

## **FINANCIAL ADVISORY & INTERMEDIARY SERVICES ACT (FAIS) FIT AND PROPER INFORMATION GUIDE**

### **THE FAIS ACT**

FAIS training was introduced in 2004 to insure best practices and professionalism within the financial services industry. Below you will find the framework pertaining to the qualifications that must be achieved to be an authorised Representative / Key Individual within the financial services industry.

### **REQUIREMENTS FOR FIT & PROPER**

Main requirements:

- Honesty and integrity
- Competency requirements
- Operational liability, and
- Solvency requirements that are applicable to the FSP.

### **FAIS FIT AND PROPER REQUIREMENTS**

Anyone person operating as a Representative or Key Individual has to comply with the FAIS requirements.

#### **Representatives**

A representative is a person who is employed or mandated by a Financial Services company to render advisory or intermediary services to clients. They utilize judgment in the recommendations they make and activities they perform, and lead clients to financial transactions on financial products. Advice is any recommendation, guidance or proposal that is given to a person or group of people, with a view to purchasing, investing in or varying a term and condition on a financial product.

## Key Individual

A key individual is a person who manages and oversees the activities of a Financial Service Provider. Their responsibility is to ensure the operational ability of the company. An intermediary service is any activity other than advice where a representative, using judgment, either:

- administers, keeps in safe custody or maintains information of financial products;
- collects and accounts for premium; or receives, submits or processes claims.

Exemptions:

The exemptions that apply are to:

- administrators of Pension Funds as covered by Section 13B of the Pension Funds Act;
- administrators of Medical Schemes as covered by Section 58 of the Medical Schemes Act;
- managers of Collective Investment Schemes as covered by Section 1 the Collective Investment Schemes Control Act; and
- an authorized user or clearing house under Section 10 of the Securities Services Act.

## COMPETENCY REQUIREMENTS

This depends on two (2) considerations:

- What product categories you sell, and
- When you were first registered with the FSB as an intermediary.

**On the 15th of October 2008 the FSB released the FAIS Fit and Proper Requirements. These requirements are as follows: (Reference BN 105 of 2008)**

	<b>STEP 1</b>
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<b>Key Individuals Not Serving a Client Base</b>	Approved between 2004 and 2007: 30 Credit Skills Programme at NQF Level 4 by 31 December 2009 Approved between 2008 and 2009: 30 credit Skills Programme at NQF Level 4 by 31 December 2011 OR Full Qualification by 31 December 2013.
	<b>STEP 2</b>
	Regulatory Exam (RE) Level 1 for CAT I KI's prior to appointment.
	<b>STEP 3</b>
	Continuing Professional Development (CPD) will apply.
<b>Short Term Personal Lines Key Individuals Who Service a Client Base and Representatives</b>	<b>STEP 1</b>
	Approved between 2004 and 2007: 30 credit Skills Programme at NQF Level 4 by 31 December 2009. Approved between 2008 and 2009: 30 credit Skills Programme at NQF Level 4 by 31 December 2011 OR Full Qualification by 31 December 2013.
	<b>STEP 2</b>
	Regulatory Exam (RE) Level 1 within 2 years of date of appointment.
	<b>STEP 3</b>
	Regulatory Exam (RE) Level 2 for Personal Lines to be advised.
	<b>STEP 4</b>
Continuing Professional Development (CPD) of 30 hours per 3 year annual cycle.	
<b>Short Term Commercial Lines Key</b>	<b>STEP 1</b>

<p><b>Individuals, who also serve a client base, and Representatives</b></p>	<p>Approved/Appointed between 2004 and 2007: 60 credit Skills Programme at NQF Level 4 by 31 December 2009</p> <p>Approved/Appointed between 2008 and 2009: 60 credit Skills Programme at NQF Level 4 by 31 December 2011 OR Full Qualification by 31 December 2013</p> <p><b>STEP 2</b></p> <p>Regulatory Exam (RE) Level 1 within 2 years of date of appointment.</p> <p><b>STEP 3</b></p> <p>Regulatory Exam (RE) Level 2 for Commercial Lines to be advised.</p> <p><b>STEP 4</b></p> <p>Continuing Professional Development (CPD) of 45 hours per 3 year annual cycle.</p>
<p><b>Employee Benefit Key Individuals, who also serve a client base and Representatives</b></p>	<p><b>STEP 1</b></p> <p>Approved/Appointed between 2004 and 2007: 60 credit Skills Programme at NQF Level 5 by 31 December 2009.</p> <p>Approved/Appointed between 2008 and 2009: 60 credit Skills Programme at NQF Level 5 by 31 December 2011 OR Full Qualification by 31 December 2013.</p> <p><b>STEP 2</b></p> <p>Regulatory Exam (RE) Level 1 within 2 years of date of appointment.</p> <p><b>STEP 3</b></p> <p>Regulatory Exam (RE) Level 2 for Pension Fund Benefits to be advised.</p> <p><b>STEP 4</b></p> <p>Continuous Professional Development (CPD) of 60 hours per 3 year annual cycle.</p>

**NEW STAFF APPOINTED FROM 2010**

Key Individuals appointed must fulfil the competence requirements at the date of their appointment.

Representatives need to complete, whilst working under supervision:

1. Regulatory Exam Level 1 within 2 years of date of appointment in a regulatory role;
2. Full Qualification (as recognized by the FSB) within 5 years of date of appointment in a regulatory role; and
3. Regulatory Exam Level 2 within 6 years of date of appointment in a regulatory role.

Thereafter the Continuing Professional Development requirement starts.

## **PERSONS WHO ALREADY HAVE A FULL QUALIFICATION**

The FSB classify qualifications in 2 ways: those that are generic to financial services, such as a

B Comm Degree, and those which, are specific to a product category, such as the National Certificate in Short Term Insurance. Should your qualification be deemed as generic, you will be required to write the Regulatory Level 2 Exam. (A list of these qualifications can be obtained from the FSB.)

Should your qualification be deemed as specific, you would be exempted from the relevant Regulatory Level 2 Exam. These qualifications are listed with an "S" status for the transitional period ending on 31 December 2009. From 2010 qualifications deemed to be specific are marked with an "SP" status, which means that the qualification satisfies 100% of the FSB's qualifying criteria.

(Board Notice 44 of 2010 clarifies qualifications that are exempted from writing Level 2 Regulatory Exams for each sub-category)

NO exemptions are allowed for the Regulatory Level 1 exams. Category A are exempt.

## **YOUR QUALIFICATION IS NOT LISTED**

Any individual, training provider or employer may apply for recognition of their qualification to be added to the list, by completing the qualification application form which can be located on the FSB's website [www.fsb.co.za](http://www.fsb.co.za). Should the qualification be accepted, it will be added onto the list. The FSB will endeavour to update the qualification list quarterly.

## **CONTINUOUS PROFESSIONAL DEVELOPMENT**

Any employer, conference organiser, industry body or professional association may apply to the FSB to have their activities registered as CPD activities for FAIS purposes. Application forms are available on the FSB, as part of Board Notice 106 of 2008.

These activities include:

1. Course, conferences, seminars.
2. Studies leading to formal assessment; can include distance learning, additional qualifications, or attendance at formal courses.
3. Workshops.
4. Structured self-study programmes including web and computer based programmes that assess knowledge.

It is essential to obtain evidence of your attendance at these programmes and that the compliance officer, of your company, keeps record of your CPD hours to report back to the FSB.

Post the regulation examination phase, all brokers will need to complete a three year cycle of professional development acquiring a further 30 to 60 credits in the cycle, depending on the broker's product license, registered with the FSB.

## **REGULATORY EXAMINATION IMPLEMENTATION**

The FSB have appointed 4 Examining Bodies to develop and deliver the Regulatory Exams. A support structure has been set up by the FSB to make the regulatory examinations available nationally. As part of this process Examination Bodies have been approved to assist in the development and delivery of the regulatory examinations. The Examination Bodies are:

1. The Institute of Bankers (IOB)
2. The Financial Planning Institute (FPI)
3. Moonstone Information Refinery

The regulatory examinations that they will make available to the financial services industry are as follows:

#### FOREX INVESTMENT BUSINESS

Examination body:	Moonstone	FPI
S & I derivatives	√	
S & I bonds	√	
S & I warrants	√	
S & I debentures	√	
S & I money market	√	
S & I shares	√	
Deposits	√	
Pension fund benefits	√	
Short term commercial lines	√	
Short term personal lines	√	
Health care benefits	√	√
Retail pension benefits	√	√
Collective investment schemes	√	√
Long term insurance Cat C	√	√
Long term insurance Cat B	√	√
Representatives Level 1	√	√

KI level 1: cat 1.1 & 1.9	√	√
KI level 1: Cat i & iv	√	√
KI level 1: Cat ii and iiA	√	√
KI level 1: Cat iii	√	√

Note: The matrix above can change where examination bodies apply for the delivery of additional examinations, subject to the approval by the Registrar.

You may be aware that the industry has begun to write the RE 1,3 and 5 exams, starting in 2011, on the following basis:

- RE first level, legislative update, (FAIS/FICA) for Representatives and Key Individuals.
- RE 2, product Update. With the second exam you will be required write the RE 2 paper for each sub category that you are licensed in, for example if you are FSB licensed in Short Term and in Life, then you will write 2 papers accordingly.

There are different dates by when you must complete the Regulatory Two Examinations. This depends on the date you first registered as a Representative with an FSP:

- Registered prior to 2009: 30 December 2013.
- Registered from January 2010 onward: 6 years from your date of appointment with the FSB.

Clarification on who should be writing these examinations:

- If you are a key individual, you will have to write the first level regulatory examination for key individuals (RE1).
- If you are a representative you will have to write the first level representative examination (RE5).
- If you are a sole proprietor, or if you fulfil the roles of both the key individual and representative, you will be required to write both examinations.

## **CREDITS VS REGULATORY EXAMS**



There is still much confusion between FAIS Credits and regulatory examinations.

Credits -The Act requires all financial advisors and intermediaries (providers) to meet specific competence requirements.

Initially these were based on experience and qualifications, however to assist the industry the FSB “reduced” the full qualification requirement to skills programmes relating to credit requirements, to assist those who did not have formal qualifications. Hence the 30 and 60 credit requirements.

Note: The 30 and 60 credit requirement was put in place to accommodate those with industry experience and no qualification. ALL new entrants into the industry are required to obtain a FULL qualification.

What are credits? Credits determine the notional hours of learning. One credit is determined as 10 notional hours; each credit is therefore a collective volume of learning required for a qualification.

Regulatory Examination - These have been put in place to set a minimum standard in terms of:

- Compliance with the legislation and Fit and Proper requirements (First Level Regulatory Examinations).
- Specific Product Understanding (Second Level Regulatory Examinations).