transactions.	Verify that there are systems in place to check that netting of transactions will not take place.
		Explain why a Category II and/or IIA FSP must ensure that it only conducts business with another FSP that has the appropriate categories/subcategories on its license, and that business must also be conducted within the parameters of the client mandate.	Verify that it only conducts business with another FSP that has the appropriate categories/subcategories on its license, and that business must also be conducted within the parameters of the client mandate, to ensure that all business is legitimate.
		Describe what the continual compliance with the license requirements and conditions are.	Check that there are systems in place to check that new products or proposed business ventures will meet the limitations of the license requirements and conditions are.
7	Apply the record keeping requirements	Explain the period for which records must be kept.	Incorporate the record keeping requirements when planning system updates and strategic initiatives.
		Describe the requirements specifically applicable to telephone and/or electronic requirements.	Verify that systems are in place to manage the record keeping risks of electronic and telephonic transactions.
8	Comply with requirements when reporting to clients	Explain why clients must receive written reports at quarterly intervals, that provide them with investment and related information.	Verify that there are systems and processes that enable the preparation and delivery of accurate quarterly reports.
9	Institute a personal account Trading policy	Describe why a Discretionary FSP should have a personal	Check that there is a personal account trading policy and that there are

		account policy and why this is important.	controls to check that this is adhered to.
10	Apply prohibitions in terms of the Discretionary Code of Conduct	Explain the prohibitions in terms of the Discretionary Code of Conduct.	Check that there are processes and controls in place to ensure that the FSP adheres to the prohibitions in terms of the Discretionary Code of Conduct.
11	Deal with Nominee Regulations	Describe the requirements of the Nominee Regulations, and what the FSP and the nominees must adhere to.	Check that there are processes and controls in place to ensure that the FSP adheres to the requirements in terms of the Nominee Regulations.

**Table 3 – Regulatory examination: FSPs and key individuals in category III FSPs -correct all references to discretionary code to admin code**

Table 3			
No	Task	Knowledge criteria	Skill criteria
1	Apply the Category III FSP business model	Describe the characteristics of a category III FSP and how that differentiates it from other product providers such as insurers and unit trusts.	Take the difference between Category III FSPs and other product providers into account when making business related decisions.
		Describe the reason for separation of client assets from Category III FSP's assets.	Perform the fiduciary duty of the category III FSP.
			identify which assets belong to the client and which belong to the category III FSP.
			Interpret basic financial systems.
		Check that there are systems and processes to separate client and Category III FSP assets.	
Explain the role and responsibilities of the different parties involved, including but not limited to: <ul style="list-style-type: none"> <li>• different parties/ legal entities involved,</li> <li>• nominee,</li> <li>• MANCO,</li> <li>• insurers,</li> <li>• pension funds,</li> <li>• 3rd party FSPs,</li> </ul>			

		<ul style="list-style-type: none"> <li>• Financial Advisors,</li> <li>• brokers,</li> <li>• clients</li> </ul>	
		Explain the concept of bulking and pooling of assets into a single account with investment provider.	Verify that there are systems and processes to allow for the bulking of client assets without pooling or unitisation.
		Explain the relevant contractual agreements need to be in place with the relevant other party.	Confirm that the relevant contractual agreements are in place with the relevant other party and business is conducted in accordance with the contractual agreements.
2	Understand the role of the independent nominee	Explain the duties the nominee company is responsible for.	Verify that there are processes in place to check that the nominee company executes its' responsibilities towards the Category III FSP - reporting independence.
		Explain the purpose of the nominee company	Checkk the nominee company complies with its duties.
3	Manage and oversee client mandates	Explain why the category III FSP must use mandates that have been approved by the FSB.	Manage client mandates in accordance to mandatory requirements.
		Explain why a mandate cannot be used if it is not approved by the FSB.	
		Explain why a mandate cannot be used if it is not signed by the client or his duly authorised representative.	

		Explain why such a mandate must adhere to the requirements in the Administrative Code of Conduct.	
		Explain what the requirements are for mandates.	
4	Manage/oversee typical daily transactions	Explain how different products have different turnaround times and should be adhered to.	Check that the systems and processes enable the implementation and execution of different turnaround times for different products.
		Describe how there should be adequate controls in place to manage risks.	Check that the systems and processes have embedded controls to manage and contain risk.
		Explain how Category III FSPs are only allowed to take in one day's interest.	Check that the processes and systems only take one day's interest.
5	Manage and oversee disclosures	Explain how to ensure transparency and manage conflict of interests.	Confirm that disclosures are adequate to enable client's ability to make an informed decision.
6	Understand the legal environment of the Category III FSP.	Explain the liquidity requirement.	Apply the liquidity requirements to own business.
		Explain the implications of the liquidity requirements,	
		Describe the fidelity cover requirements.	Apply the fidelity requirements to own business.
		Explain the implications of the fidelity cover requirements.	

		Describe the applicable capital requirement.	Apply the applicable capital requirements to own business.
		Explain the implications of the capital requirements.	
		Explain why the Category III FSP is not allowed to engage in the netting of transactions.	Verify that there are systems in place to check that netting of transactions will not take place.
		Explain how a Category III FSP must ensure that it only conducts business with another FSP that has the appropriate categories/subcategories on its license, and that business must also be conducted within the parameters of the client mandate	Confirm that it only conducts business with another FSP that has the appropriate categories/subcategories on its license, and that business must also be conducted within the parameters of the client mandate, to ensure that all business is legitimate.
		Describe what the continual compliance with the license requirements and conditions are.	Check that there are systems in place to check that new products or proposed business ventures will meet the limitations of the license requirements and conditions are.
7	Apply the record keeping requirements.	Explain the period for which records must be kept.	Incorporate the record keeping requirements when planning system updates and strategic initiatives.
		Describe the requirements specifically applicable to telephone and/or electronic requirements.	Verify that systems are in place to manage the record keeping risks of electronic and telephonic transactions.
8	Comply with requirements when reporting to clients	Explain why clients must receive written reports at quarterly intervals,	Verify that there are systems and processes that enable the



		that provide them with investment and related information.	preparation and delivery of accurate quarterly reports.
9	Apply knowledge of the accounting and unit reconciliations	Explain how the accounting and unit reconciliations work.	
10	Apply knowledge of how intermediaries must be licensed before they can do business.	Explain how intermediaries must be licensed before they can do business.	
11	Deal with rebates	Explain how rebates work.	
		Explain all the related disclosures as it applies to rebates.	

**Table 4 – Regulatory examination: Representatives in all categories of FSPs**

<b>Table 4</b>				
<b>Task No</b>	<b>Task</b>	<b>QC</b>	<b>Qualifying Criteria</b>	<b>Knowledge (K) or Skill (S)</b>
1	Demonstrate understanding of the FAIS Act as a regulatory framework	1	Describe the FAIS Act and subordinate legislation	K
		2	Provide an overview of the financial services and different types of financial products a Representative can deal with.	K
		3	Apply knowledge of the financial products within the financial services environment.	S
		4	Describe the role and function of a Compliance Officer.	K
2	Contribute towards maintaining an FSP licence.	1	Explain the requirements an FSP must meet to maintain an FSP licence.	K
		2	Assist in maintaining an FSP licence by executing the required actions as a Representative, in terms of the Act.	S

		3	Discuss the requirements around the display of licences.	K
		4	Explain the implications for a Representative if an accreditation is suspended or withdrawn or lapsed in terms of the Medical Schemes Act, 1998, or any other enabling legislation	K
		5	Explain what is meant by "undesirable practices."	K
		6	Check that the execution of duties and actions as a Representative does not constitute undesirable business practices.	S
		7	Describe the implications for a Representative if the Registrar declares a business practice to be undesirable	K
		8	Explain the reparation measures available to the Registrar if a Representative continues with undesirable business practices.	K
		9	Describe the offenses prescribed by the FAIS Act	K

3	Define the role of the key individual in terms of the FAIS Act.	1	Describe the roles and responsibilities of key individuals as defined in the FAIS Act.	K
		2	Describe the regulated management and oversight responsibilities of a key individual	K
		3	Explain the implications for a Representative should a key individual no longer meet the good standing, honesty and integrity requirements	K
4	Adhere to the specific Codes of Conduct	1	Describe the general and specific duties of a provider	K
		2	Describe what could possibly be a conflict of interest	K
		3	Define the requirements and impact of the disclosure rules on the FSP.	K
		4	Apply the requirements of the General Code of Conduct for FSPs and Representatives.	S
		5	Explain the disclosures that need to be made by a Representative	K

		before rendering a financial service	
6		Explain disclosures that must be made by a Representative when rendering a financial service	K
7		Describe the required disclosures regarding the provider, product supplier and financial service.	K
8		Explain the specific disclosure requirements regarding fees and commission	K
9		Apply disclosure requirements in terms of financial services	S
10		Explain the process of advice that should be followed by a Representative	K
11		Explain the requirements when a Representative receives custody of financial products and funds	K
12		Explain the manner in which complaints are to be handled by a Representative as required by the General Code of Conduct	K

			for FSPs and Representatives.	
		13	Follow the complaints procedures and processes that are in place for Representatives.	S
		14	Explain the requirements of the General Code of Conduct for FSPs and Representatives relating to the termination of an agreement	K
5	Comply with regulated record keeping requirements	1	Explain the record keeping obligations by a Representative as prescribed by the FAIS and FIC Acts.	K
		2	Carry out the record keeping and retrieval of records functionality correctly	S
6	Comply with the requirements of the FIC Act and Money Laundering and Terrorist Financing control regulations, as it applies to the FSP.	1	Explain the requirements specific to an FSP prescribed by the FIC Act	K
		2	Describe how the FIC Act impacts a Representatives' interaction with a client.	K
7	Dealing with complaints that have been submitted to the Ombud for FSPs	1	Explain the role and authority of the Ombud for FSPs	K

8	Operate as a Representative in terms of the FAIS Act.	1	Describe the roles and responsibilities of Representatives as defined in the FAIS Act.	K
		2	Apply knowledge of the role of the Representative in terms of the FAIS Act.	S
		3	Explain the fit and proper requirements that apply to a Representative (good standing, honesty, integrity, qualifications, experience, knowledge tested through regulated examinations and continuous professional development)	K
		4	Distinguish between advice and intermediary services in terms of the FAIS Act.	K
		5	Describe the purpose and requirements of the register of Representatives	K
		6	Explain when a Representative should be under supervision.	K
		7	Explain the disclosure requirements for a Representative under supervision	K

		8	Describe the implications if a Representative no longer meets the Fit and Proper requirements	K
		9	Define the purpose of debarment	K
		10	Describe when debarment should be considered.	K
		11	Explain the debarment process that should be followed in the event of a possible contravention of the FAIS Act	K
		12	Explain what recourse a debarred Representative may have.	K

### Annexure Six

#### Form A - Liquidity calculation

*[Editorial note: The form has not been reproduced.]*