

FINANCIAL SERVICES BOARD



FINANCIAL ADVISORY AND INTERMEDIARY SERVICES ACT, 2002 ("FAIS ACT")

FAIS CIRCULAR 03/2011

DATE: 17 March 2011

Circular on Regulatory Examinations: Preparation

The Office of the Registrar continuously receives queries about the regulatory examinations, and based on the enquiries and questions received it seems as if there is a lack of understanding of how to prepare for the examinations. The preparation guide that is available on the FSB website provides all the relevant detailed information in terms of how to prepare for the examinations. However, this information circular highlights the most essential aspects of the preparation process.

Previous communication that was issued regarding the Regulatory Examinations and the preparation for these examinations include:

- **Circular 8** – 29 October 2010 (Circular on First Level Regulatory Examinations: KI Level 1: Category I, II, IIA, II and IV (RE 1) and Representatives (RE 5))
- **Circular 9** – 5 November 2010 (Circular on Preparation for the First Level Regulatory Examinations)
- **Circular 11** – 17 January 2010 (Circular on identifying which First Level Regulatory Examination to write)
- **Circular 2** – 23 February 2011 (Circular on Regulatory Examinations: Frequently asked questions).

1. PREPARING FOR THE LEVEL 1 REGULATORY EXAMINATIONS

Exam 1: First Level Regulatory Examination: Sole Proprietors and/or Key Individuals in Category I, II, IIA, III and IV

All Sole Proprietors or Key Individuals who are responsible for managing and overseeing the business relating to the rendering financial services for FSPs in Category I, II, IIA, III and IV are required to write this examination.

This is a two and a half hour examination and will consist of 80 multiple choice questions.

This examination will test, amongst others, the candidate's:

- Understanding of their role and responsibilities as a Key Individual as required by the FAIS Act,
- The roles and responsibilities of the Representatives they manage and oversee, including the Fit and Proper requirements and the maintenance of a register of representatives,
- Ability to apply their knowledge in terms of the supervision requirements for Representatives, Representatives' ongoing training and development, their obligations in terms of the Code of Conduct and their debarment,
- Ability to apply their knowledge of compliance, auditing and record keeping, as well as advertising and adherence to FICA,
- Understanding of the complaints process, maintenance of the FSP license and suspension and withdrawal of an FSP license.

Qualifying criteria:

As stated in the preparation guide, the qualifying criteria were developed during the consultation period and the industry participated in workshops where the criteria for each examination were discussed and developed. After finalisation, the qualifying criteria were then published in Board Notice 105 of 2008, Annexure 1.

The qualifying criteria provide the basis of knowledge and skills against which the regulatory examinations are set. Only questions based on these criteria will be included in the examinations.

The Office of the Registrar is of the opinion that no training material is required to prepare for the examination. The qualifying criteria should be used, and should be cross-referenced with the relevant legislation.

An example of the criteria is included below:

<div> <div>The duties that you need to perform successfully</div> <div>What you are expected to know</div> <div>What you are expected to do</div> </div>			
No.	Task	Knowledge Criteria	Skill Criteria
3	Manage and oversee the appointment of representatives.	Describe the Fit and Proper requirements that apply to representatives in terms of the legislation.	Verify that the necessary HR processes are developed/ amended to enable the FSP to check, at recruitment stage, whether a potential representative meets at least the entry level Fit and Proper requirements.
		Explain what recruitment and appointment procedures have to be implemented when appointing representatives.	

There are 16 tasks in total for key individuals. An example of how to do the cross-referencing:

Task	Knowledge Criteria	Skill Criteria	FAIS Act	General Code Of Conduct	Board Notices, Regulations to FAIS, FIC Act (FICA)
Manage and oversee the appointment of representatives.	Describe the Fit and Proper requirements that apply to representatives in terms of the legislation.	Verify that the necessary HR processes are developed/ amended to enable the FSP to check, at recruitment stage, whether a potential representative meets at least the entry level Fit and Proper requirements.	Definitions, s13, s8, s 14		BN 103, 104, 106 of 2008

The legislation that should be consulted during the preparation for the level 1 examinations include the following:

1. Financial Intelligence Centre Act (FICA), Act 38 of 2001
2. Money Laundering and Terrorist Financing Control Regulations (GN R1595 of 2002)

3. FICA Schedule 1: List of Accountable Institutions
4. Financial Advisory and Intermediary Services Act (FAIS), Act 37 of 2002
5. Financial Advisory and Intermediary Services Regulations (GN879 of 2003)
6. General Code of Conduct for Authorised Financial Services Providers and Representatives (Board Notice 80 of 2003)
7. Rules on Proceedings of the Office of the Ombud for Financial Services Providers (Board Notice 81 of 2003)
8. Determination of Criteria and Guidelines for the Approval of Compliance Officers (Board Notice 84 of 2003)
9. Exemption in respect of services under supervision in terms of Requirements and Conditions (Board Notice 104 of 2008)
10. Determination of Fit and Proper Requirements for Financial Services Providers (Board Notice 106 of 2008)
11. Amendment Notice on the General Code of Conduct for Authorised Financial Services Providers and Representatives (Board Notice 152 of 2008)
12. Hedge Fund Risk Disclosures (Board Notice 571 of 2008)
13. Notice on the Requirements for Professional Indemnity and Fidelity Insurance Cover for
14. Providers (Board Notice 37 of 2009)
15. Determination of Compliance Report for Category I Authorised Financial Services Providers without a Compliance Officer 2009 (Board Notice 46 of 2009)
16. Notice on Requirements for Professional Indemnity and Fidelity Insurance Cover for Providers (Board Notice 123 of 2009)
17. Amendment of the General Code of Conduct for Authorised Financial Services Providers and Representatives (Board Notice 58 of 2010)
18. Amendment of Fit and Proper Requirements, Exemption of Services under Supervision, Continuous Professional Development and Determination of Qualifications and Qualifying Criteria (Board Notice 60 of 2010)
19. FSP Licensing Application Documentation

Exam 5: First Level Regulatory Examination: Representatives

This is a two hour examination and will consist of 50 multiple choice questions.

This examination will test, amongst others, the candidate's:

- Understanding of the role and responsibilities of the Representative and Key Individual as well as the Representative's contribution towards the maintenance of the FSP's license in accordance with the FAIS Act,
- Understanding of the Fit and Proper requirements and services under supervision,

- Ability to execute the actions required of a Representative in terms of the Code of Conduct. This will include amongst others, the Representative's obligations when receiving client funds or premiums, handling complaints, custody, risk management, insurance, advertising and termination as well as disclosures to clients and ethical conduct,
- Knowledge of the consequences of fraudulent behaviour and the debarment process,
- Knowledge of the financial products, FICA requirements and requirements relating to proper record keeping activities.

Qualifying criteria:

As stated in the preparation guide, the qualifying criteria for the Representative examination can also be found in Board Notice 105 of 2008, Annexure 1. Please refer to the criteria example above.

The same approach should be followed as for the Key Individual examination when cross-referencing the qualifying criteria to the relevant legislation. There are 8 tasks in total for representatives.

The legislation that should be consulted during the preparation for the level 1 examinations include the following:

1. Financial Services Board, Act 97 of 1990
2. Financial Services Ombud Scheme Act, 2004
3. Financial Intelligence Centre Act (FICA), Act 38 of 2001
4. Money Laundering and Terrorist Financing Control Regulations (GN R1595 of 2002)
5. FICA Schedule: List of Accountable Institutions
6. Financial Institutions (Protection of Funds) Act, Act 28 of 2001
7. Financial Advisory and Intermediary Services Act (FAIS), Act 37 of 2002
8. General Code of Conduct for Authorised Financial Services Providers and Representatives (Board Notice 80 of 2003)
9. Rules on Proceedings of the Office of the Ombud for Financial Services Providers (Board Notice 81 of 2003)
10. Determination of Requirements for Reappointment of Debarred Representatives (Board Notice 82 of 2003)
11. Amendment Notice on the General Code of Conduct for Authorised Financial Services Providers and Representatives (Board Notice 43 of 2008)
12. Exemption in respect of services under supervision in terms of Requirements and Conditions (Board Notice 104 of 2008)
13. Determination of Fit and Proper Requirements for Financial Services Providers (Board Notice 106 of 2008)

14. Notice on Requirements for Professional Indemnity and Fidelity Insurance Cover for Providers (Board Notice 123 of 2009)
15. FSP Licensing Application Documentation

2. UPCOMING PILOTS:

One of the quality assurance steps in the regulatory examination delivery process is to conduct pilots. The South African Institute for Financial Markets (SAIFM) will be conducting pilots for the Level 1 Key Individual Examination (RE1) and Representative examination (RE5) during 29 March to 1 April 2011.

Individuals that participate in the pilot process can do so free of charge, and will be able to retain their examination results, *provided* that the pilot process and procedures are deemed to be in accordance to the FSB quality standard.

Any individuals interested in participating can contact Anna Bouhail anna@saifm.co.za or can complete a pilot registration form on www.regulatoryexaminations.co.za.

Information regarding the regulatory examinations will be distributed and communicated on an ongoing basis – please monitor the FSB website for updates. Also refer to the preparation guide available on the FSB website for more detailed information regarding the preparation for the examinations.

DEPUTY REGISTRAR: FINANCIAL SERVICES PROVIDERS