

BOARD NOTICE ... OF 2015

FINANCIAL SERVICES BOARD

**FINANCIAL ADVISORY AND INTERMEDIARY SERVICES ACT, 2002
(ACT NO 37 OF 2002)**

**DETERMINATION OF FIT AND PROPER REQUIREMENTS FOR FINANCIAL SERVICES
PROVIDERS, 2015**

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.

CD da Silva,
Deputy Registrar of Financial Services Providers

SCHEDULE

DETERMINATION OF FIT AND PROPER REQUIREMENTS FOR FINANCIAL SERVICES PROVIDERS, 2015

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CHAPTER 1

INTERPRETATION, PURPOSE AND APPLICATION OF THIS DETERMINATION

Definitions

1. 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 –

“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;

“applicant” means a person who submits an application;

“application” means an application in terms of section 8(1) of the Act for authorisation as an FSP;

“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, 1998, 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, 1998;

“average” means a section in a policy that provides that where assets are insured for less than their full value, the insured is required to bear a proportion of any loss;

“health broker” means a broker as defined in section 1(1) of the Medical Schemes Act, 1998 (Act No. 131 of 1998);

“category”, in relation to FSPs, means a category of FSPs mentioned in section 3;

“Collective Investment Schemes Control Act” means the Collective Investment Schemes Control Act, No. 45 of 2002;

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

“financial product” includes subcategories of financial products;

“first level regulatory examination” means a regulatory examination mainly aimed at testing a person’s knowledge, understanding and application of legislation directly applicable to FSPs, representatives and key individuals, including the provisions of the Act, the Financial Services Board Act, 1990 (Act No. 97 of 1990), the Financial Institutions (Protection of Funds) Act, 2001 (Act No. 28 of 2001), the Financial Intelligence Centre Act, 2001 (Act No. 38 of 2001), and all measures promulgated in terms of those Acts;

“forex investment business” means forex investment business as defined in 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 Part 5A of the Regulations under the Long-term Insurance 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;

“juristic”, in relation to –

- (a) an FSP, means an FSP which is a partnership, trust or corporate or unincorporated body; or
- (b) a representative, means a representative which is a partnership, trust or corporate or unincorporated body;

“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 assured 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 policyholder or life assured, structured as answers to no more than eight questions relating to specific medical conditions;
- (b) a requirement that the policyholder or 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, 1990 (Act No. 94 of 1990), including a foreign currency deposit, with a term exceeding 12 months;

“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 as defined in section 1(1) of the Long-term Insurance Act, but excludes such a policy referred to in the definitions of long-term Insurance categories B1, B2 and C;

“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–

- (a) a fund policy as defined in section 1(1) of that Act;
- (b) a fund member policy;
- (c) an investment policy as defined in Part 5B of those Regulations; and
- (d) such a policy referred to in the definitions of Long-term Insurance categories A, B1-A, B2 and C;

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

“long-term insurance subcategory B2” means a long-term policy as defined in section 1 of the Long-term Insurance Act which is –

- (a) 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;
- (b) 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;
- (c) an annuity which guarantees a minimum annuity for the term of the policy which annuity is ascertainable in Rand terms at inception; or
- (d) a policy which combines the policy features referred to in paragraphs (a) to (c),

but excludes a fund policy, a fund member policy and a policy referred to in the definitions of Long-term Insurance categories A, B1, B2-A and C;

“long-term Insurance subcategory B2-A” means those long-term 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;

“long-term insurance subcategory C” means a long-term policy as defined in section 1(1) of the Long-term Insurance Act, but excludes–

- (a) a fund policy as defined in section 1(1) of that Act;
- (b) a fund member policy; and
- (c) a policy referred to in the definitions of Long-term Insurance categories A, B1, B1-A, B2 and B2-A;

“NQF Act” means the National Qualifications Framework Act, Act No. 67 of 2008;

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

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

“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;

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

“regulatory examination” means an examination based on the qualifying criteria contained in a Table in Annexure Three;

“related parties” means related parties as defined in International Accounting Standard (IAS 24) issued by the South African Institute of Chartered Accountants;

“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 such a benefit provided by a fund member policy, as defined in the Regulations to the Long-term Insurance Act, but excluding a pension fund benefit;

“short-term deposit” means a deposit as defined in section 1(1) of the Banks Act, 1990, including a foreign currency deposit, with a term not exceeding 12 months;

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

“short-term insurance commercial lines” means short-term insurance contracts or policies referred to in the Short-term Insurance Act purchased by juristic persons and natural persons acting in a business capacity;

“short-term insurance personal lines” means short-term insurance contracts or 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 ;

“short-term insurance personal lines A1” the short-term insurance policies, excluding-

- (a) group policies; and
- (b) marine policies, engineering policies and guarantee policies as defined in section 1 of the Short-term Insurance Act, No. 53 of 1998,

referred to in the definition of ‘short-term insurance personal lines’ and which policies–

- (i) require no or limited underwriting;
- (ii) define policy benefits as a sum assured, provide for the replacement of the insured asset or provide for the settlement of outstanding balances due and payable to credit providers;
- (iii) have contract terms of 24 months or less;
- (iv) are not subject to average; and
- (v) do not provide for any exclusions 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;
 - (bb) special risks referred to in the Conversion of the SASRIA Act, No. 134 of 1998;
 - (cc) 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;
 - (dd) exclusions relating to the maintenance and usage of the insured asset under a policy that insures against unforeseen mechanical or electrical component failure;
 - (ee) exclusions relating to consequential loss; or
 - (ff) any combination of (aa)-(ee);

“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);

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

Purpose of this Determination

2. 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 of FSPs in each of the categories of FSPs; and
 - (iii) key individuals of FSPs and of juristic representatives in each of the categories of FSPs.

Categories of FSPs

3. 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 as defined in the Notice of Codes of Conduct for Administrative and Discretionary FSPs, 2003;
 - (c) Category IIA FSPs, i.e. hedge fund FSPs as defined in that Notice;
 - (d) Category III FSPs, i.e. administrative FSPs as defined in that Notice; and
 - (e) Category IV FSPs, i.e. assistance business FSPs as defined in section 1.

Fit and proper requirements

4. (1) The fit and proper requirements for each of the categories of FSPs, key individuals and representatives are –
- (a) personal character qualities, as set out in Chapter 2;
 - (b) competence, as set out in Chapter 3;

- (c) operational ability, as set out in Chapter 4;
 - (d) financial soundness, as set out in Chapter 5; and
 - (e) continuous professional development, as set out in Chapter 6.
- (2) To qualify for authorisation as an FSP an applicant must, as required by section 8 of the Act, comply with the fit and proper requirements referred to in subsection (1)(a) to (d) to the extent applicable to the category of FSPs applied for.
- (3) To qualify for approval as a key individual of an FSP, appointment as a key individual of a juristic representative or appointment as a representative of an authorised FSP a person must comply with the fit and proper requirements referred to in subsection (1)(a) to (d) to the extent applicable to key individuals and representatives in the relevant category of FSPs.

On-going compliance with fit and proper requirements

5. (1) For an authorised FSP to remain authorised as an FSP that person must, as required by section 8A of the Act, at all times comply with–
- (a) the fit and proper requirements referred to in section 4(1)(a) to (d) applicable to the category of FSPs in which that person falls; and
 - (b) the requirements relating to continuous professional development referred to in section 4(1)(e) applicable to the relevant category of FSPs.
- (2) For a key individual or a representative to remain approved or appointed that persons must, as required by section 8A of the Act, at all times comply with–
- (a) the fit and proper requirements referred to in section 4(1)(a) to (d) to the extent applicable to key individuals or representatives in the relevant category of FSPs; and
 - (b) the requirements relating to continuous professional development referred to in section 4(1)(e) to the extent applicable to key individuals or representatives in the relevant category of FSPs.

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

6. To qualify for authorisation as an FSP or appointment as a representative of a FSP to render financial services in respect of the financial product: Health Service Benefit, a person must be accredited as a broker in terms of regulation 28B(1) of the Regulations issued in terms of section 67 of the Medical Schemes Act, 1998 (Act No. 131 of 1998)..

CHAPTER 2

PERSONAL CHARACTER

Application of this Chapter

7. The fit and proper requirements relating to personal character qualities contained in this Chapter apply to–
- (a) any natural person–
 - (i) who applies for authorisation as an FSP or who is an authorised FSP;
 - (ii) in respect of whom approval is sought for appointment as, or who is, a key individual of an FSP;
 - (iii) who is considered for appointment as, or who is, a representative of an FSP;
 - (iv) who is considered for appointment as, or who is, a key individual of a juristic representative; or
 - (v) who is considered for appointment as, or who is, a director, member or trustee of, or a partner in, an FSP, as contemplated in section 8(10) of the Act; or
 - (b) any juristic person (to the extent that these requirements can be applied to juristic persons)–
 - (i) which applies for authorisation as an FSP or which is an authorised FSP; or
 - (ii) which is considered for appointment as, or which is, a representative of an FSP.

Honesty and integrity

8. (1) A person referred to in section 7 must be an honest person and of good standing and integrity as evidenced by the absence of incidents that reflect negatively on that person's personal character qualities.
- (2) The following criteria must be considered in assessing a person's compliance with subsection (1)–
- (a) the seriousness of, and surrounding circumstances resulting in, a person not meeting the requirement;
 - (b) the relevance of the failure by a person to meet the specific criteria 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 failure by a person to meet the specific criteria.

Incidents indicating when persons are not honest and of good standing and integrity

9. (1) Without limiting the generality of section 8(1) and subject to section 8(2) any of the following factors constitutes *prima facie* evidence that a person referred to in section 7 does not qualify in terms of section 8:
- The person–
- (a) has been convicted or is the subject of any pending proceedings which may lead to such a conviction 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, negligent, 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 or is the subject of any pending proceedings which may lead to a conviction 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;
 - (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, breach of fiduciary duty, or negligent, dishonourable and unprofessional conduct;
 - (d) has been the subject of frequent or severe 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 an impaired ability to discharge his or her duties in respect of the financial services related business of a financial services provider because of a conflict of interest or any other reason;
 - (h) has seriously or persistently failed to or is failing to manage any of his or her financial obligations (including debts) satisfactorily, including-
 - (i) having been the subject of a civil judgment in respect of unpaid debts, which debt remains unpaid or be the subject of any pending proceedings which may lead to such a judgment; or
 - (ii) having been sequestrated or being the subject of any pending proceedings which may lead thereto under the Insolvency Act, 1936 (Act No. 24 of 1936) or a corresponding law of a foreign country, and has not been rehabilitated in terms of that Act or law;
 - (i) has been or is being 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
 - (j) 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;
 - (k) 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;
 - (l) has been or is being 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;
 - (m) has been untruthful or provided false or misleading information to, or been uncooperative in any dealings with, the Registrar or a regulatory authority;
 - (n) has demonstrated a lack of readiness and willingness to comply with legal, regulatory or professional requirements and standards;
 - (o) has been found to be not fit and proper by the Registrar or a regulatory authority in any previous assessments of fit and properness and the reasons for being found not fit and proper have not been remedied;
 - (p) 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), (c), (d), (j), (l)(ii), (m), (n) 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

- (q) 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.

Disclosure of information relating to honesty and integrity

- 10.** A person referred to in section 7 must promptly and on own initiative disclose fully and accurately all information which may be relevant in determining whether that person complies or continue to comply with the requirements relating to honesty and integrity.

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CHAPTER 3

COMPETENCY

Application of this Chapter

11. The fit and proper requirements relating to competence contained in this Chapter apply to natural persons only, and must be complied with by a natural person –
- (a) who is not an authorised FSP and who applies for authorisation as an FSP of any category;
 - (b) who is an authorised FSP of a specific category and who applies for–
 - (i) authorisation as an FSP of any other category; or
 - (ii) the amendment of his or her license restrictions or conditions to expand the financial services that person is authorised to render or the financial products in respect of which that person is authorised to render financial services;
 - (c) in respect of whom approval is sought for appointment as a key individual of an FSP in a category, the financial products and financial services for which that FSP is authorised; or
 - (d) who is considered for appointment as–
 - (i) a representative of an authorised FSP in a category, the financial products and financial services for which that FSP is authorised; or
 - (ii) a key individual of a juristic representative in the category, the financial products and financial services for which that representative is appointed.

General requirement

12. (1) An FSP, a key individual and a representative must–
- (a) have adequate and appropriate skills, knowledge and expertise in respect of the financial services, financial products and functions that that person must perform, which include, to the extent applicable–
 - (i) the minimum experience as set out in Part 1;
 - (ii) the qualifications as set out in Part 2; and
 - (iii) the successful completion of the regulatory examination as set out in Part 3; and
 - (b) maintain their competence.

Part 1: Minimum experience

Relevance of Experience

13. (1) The experience of an FSP must be relevant to –
- (a) the category or categories of FSPs for which the FSP is authorised or in respect of which authorisation is sought;
 - (b) the financial service or services the FSP is authorised to render or in respect of which authorisation is sought; and
 - (c) the financial product or products in respect of which the FSP renders that financial service or each of those services or in respect of which authorisation is sought.
- (2) The experience of a key individual of an FSP and a juristic representative, other than a key individual of a Category I FSP, and a representative of an FSP must be relevant to–
- (a) the category of FSPs for which that FSP is authorised and in which that representative or key individual is approved or appointed or in respect of which approval or appointment is sought;
 - (b) the financial service or services the FSP is authorised to render and for which that representative or key individual is approved or appointed or in respect of which approval or appointment is sought; and

- (c) the financial product or products in respect of which the FSP renders the financial service for which that representative or key individual is approved or appointed or in respect of which approval or appointment is sought.

General nature of experience

14. (1) The experience required in terms of this Part of-
- (a) FSPs and representatives in the different categories of FSPs must be practical experience gained in the rendering of a financial service in relation to a financial product relevant to the applicable category of FSPs;
 - (b) key individuals of Category I FSPs must be practical experience gained in the management or oversight of the rendering of financial services ; and
 - (c) key individuals in the different categories of FSPs other than Category I FSPs, must be practical experience gained in the management or oversight of the rendering of financial services in relation to a financial product relevant to the applicable category of FSPs
- (2) Such experience must have –
- (a) entailed the active and on-going gaining of knowledge, skills and expertise in the financial service and where applicable financial product relevant to the applicable category of FSPs; and
 - (b) been gained-
 - (i) in the case of an FSP and representative, through the rendering of a financial service in a financial product relevant to the applicable category of FSPs; and
 - (ii) in the case of a key individual, through the management or oversight of the rendering of a financial service in a financial product relevant to the applicable category of FSPs, irrespective of whether the experience was gained –
 - (i) in the case of an FSP and representative other than a Category II FSP and a representative in that category, in the course of rendering the service under supervision,
 - (ii) in the case of a Category II FSP and a representative in that category, supervision in a team environment and where that person participated in the process of making investment decisions;
 - (iii) within or outside the Republic;
 - (iv) during intermittent periods, but not more than five years prior to the assessment of the relevant person's experience; or
 - (v) simultaneously in financial services relating to multiple financial products.

Lapsing of experience

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

Specific experience requirements per Category of FSPs

Category I FSPs

16. (1) A *Category I FSP* must in relation to a financial product mentioned in Column A of Table 1 in

Annexure One have the minimum practical experience in the rendering of financial services in relation to that financial product as indicated in column B and/or C of the Table depending on whether the FSP renders advice services or intermediary services in relation to that product, or both.

- (2) A *key individual of a Category I FSP* must have at least one year's practical experience in the management or oversight of the rendering of a financial service relevant to the applicable category of FSPs.
- (3) A *representative of a Category I FSP* rendering on behalf of the FSP financial services in relation to a financial product mentioned in Column A of Table 1 in Schedule One must have the minimum practical experience in relation to that financial product as indicated in Column B and/or C of the Table depending on whether the representative renders on behalf of the FSP advice services or intermediary services in relation to that financial product, or both.

Category II FSPs

17. (1) A *Category II FSP* must in relation to a financial product mentioned in Column A of Table 2 in Annexure One have the minimum practical experience in the rendering of discretionary financial services in relation to that financial product as indicated in column B of the Table.
- (2) A *key individual of a Category II FSP* must have at least one year's practical experience in—
 - (a) the management or oversight of financial services similar to or corresponding to the financial services rendered by the FSP; and
 - (b) the rendering of discretionary financial services which the FSP or juristic representative, as the case may be, renders in relation to a financial product in respect of which that key individual manage or oversee the rendering of such services.
- (3) A *representative of a Category II FSP* rendering financial services in relation to a financial product mentioned in Column A of Table 2 in Annexure One must have the minimum practical experience in relation to that financial product as indicated in Column two of the Table.

Category IIA FSPs

18. (1) A *Category IIA FSP* must have at least three years practical experience in the rendering of financial services referred to in the definition of "Category IIA FSP" in section 3.
- (2) A *key individual of a Category IIA FSP* must have at least one year's practical experience in—
 - (a) the management or oversight of financial services similar to or corresponding to the financial services rendered by the FSP; and
 - (b) the rendering of financial services referred to in the definition of "Category IIA FSP" in section 3.
- (3) A *representative of a Category IIA FSP* must have at least three years practical experience in the rendering of financial services referred to in the definition of "Category IIA FSP" in section 3.

Category III FSPs

19. (1) A *Category III FSP* must have at least three years' practical experience in the rendering of financial services referred to in the definition of "Category III FSP" in section 3.
- (2) A *key individual of a Category III FSP* must have at least—
 - (a) three years' practical experience in the rendering of financial services referred to in the definition of "Category III FSP" in section 3; and
 - (b) one year's practical experience in the management or oversight of financial services similar or corresponding to the financial services rendered by the FSP.

- (3) A representative of a Category III FSP must have at least three years' practical experience in the rendering of financial services referred to in the definition of "Category III FSP" in section 3.

Category IV FSPs

20. (1) A Category IV FSP must have at least one year's practical experience in the rendering of financial services referred to in the definition of "administration of assistance policies".
- (2) A key individual of a Category IV FSP must have at least one year's practical experience in-
- (a) the management or oversight of financial services similar to or corresponding to the financial services rendered by the FSP; and
 - (b) the rendering of financial services referred to in the definition of "administration of assistance policies" in section 1.
- (3) A representative of a Category IV FSP must have at least one year's practical experience in the rendering of financial services referred to in the definition of "administration of assistance policies".

Part 2: Qualifications

Definitions

21. For purposes of this Part-

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

"part qualification" has the meaning assigned to it in section 1(1) of the NQF Act;²

"professional programme" means-

- (a) an accredited learning programme or qualification offered by an approved Education Institution for the purposes of providing specialised knowledge in a specific field of the financial services industry; or
- (b) a programme offered by an internationally recognised professional body, institute or education institution which-
 - (i) sets an internationally accepted standard for a specialised profession relevant to the financial services industry;
 - (ii) may or may not lead to a specification certification or designation; and
 - (iii) may consist exclusively of an examination;

"qualification" means a-

- (a) qualification as defined in the NQF Act³, excluding a part qualification, that is offered by-
 - (i) an education institution as defined in that Act; or
 - (ii) a skills development provider⁴ as contemplated in the Skills Development Act;
- (b) a professional programme recognised by the Registrar;
- (c) a foreign qualification or programme similar to a qualification or programme referred to in paragraphs (a) and (b) above;

¹ Section 1(1) of the NQF Act defines 'education institution' as "an education institution that is established, declared or registered by law".

² Section 1(1) of the NQF Act defines 'part qualification' as "an assessed unit of learning that is registered as part of a qualification".

³ Section 1(1) of the NQF Act defines 'qualification' as "a registered national qualification".

⁴ Section 1(1) of the NQF Act defines 'skills development provider' as a "skills development provider contemplated in section 17 of the Skills Development Act"

“recognised qualification” means a qualification that is recognised by the Registrar in terms of section Error! Reference source not found.23;

“skills development provider” has the meaning assigned to it in section 1(1) of the NQF Act.

General requirement

22. (1) An FSP, a key individual of a FSP and a representative of an FSP must have a recognised appropriate qualification.

Recognition of appropriate qualifications

- 23.** (1) The Registrar, on application and subject to subsection (2), may recognise a qualification as appropriate for-
- (a) each of the categories of FSPs;
 - (b) representatives of FSPs in each of the categories of FSPs;
 - (c) key individuals in each of the categories of FSPs; and
 - (d) categories of financial services and financial products.
- (2) The following criteria must be considered 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) it must be quantitatively and qualitatively relevant to the role of and functions to be performed by a person in terms of the Act;
 - (c) it must be in the field of business, commerce, mathematics, statistics, management, law, financial services or financial products;
 - (d) 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;
 - (e) in the case of a unit standards based qualification, eighty percent of the core and elective unit standards of the qualification must be registered in any of the fields referred to in paragraph (c); and
 - (f) for purposes of a Category II, IIA or III FSP, a key individual, or representative of such FSP, the qualification must be at degree level.
- (3) An application for recognition the recognition of a qualification must be submitted in the form and manner determined by the Registrar.

Part 3: Regulatory examinations

Application of this Part

24. The fit and proper requirements relating to regulatory examinations contained in this Part do not apply to a representative of a Category I FSP appointed to render financial services in respect of the financial products: Long-term Insurance subcategory A and/or Friendly Society Benefits only.

Regulatory examinations to be based on criteria contained in Annexure Three

- 25.** (1) FSPs, key individuals and representatives must successfully pass the first level regulatory examination based on the criteria contained in the applicable Tables in Annexure Three, in accordance with the requirements as set out in this Part.
- (2) In this Part, any reference to a Table must be read as a reference to a Table contained in Annexure Three.

Category I FSPs

- 26.** (1) A *Category I FSP* must successfully pass a first level regulatory examination contemplated in –
- (a) Table 1; and
 - (b) Table 4.
- (2) A *key individual of a Category I FSP* must successfully pass a first level regulatory examination contemplated in Table 1.
- (3) A representative of a Category I FSP that render financial services-
- (a) in respect of one or more of the following financial products only must successfully pass a first level regulatory examination contemplated in Table 5:
 - (i) Long-term Insurance subcategory B1-A;
 - (ii) Long-term Insurance subcategory B2-A; or
 - (iii) Short-term Insurance Personal Lines A1; or
 - (b) in respect of financial products-
 - (i) other than the financial products referred to in paragraph (a); or
 - (ii) the financial products referred to in paragraphs (a) and (b)(i), must successfully pass a first level regulatory examination contemplated in Table 4.

Category II FSPs

- 27.** (1) A *Category II FSP* must successfully pass the first level regulatory examinations contemplated in–
- (a) Table 1;
 - (b) Table 2; and
 - (c) Table 4.
- (2) A *key individual of a Category II FSP* must successfully pass the first level regulatory examinations contemplated in –
- (a) Table 1; and
 - (b) Table 2.

Category IIA FSPs

- 28.** (1) A *Category IIA FSP* must successfully pass first level regulatory examinations contemplated in-
- (a) Table 1;
 - (b) Table 2; and
 - (c) Table 4.
- (2) A *key individual of a Category IIA FSP* must successfully pass first level regulatory examinations contemplated in
- (a) Table 1; and
 - (b) Table 2.

Category III FSPs

29. (1) A *Category III FSP* must successfully pass first level regulatory examinations contemplated in-
- (a) Tables 1; and
 - (b) Table 3.
- (2) A *key individual of a Category III FSP* must successfully pass first level regulatory examinations contemplated in -
- (a) Table 1; and
 - (b) Table 3.
- (3) A *representative of a Category III FSP* must successfully pass a first level regulatory examination contemplated in Table 4.

Category IV FSPs

30. (1) A *Category IV FSP* must successfully pass a first level regulatory examination contemplated in-
- (a) Table 1; and
 - (b) Table 4.
- (2) A *key individual of a Category IV FSP* must successfully pass a first level regulatory examination contemplated in Table 1.
- (3) A *representative of a Category IV FSP* must successfully pass a first level regulatory examination contemplated in Table 4.

Setting and taking of regulatory examinations

31. (1) Regulatory examinations may be set and delivered by examination bodies recognised for that purpose by the Registrar.
- (2) All regulatory examinations must be set and delivered in accordance with the requirements determined by the Registrar, which may include requirements relating to –
- (a) the curricula to be covered;
 - (b) the drafting of the examination papers;
 - (c) the criteria to be applied in the determination of whether an examinee has passed the examination successfully;
 - (d) the persons or bodies to apply such criteria as examiners;
 - (e) the time, place and date set for the examinations;
 - (f) the carrying out of supervision powers during the taking of the examinations;
 - (g) the evaluation and marking of the completed examinations;
 - (h) the moderation of examinations; and
 - (i) the communications to examinees of the results achieved.

When regulatory examinations must be taken

32. (1) An FSP, a key individual and a representative must complete the applicable first level regulatory examinations before that person's authorisation, approval or appointment..

CHAPTER 4
CONTINUOUS PROFESSIONAL DEVELOPMENT

Specific requirements to be determined.

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CHAPTER 5

OPERATIONAL ABILITY

Application of this Chapter

33. The fit and proper requirements relating to operational ability contained in this Chapter apply to the extent as set out in this Chapter to –
- (a) FSPs and representatives of FSPs whether they are natural or juristic persons;
 - (b) key individuals of FSPs; and
 - (c) key individuals of juristic representatives.

FSPs of all categories

34. (1) An FSP must have the operational ability to effectively function as an FSP of the category and to render the financial services in relation to the financial product for which that person is authorised.
- (2) Without limiting subsection (1), an FSP must-
- (a) 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, as well as typing and document duplication facilities;
 - (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) suitable and adequate professional indemnity insurance and/or fidelity insurance cover to cover risks or losses that may arise from fraudulent, dishonest or negligent acts.
 - (b) establish, maintain and apply -
 - (i) adequate and appropriate human and technical resources necessary for the proper functioning and management of a FSP;
 - (ii) an adequate business continuity policy aimed at ensuring, in the case of an interruption to its 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;
 - (iii) 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 serve reasonably to ensure:
 - (aa) the integrity of the FSP's dealing practices, including the treatment of all clients with due care and in a fair, honest and professional manner;
 - (bb) 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;
 - (i) a recovery plan for the restoration of its financial situation following a significant deterioration and viable resolution plans setting out options for the orderly resolution of the FSP in the case of failure;
 - (ii) a business plan setting out the aims and scope of the business, the business strategies and related matters;
 - (iii) a system of controls, processes and supervision sufficient to ensure the FSP its, directors, partners, trustees, as the case may be, key individuals and representatives

- complies with the Act and other applicable laws and to reduce its risk of legal or regulatory sanctions, financial loss or reputational damage;
- (iv) adequate policies, procedures and systems to ensure full compliance with the Financial Intelligence Centre Act, 2001, and other applicable anti-money laundering or terrorist financing legislation, in the case of FSPs who are accountable institutions as defined in that Act;
 - (v) adequate risk management policies and procedures, including 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;
 - (vi) adequate policies, internal system, control and monitoring mechanisms to ensure—
 - (aa) the segregation of functions, duties roles and responsibilities where such segregation is appropriate from an operational risk mitigation perspective;
 - (bb) that key individuals—
 - (AA) are aware of the procedures which must be followed for the proper discharge of their responsibilities;
 - (BB) are appropriately trained regarding the requirements of the Act and the services rendered by the FSP in respect of financial products for which it is authorised;
 - (CC) undertake continuing training to maintain and update the knowledge and skills that are appropriate for their activities; and
 - (DD) comply with the fit and proper requirements;
 - (vii) adequate and appropriate security that includes—
 - (aa) access rights and data security on electronic data, where applicable;
 - (bb) physical security of assets and records;
 - (cc) documentation setting out business processes, policies and controls, and technical requirements;
 - (dd) system application testing, where applicable;
 - (ee) recovery and back-up procedures on electronic data, where applicable;
 - (viii) system controls and compliance measures to manage and monitor the relevant systems used by the FSP;
 - (ix) measures to record all financial and system procedures to ensure that the FSP is able to comply with applicable reporting and accounting requirements; and
 - (x) general administration processes, accounting transactions and risk control measurements to ensure accurate, complete and timeous processing of data, reporting of information and the assurance of data integrity;
 - (xi) detailed service level agreements with third parties, specifying the agreed services, time standards, roles and responsibilities and any penalties that might be applicable, in the case of FSPs that utilise a third party to render administrative or system functions in relation to the rendering of financial services on its behalf;
 - (xii) effective policies, operational procedures and controls in relation to the FSP's day-to-day business, including clear policies covering the risk management and internal controls applicable to proprietary trading;

Appointment of representatives

- 35. (1)** An FSP must ensure that where it appoints a person as a representative that -
- (a) the person's interests does not conflict with those of the FSP or its clients;
 - (b) the person have sufficient operational ability and financial resources to perform the activities for which it is appointed as a representative; or
 - (c) such appointment does not—
 - (i) materially increase the risk to the FSP or 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; and
 - (v) result in the FSP becoming a letter-box entity.
- (2) A 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) A FSP must develop appropriate contingency plans to ensure the continued function of the FSP's business in the event that the appointment of the representative is terminated or becomes ineffective.
 - (4) A 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) An FSP must establish maintain and apply adequate policies, internal system, control and monitoring mechanisms to ensure that key individuals and representatives-
 - (a) are aware of the procedures which must be followed for the proper discharge of their responsibilities;
 - (b) are appropriately trained regarding the requirements of the Act and the services rendered by the FSP in respect of financial products for which it is authorised;
 - (c) undertake continuing training to maintain and update the knowledge and skills that are appropriate for their activities; and
 - (d) comply with the fit and proper requirements.
 - (6) A FSP must review on a regular and frequent basis representatives' competence and take appropriate action to ensure that they remain competent for the activities they perform.
 - (7) The review contemplated in subsection (6) must take into account-
 - (a) technical knowledge and its application;
 - (b) skills and expertise; and
 - (c) changes in the market and to products and legislation.

Representatives of FSPs of all categories

36. (1) A representative of an FSP must have the operational ability to effectively function as a representative of the FSP 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.

Key individuals of FSPs and of representatives

37. (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 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 the FSP or juristic representatives for which the key individual was approved or appointed.

- (3) An FSP must, on a regular bases, 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.

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CHAPTER 6

FINANCIAL SOUNDNESS

Part I

Application and General Requirements

Application of this Chapter

38. The fit and proper requirements relating to financial soundness contained in this Chapter –
- (a) subject to paragraph (b), apply to-
 - (i) all persons who apply for authorisation to become or who are authorised FSPs, whether they are natural persons or partnerships, trusts or corporate or unincorporated bodies; and
 - (ii) a juristic representative of a Category II, Category IIA and Category III FSP.
 - (b) do not apply to-
 - (i) a key individual of a FSP, a representative and a key individual of a representative; and
 - (ii) a FSP who is a registered Bank as defined in section 1 of the Banks Act, 1990 (Act No. 94 of 1990), or a registered insurer as defined in sections 1 of the Short-term Insurance Act and Long-term Insurance Act provided such FSP complies with the financial soundness requirements prescribed by those Acts.

Definitions

39. For purposes of this Chapter-

“additional asset requirement” means the additional asset requirement referred to in Table A in Part II of this Chapter;

“annual expenditure” means the expenditure set out in-

- (a) 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, representative or contractor 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;

“assets” in relation to the general solvency requirement and the additional asset requirement referred to in Part II means the assets of a FSP excluding the following assets:

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

“**cash**” means physical currency including a deposit at a bank but excluding an overdraft or loan facility;

“**general solvency requirement**” means the requirement referred to in section 41(2);

“**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, published as Government Notice 141 of 2015 in Government *Gazette* No. 38503 of 25 February 2015;

“**juristic representative**” means a juristic representative of a Category II, IIA or III FSP;

“**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 registered collective investment scheme as defined in the Collective Investment Schemes Control Act, other than an investment in a money market portfolio or a 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,

provided-

- (i) the assets referred to in paragraphs (a) and (b) are capable of being converted, without any penalty on capital, 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.

“**liquid asset requirement**” means the liquid asset requirement referred to in Table A in Part II of this Chapter;

“**money market portfolio**” means a money market and short-term-debt portfolio as defined in the Collective Investments Schemes Control Act;

“**remuneration**” includes salaries, wages, commissions, fees and any other payment, paid directly or indirectly by an FSP to an employee, representative or contractor of that FSP either directly or indirectly;

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

General requirements applicable to all categories of FSPs

- 40.** (1) An FSP and a juristic representative must at all times maintain sufficient financial resources that are adequate both as to amount and quality to carry out their activities and supervisory arrangements and to ensure there is no risk that its liabilities cannot be met as they fall due.
- (2) The assets of the FSP and a juristic representative must at all times exceed the liabilities of the FSP and juristic representative respectively.

- (3) An FSP, other than a Category I FSP that does not hold or receive monies in respect of a financial product, and juristic representative 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 obligations in this Chapter in the future.
- (4) 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) it is subject to any pending proceedings which may lead to an outcome referred to in paragraph (a) to (b); or
 - (d) it seriously and persistently failed or fails to manage any of its financial obligations satisfactorily, including-
 - (i) been the subject of a civil judgement in respect of unpaid debts, which debt remains unpaid or be the subject of any pending proceedings which may lead to such judgement; and
 - (ii) been unable to provide a satisfactory credit record.
- (5) No person may become a FSP or a juristic representative if business rescue proceedings has commenced.

Part II
Requirements applicable to specific Categories of FSPs

Application of this Part

- 41.** The requirements contained in this Part-
- (a) apply, subject to paragraph (b) to-
 - (i) a Category I FSP that holds client assets or that collects, holds or receive premium or other monies in respect of a financial product;
 - (ii) a Category II, IIA, III and IV FSP; and
 - (iii) a juristic representative;
 - (b) does not apply to-
 - (i) a Category I FSP that does not hold client assets or that does not collect, hold or receive premium or other monies payable in respect of a financial product; and
 - (ii) a Category I FSP who, in terms of section 45 of the Short-term Insurance Act, receives, holds or in any other manner deals with premiums payable under a short-term insurance policy, provided the FSP complies with the requirements contemplated in that section,

Specific requirements

- 42.** (1) A Category I FSP referred to in section 41(a)(i), a Category II, IIA, III, and IV FSP and a juristic representative must at all times comply with the additional asset, working capital and liquidity requirements set out in Table A hereunder.
- (2) An FSP and a juristic representative referred to in subsection (1) must submit to the Registrar-
- (a) in the case of a Category II, IIA and III FSP and a juristic representative of such FSPs, on a half yearly bases calculated in terms of the FSP's or juristic representative's financial year, Form A in Annexure Four;

(b) in the case of a Category I FSP referred to in section 41(a)(i), on an annual bases simultaneously with the financial statements of the FSP as contemplated in section 19 of the Act, Form A in Annexure Four.

(3) The form referred to in subsection (2)(a) must be submitted within 7 days after every half year-end of the FSP.

TABLE A			
Category of FSP and juristic representative	Additional Asset Requirement	Working Capital Requirement	Liquidity Requirement
Category I	N/A	Current assets must exceed current liabilities	Liquid assets equal to or greater than 4/52 weeks of annual expenditure
Category II	N/A	Current assets must exceed current liabilities	Liquid assets equal to or greater than 8/52 weeks of annual expenditure
Category IIA	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
Category III	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
Category IV	N/A	Current assets must exceed current liabilities	Liquid assets equal to or greater than 4/52 weeks of annual expenditure

Early warning requirements

- 43.** (1) An FSP and juristic representative referred to in section 41(a) must, in writing, immediately notify the Registrar when-
- the assets of the FSP or juristic representative exceed its liabilities by no more than 10%;
 - the current assets of the FSP or juristic representative exceeds the current liabilities by no more than 10%;
 - in respect of a Category IIA and III FSP and juristic representatives of that FSPs, the additional assets of the FSP or juristic representative exceeds the minimum requirement by not more than 10%;
 - the FSP or juristic representative does not meet any of the requirements in this Chapter; or

(e) the FSP or juristic representative becomes aware of an event or situation that may or will result in the effect contemplated in paragraphs (a), (b) and (c).

(a)

(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.

(3) If any of the factors in subsections (1) arises, the FSP or juristic representative may not directly or indirectly make any payments by way of a loan, advance, bonus, dividend, repayment of capital or other distribution of assets to any director, officer, partner, shareholder, related party or associate without the prior written approval of the Registrar.

Multiple Category FSPs

44. 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 8 MISCELLANEOUS

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

45. (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; and
 - (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, except sections 9(3)(b), 9(4)(b) and 9(5)(b), which sections will be repealed 12 months after the date of publication of this Notice in the *Government Gazette*.
- (2) Despite the repeal of the Board Notices referred to in subsection (1)-
- (a) the transitional provisions relating to qualification requirements contained in those Notices continue to apply to the persons to which they applied immediately before the repeal of those Notices, and in the event of any inconsistency between a provision of this Determination and such a transitional provision the transitional provision prevails;
 - (b) a qualification recognised in those Notices is deemed to be an appropriate qualification as contemplated in Part 2 of Chapter 3 but only for the Category and in relation to the financial product for which the qualification was recognised;
 - (c) the deeming provision in paragraph (b) does not apply to a FSP, key individual, representative of a FSP and a key individual of a representative authorised, approved or appointed for the first time to render financial services in respect of a specific category or a specific financial product after the commencement of this Notice; and
 - (d) the experience gained by a key individual of a FSP or a key individual of a juristic representative approved or appointed prior to the commencement of this Notice to manage or oversee the rendering of a specific financial service in respect of a specific financial product in relation to a specific category of FSP is deemed to meet the experience requirements contemplated in Part 1 of Chapter 3;
 - (e) sections 9(4)(b) and 9(5)(b) contained in the Notice referred to in subsection (1)(b) continue to apply until the date referred to in section 46(a) to the persons to which they applied immediately before the repeal of the Notice.

Short title and commencement

46. This Notice is called the Determination of Fit and Proper Requirements, 2015, and comes into operation two months after the date of publication in the *Government Gazette*, except-
- (a) section 42(1) and (2), in so far it relates to the excess working capital requirements applicable to a Category II, IIA and III FSP and a juristic representative of such FSPs, which requirements comes into operation 12 months after the date of publication in the *Government Gazette*.

ANNEXURE ONE
MINIMUM EXPERIENCE

TABLE 1: EXPERIENCE REQUIREMENTS FOR AND IN RELATION TO CATEGORY I FSPs

TABLE 1			
TABLE 1: EXPERIENCE REQUIREMENTS FOR AND IN RELATION TO CATEGORY I FSPs			
	Column A Financial products	Column B Advice: Min. experience	Column C: Intermediary services: Min. experience
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	Securities and instruments: Shares	2 years	1 year
1.9	Securities and Instruments: Money market instruments	2 years	1 year
1.10	Securities and Instruments: Debentures and securitised debt	2 years	1 year
1.11	Securities and Instruments: Warrants, certificates and other instruments acknowledging debt	2 years	1 year
1.12	Securities and Instruments: Bonds	2 years	1 year
1.13	Securities and Instruments: Derivative instruments excluding warrants	2 years	1 year
1.14	Participatory Interests in one or more collective investment schemes	1 years	1 year
1.15	Forex Investment Business	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

TABLE 2: EXPERIENCE REQUIREMENTS FOR AND IN RELATION TO CATEGORY II FSPs

TABLE 2 EXPERIENCE REQUIREMENTS FOR AND IN RELATION TO CATEGORY II FSPs		
	<i>Column A</i> <i>Financial Product</i>	<i>Column B:</i> <i>Minimum</i> <i>Experience</i>
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	Securities and Instruments: Shares	3 years
2.6	Securities and Instruments: Money market instruments	3 years
2.7	Securities and Instruments: Debentures and securitised debt	3 years
2.8	Securities and Instruments: Warrants, certificates and other instruments acknowledging debt	3 years
2.9	Securities and Instruments: Bonds	3 years
2.10	Securities and Instruments: Derivative instruments excluding warrants	3 years
2.11	Participatory Interests in one or more collective investment schemes	2 years
2.12	Forex Investment Business	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

ANNEXURE TWO

APPROPRIATE SUBJECT LIST

TABLE 1 APPROPRIATE SUBJECT LIST		
Categories I & IV	Categories II and IIA	Category III
Accounting	Accounting	Accounting
Actuarial Science	Actuarial Science	Actuarial science
Agricultural economics	Agricultural economics	Applied Mathematics
Applied Mathematics	Applied Mathematics	Applied Statistics
Applied Statistics	Applied Statistics	Auditing
Auditing	Auditing	Business economics
Banking	Banking	Business Environment
Business Economics	Business Economics	Business Finance
Business Finance	Business Finance	Business information systems
Business Management	Business Management	Business Integration
Commercial law	Commercial law	Business Management
Companies law	Companies law	Commercial law
Compliance Management	Compliance Management	Compliance Management
Consumer behaviour	Consumer behaviour	Consumer behaviour
Corporate Finance	Corporate Finance	Companies law
Corporate Governance	Corporate Governance	Corporate Governance
Econometrics	Econometrics	Computer architecture
Economics	Economics	Corporate Finance
Estate and trust law	Estate and trust law	Econometrics
Estate Planning	Estate Planning	Estate Planning
Finance	Finance	Economics
Financial Accounting	Financial Accounting	Estate and trust law
Financial analysis	Financial analysis	Finance
Financial Management	Financial Management	Financial Accounting
Financial planning	Financial planning	Financial analysis
Financial/ Securities Markets	Financial/ Securities Markets	Financial Management
Health Care Benefits	Health Care Benefits	Health Care Benefits
Insurance	Insurance	Financial/ Securities Markets
Interpretation of Statutes	Interpretation of Statutes	Interpretation of Statutes
Investment or Portfolio Management	Investment or Portfolio Management	Informatics
Law of contract or delict	Law of contract or delict	Information Technology Architecture
Management Accounting	Management Accounting	Information Technology Enterprise
Mathematical Statistics	Mathematical Statistics	Insurance
Mathematics	Mathematics	Investment

TABLE 1
APPROPRIATE SUBJECT LIST

Categories I & IV	Categories II and IIA	Category III
Marketing	Marketing	Law of contract or delict
Mercantile law	Mercantile law	Legal Environment
Portfolio Management	Portfolio Management	Management Accounting
Retirement Planning	Retirement Planning	Retirement Planning
Risk management	Risk management	Mathematics
Statistics or analytical techniques	Statistics or analytical techniques	Marketing
Strategic Management	Strategic Management	Mercantile law
Taxation	Taxation	Network administration
Taxation law	Taxation law	Process Management (Process Modelling and Control)
Wealth management	Wealth management	Programming
		Risk Management
		Services Marketing
		Statistics
		Strategic Communication Management Skills
		Strategic management
		Strategic Marketing
		Strategy
		Taxation
		Taxation law
		Wealth management

ANNEXURE THREE

REGULATORY EXAMINATIONS

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Table 1: First Level Regulatory Examination: FSPs and Key Individuals in all Categories of FSPs

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Table 4: First Level Regulatory Examination: FSPs and Representatives in all Categories of FSPs

Table 5 First Level Regulatory Examination: Representatives Categories of Category I FSPs who are appointed to render financial services in respect of one or more of the financial products referred to in the following definitions only:

- (a) the policies referred to in the definition of short-term insurance personal lines A1;
- (b) the policies referred to in the definition of long-term insurance subcategory B1-A1; or
- (c) the policies referred to in the definition of long-term insurance subcategory B2-A1.

TABLE 1: FIRST LEVEL 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	Describe the requirements when interaction between FSPs takes place	K
		3	Explain in general which departments of the Registrar's office deal with which FSP matters	K
		4	Interact with the Registrar when and where required	S
		5	Explain what is the correct format of communication with the Registrar	K
		6	Explain what processes are required to remain updated with regards to published changes to legislation that will affect the FSP.	K
2	Define financial products and financial services.	1	Provide an overview of the financial services and different types of financial products a 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 a FSP	K
		2	Apply for a FSP licence	S
		3	Describe the requirements for changing any aspect of a FSP licence	K
		4	Explain the impact of licensing conditions on an FSP.	K
		5	Manage the licensing conditions.	S

TABLE 1

Task No	Task	QC	Qualifying Criteria	Knowledge (K) or Skill (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 accreditation is suspended or withdrawn or lapsed in terms of the Medical Schemes Act, 1998, or any other enabling legislation	K
		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 a 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 withdrawal of a licence	K
		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 a FSP if the Registrar declares a business practice to be undesirable	K

TABLE 1

Task No	Task	QC	Qualifying Criteria	Knowledge (K) or Skill (S)
		26	Explain the reparation measures available to the Registrar if a 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 offenses	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 a FSP has in the event of a decision made by the Registrar	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 honesty and integrity requirements for a key individual.	K
		8	Check whether a current/potential key individual meets the honesty and integrity requirements.	S
		9	Explain the implications for a key individual should the key individual no longer meet the honesty and integrity requirements	K
		10	Take appropriate action where a current key individual no longer meets the honesty and integrity requirements.	S
		11	Explain the implications for a FSP should a key individual no longer meet the 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 key individuals is in place	S

TABLE 1

Task No	Task	QC	Qualifying Criteria	Knowledge (K) or Skill (S)
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 guarantees, 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 a FSP	K
		7	Confirm that the financial soundness requirements are met	S
		8	Describe the requirements when outsourcing an administration or system function relating to financial services	K
		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 specific Codes 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 potential conflicts of interest.	S
		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 a 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	K

TABLE 1

Task No	Task	QC	Qualifying Criteria	Knowledge (K) or Skill (S)
			for FSPs and Representatives relating to risk management and insurance	
		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

TABLE 1

Task No	Task	QC	Qualifying Criteria	Knowledge (K) or Skill (S)
		15	Manage potential conflict of interest where there is not a specifically appointed Compliance Officer / compliance practice	S
		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 agreements are executed correctly.	S
		5	Explain the security requirements for record keeping in terms of confidentiality and access to records, taking into account the requirements of the Protection of Personal Information Act.	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 a FSP prescribed by the FIC Act	K
		2	Verify that all requirements for internal rules as required by the FIC Act are in place	S

TABLE 1

Task No	Task	QC	Qualifying Criteria	Knowledge (K) or Skill (S)
		3	Verify that the FSP has processes in place to ensure compliance with the identification, verification, record-keeping 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 in place when representatives act under supervision.	K
		4	Ensure that the supervisors understand their role and have the capacity for the number of supervisees	S
		5	Verify that there is supervision in place to oversee representatives	S
		6	Perform the necessary supervision functions on representatives	S

TABLE 1

Task No	Task	QC	Qualifying Criteria	Knowledge (K) or Skill (S)
		7	Explain the disclosure requirements for a representative under supervision	K
15	Manage and oversee the representatives appointed by a 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 are competent and will provide financial services on behalf of the FSP in accordance with the FAIS Act	S
		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 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	S
		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: FIRST LEVEL 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"> • different parties/ legal entities involved, • nominee, • MANCO, • insurers, • pension funds, • 3rd party FSPs, • Financial Advisors, • brokers, • clients 	
		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.

TABLE 2

No	Task	Knowledge Criteria	Skill Criteria
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	Verify that it only conducts business with another FSP that has the appropriate categories/ subcategories on its license, and that business must also be

TABLE 2

No	Task	Knowledge Criteria	Skill Criteria
		that business must also be conducted within the parameters of the client mandate.	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 account policy and why this is important.	Check that there is a personal account trading policy and that there are 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: FIRST LEVEL REGULATORY EXAMINATION: FSPs AND KEY INDIVIDUALS IN CATEGORY III FSPs

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"> • different parties/ legal entities involved, • nominee, • MANCO, • insurers, • pension funds, • 3rd party FSPs, • Financial Advisors, • brokers, • clients
		Explain the concept of bulking and pooling of assets into a single account with investment provider.	Confirm that the relevant contractual agreements are in place with the relevant other party and business is conducted in accordance with the contractual agreements.
Explain the relevant contractual agreements need to be in place with the relevant other party.			
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	Check the nominee company

TABLE 3

No	Task	Knowledge Criteria	Skill Criteria
		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 Discretionary 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.

TABLE 3

No	Task	Knowledge Criteria	Skill Criteria
		<p>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</p>	<p>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.</p>
		<p>Describe what the continual compliance with the license requirements and conditions are.</p>	<p>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.</p>
7	Apply the record keeping requirements.	<p>Explain the period for which records must be kept.</p>	<p>Incorporate the record keeping requirements when planning system updates and strategic initiatives.</p>
		<p>Describe the requirements specifically applicable to telephone and/or electronic requirements.</p>	<p>Verify that systems are in place to manage the record keeping risks of electronic and telephonic transactions.</p>
8	Comply with requirements when reporting to clients	<p>Explain why clients must receive written reports at quarterly intervals, that provide them with investment and related information.</p>	<p>Verify that there are systems and processes that enable the preparation and delivery of accurate quarterly reports.</p>
9	Apply knowledge of the accounting and unit reconciliations	<p>Explain how the accounting and unit reconciliations work.</p>	
10	Apply knowledge of how intermediaries must be licensed before they can do business.	<p>Explain how intermediaries must be licensed before they can do business.</p>	
11	Deal with rebates	<p>Explain how rebates work.</p>	
		<p>Explain all the related disclosures as it applies to rebates.</p>	

TABLE 4: FIRST LEVEL REGULATORY EXAMINATION: FSPs AND REPRESENTATIVES IN ALL CATEGORIES OF FSPs

TABLE 4				
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	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 a FSP licence.	1	Explain the requirements a FSP must meet to maintain a FSP licence.	K
		2	Assist in maintaining a 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 honesty and integrity requirements	K

TABLE 4

Task No	Task	QC	Qualifying Criteria	Knowledge (K) or Skill (S)
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 before rendering a financial service	K
		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 for FSPs and Representatives.	K
		13	Follow the complaints procedures and processes that are in place for Representatives.	S
				14
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 a FSP prescribed by the FIC Act	K
		2	Describe how the FIC Act impacts a Representatives'	K

TABLE 4

Task No	Task	QC	Qualifying Criteria	Knowledge (K) or Skill (S)
			interaction with a client.	
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 (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

TABLE 5: FIRST LEVEL REGULATORY EXAMINATION: REPRESENTATIVES OF CATEGORY I FSPs WHO ARE APPOINTED TO RENDER FINANCIAL SERVICES IN RESPECT OF ONE OR MORE OF THE FINANCIAL PRODUCTS REFERRED TO IN THE FOLLOWING DEFINITIONS ONLY:

- (d) the policies referred to in the definition of short-term insurance personal lines A1;
- (e) the policies referred to in the definition of long-term insurance subcategory B1-A1; or
- (f) the policies referred to in the definition of long-term insurance subcategory B2-A1.

TABLE 5			
No	Task	Knowledge Criteria	Skills Criteria
1.	Execute the required actions as a representative, in terms of the FAIS Act.	Describe the role of, responsibilities and requirements applicable to a representative as defined in the FAIS Act.	Apply knowledge of the role of the representative as defined in the FAIS Act.
		Describe the role and function of the key individual as defined in the FAIS Act as it impact on a representative.	
		Explain when an individual is obliged to be registered as a representative in terms of the FAIS Act.	
		Explain the fit and proper requirements applicable to a representative.	
		Distinguish between advice and intermediary services as defined in the FAIS Act.	
		Explain when a representative can act under supervision.	
		Describe the implications if a representative does not meet all the fit and proper requirements by the dates specified, if any.	
2.	Contribute towards maintaining a FSP license.		
		Explain what is meant by “undesirable practices”	
		Explain the effect of a suspension and/or withdrawal of a licence on a representative.	
		Describe the role and powers of the Ombud.	Comply with any requirements the Ombud may have in the event of an investigation.
3.	Adhere to the specific obligations in terms of the relevant Code of Conduct and other subordinate legislation.	Explain the obligations and requirements when client funds or premiums are received.	Adhere to the requirements of the Code of Conduct when depositing client’s monies.
		Explain the importance of	Use disclosures that are adequate to

TABLE 5

No	Task	Knowledge Criteria	Skills Criteria
		disclosures.	enable client to make an informed decision
		Discuss the required disclosure requirements applicable to a representative when rendering financial services to a client.	Apply the requirements of the General Code of Conduct.
		Explain the requirements regarding disclosure of commission, fees and other monies payable to a representative.	Apply disclosure requirements in terms of financial products.
		Describe the disclosure requirements regarding the FSP, product suppliers, product suppliers acting as FSPs and financial services.	
		Discuss how to ensure transparency and manage conflict of interests.	
		Distinguish between actions regarded as advice and intermediary services in terms of the Act.	
		Describe the concept of ethical conduct in the financial services environment.	Behave ethically when providing financial services within the financial services environment.
		Discuss a representative's role regarding ethical conduct in the financial service environment.	Provide an example of ethical vs. unethical conduct in the financial services environment.
		Explain requirements applicable to complaints handling as detailed in the General Code of Conduct.	Follow the complaints procedures and processes that are in place.
4.		Explain the steps that must be taken by a representatives when furnishing advice to a client.	
		Explain the provisions of the General Code of Conduct relating to: Holding and custody of client funds and assets Complaints	
5.	Awareness of consequences for representatives that acted fraudulently or that committed any other act that gave rise to	Discuss the purpose of debarment.	Check that the employment/mandatory agreement with representatives includes the reason for possible debarment.
		Describe the reasons why	

TABLE 5

No	Task	Knowledge Criteria	Skills Criteria	
	debarment.	debarment would be considered.		
		<p>Discuss the process that would be followed in such instances.</p> <p>Explain what recourse a representative may have.</p>		
6.	Align execution of duties and actions with the compliance requirements.	Describe the role and function of a Compliance Officer.	Confirm that where the compliance officer found any instances of non-compliance that this is addressed and rectified.	
7.	Comply with record keeping requirements.	Explain the record keeping requirements as imposed by the FAIS Act and subordinate legislation.	Keep records as required by the FAIS Act and follow the correct processes to ensure that the FSP is able to comply with its statutory obligations.	
		Explain the requirements regarding the maintenance of records in terms of the FAIS Act.		
		Explain the requirements regarding the maintenance of records as required by other applicable legislation, eg. FICA.		
		Describe the requirements imposed when record keeping is outsourced to a third party.		
		Explain in what format the records should be stored and the requirements relating the retrieval of such stored records.		
		Explain what the security requirements for these records are in terms of confidentiality and access to records.		
8.	Adhere to the requirements of FICA and other relevant anti-money laundering legislation, as it applies to the FSP.	Explain what FICA governs and requires.		
		Describe how the FSP is impacted by FICA.	Comply with the identification, verification, record-keeping and reporting obligations under Act No. 38 of 2001.	

ANNEXURE FOUR

FORM A: LIQUIDITY CALCULATION

FSP Name

FSP No.

(Liquidity calculation as at _____ with comparative figures as
at _____)

Notes

- (1) This form must be completed by the key individual/s of the FSP or in the case of a FSP that is a natural person by such natural person.

	Component	Current reporting period	Previous reporting period
LIQUID ASSETS			
1.	Cash		
	Capable of being converted without any penalty on capital into cash within 7 days		
	Capable of being converted without any penalty on capital into cash within 30 days <i>[may not be more than 50% of total liquid assets]</i>		
2.	100% of market value of a participatory interest in a money market portfolio		
	Capable of being converted without any penalty on capital into cash within 7 days		
	Capable of being converted without any penalty on capital into cash within 30 days <i>[may not be more than 50% of total liquid assets]</i>		
3.	70% of the market value of a participatory interest in a registered collective investment scheme, other than a participatory interest in a money market portfolio or hedge fund, as defined in the Collective Investment Schemes Control Act, and that participatory interest are capable of being converted into cash within 7 days		

Component		Current reporting period	Previous reporting period
4.	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		
5.	TOTAL LIQUID ASSETS		
ANNUAL EXPENDITURE			
6.	Total annual expenditure (including sales costs, finance costs and operational costs)		
7.	Less staff bonuses		
8.	Less employees' and directors', partners' or members' share in profit		
9.	Less emoluments of directors, members, partners or sole proprietor		
10.	Less other appropriation of profits to directors, members and partners		
11.	Less remuneration that is linked to- (a) a percentage of the FSP's revenue; or (b) a percentage of the revenue generated by an employee, representative or contractor of the FSP; and that in the absence of such revenue the FSP has no obligation to pay the remuneration		
12.	Less depreciation		
13.	Less bad debts		
14.	Less any loss resulting from the sale of assets		
15.	TOTAL ADJUSTED ANNUAL EXPENDITURE		
CALCULATION			
16.	Divide total adjusted annual expenditure by 52 (no. of weeks per year)		
17.	Multiply the amount reflected in line 16 with- (a) 4, in the case of a Category I FSP		

Component		Current reporting period	Previous reporting period
	(b) 8, in the case of Category II FSP		
	(c) 13, in the case of a Category IIA FSP		
	(d) 13, in the case of a Category III FSP		
	(e) 4, in the case of a Category IV FSP		
18.	Total liquid assets required (Amount reflected in line 17)		
19.	Deduct total liquid assets required from total liquid assets (Line 5 minus line 18)		

Management Declaration

This declaration must be signed by the key individual of the provider or the provider in the case of a provider that is a sole proprietor.

I,, (name of provider/key individual) declare that the information provided in this form is true and correct.

I am aware that the information provided may be subject to verification by the Registrar of Financial Services Providers, and should I submit false, incorrect or misleading information to the Registrar, this may impact on my compliance with the fit and proper requirements contemplated in section 6A of the Act.

.....
Date

.....
Signature