



**FINANCIAL SERVICES BOARD
FINANCIAL ADVISORY AND INTERMEDIARY SERVICES ACT, 2002 (“FAIS ACT”)**

**FAIS INFORMATION CIRCULAR 9/2012
DATE: 11 June 2012**

**INFORMATION CIRCULAR: EXEMPTION OF CERTAIN PERSONS FROM THE LEVEL 1
REGULATORY EXAMINATION REQUIREMENTS**

1. PURPOSE

The purpose of this information circular is to provide background to the exemption granted to the persons listed in the Notice on Exemption of Certain Persons from the Level 1 Regulatory Examination Requirements, 2012, published by Board Notice 102 in Gazette 35422 on 6 June 2012 (the Notice).

2. WHO ARE EXEMPTED?

The following persons are temporarily exempted from having to write the Level 1 Regulatory Examination (Level 1 examination) by 30 June 2012:

- a) A representative who is employed or mandated by an authorised financial services provider to render financial services in respect of a policy as defined in paragraph 1 of the Notice only.
- b) A financial services provider, its key individuals and representatives who render financial services to or for or on behalf of a private equity fund as defined in paragraph 1 of the Notice only.
- c) A financial services provider, its key individuals and representatives who render financial services as an underwriting manager as defined in regulation 6.1 of the Regulations under the Long-term Insurance Act, 1998, and the Regulations under the Short-term Insurance Act, 1998, only.

3. OBJECTIVES OF EXEMPTION

3.1. The objective of the exemption of the persons referred to in paragraph 2 above is, firstly to address a problem currently experienced in the insurance industry, namely, that not all representatives who render financial services to the lower and middle income market in respect of more basic financial products that form part of the

subcategories of financial products Long-term Insurance subcategories B1 and B2 and Short-term Insurance Personal Lines, will be able to successfully complete the Level 1 examination.

The Registrar is satisfied that reasonable grounds exist to distinguish between persons that render financial services in respect of basic and easy to understand financial products and persons that render financial services in respect of more complex financial products in order to create an enabling environment for increased access to financial services and to prevent the creation of entry barriers into the industry.

However, the protection of consumers remains an important consideration for the Registrar when contemplating any special dispensation. It is, therefore, intended that the persons referred to in paragraph 2 above will have to write a specific Level 1 examination that will demonstrate that they have adequate knowledge and understanding of the regulatory environment in which financial services are being rendered but, at a level that will not result in the exclusion and removal from the distribution and advice arena of thousands of representatives who are currently providing an essential service at the lower end of the market, encouraging savings and the purchase of risk protection.

- 3.2. Secondly, the exemption deals with the problem relating to persons rendering financial services in respect of private equity funds only, namely, that such persons will have to comply with a specific code of conduct that is in the process of being developed and which code of conduct will place more onerous requirements on them when rendering financial services to or on behalf of private equity funds. Due to the fact that those persons will be subject to a specific code of conduct the Registrar intends to develop a specific Level 1 examination to test their knowledge and understanding of the requirements that they must adhere to when rendering financial services to or on behalf of private equity funds.
- 3.3. Thirdly, the exemption addresses the problem relating to persons who render services as underwriting managers. The Registrar is currently investigating the relevance and effectiveness of the requirements currently applicable to underwriting managers under the Financial Advisory and Intermediary Services Act, 2002 (FAIS Act). Such investigation may result in an amendment to the requirements applicable to underwriting managers which in turn may necessitate a specific examination.
- 3.4. The exemption consequently facilitates the transition by all the persons referred to above for compliance with the new specific Level 1 examinations. The exemption is, therefore, aimed at avoiding financial or other hardship or prejudice of the persons referred to above.

4. EXTEND OF EXEMPTION

The exemption only applies to specific persons when they render specific financial services in respect of specific financial products or on behalf of specific clients as stipulated in the Notice. It is, therefore, very important to ensure that the exemption does indeed apply to you in order to avoid being in a position that you are not able to render financial services until you have successfully completed the current applicable Level 1 examination.

It is further important to note that although the definition of 'policy' in paragraph 1 of the Notice refers to long-term insurance policies referred to in the definitions of 'Long-term Insurance subcategory B1 and B2' and short-term insurance policies referred to in the definition of 'Short-term Insurance Personal Lines,' not all the policies falling within the

aforementioned subcategories of financial products are subject to the exemption. In other words, you are not automatically exempted from having to write the Level 1 examination if you render financial services in respect of the subcategories of financial products: Long-term Insurance subcategory B1 and B2 and Short-term Insurance Personal Lines.

The exemption will only apply if you render financial services in respect of the policies referred to in the subcategories of financial products above **and if** such policies comply with all the requirements listed in the definition of 'policy' as defined in the Notice. For example, if you **only** render financial services in respect of the long-term insurance policies referred to in the definition of 'Long-term Insurance subcategory B1' and such policies comply with the restrictions/requirements listed in the Notice, that is, that **such policies require no or limited underwriting** (refer to the definitions of 'no underwriting' and 'limited underwriting' in paragraph 1 of the Notice) the exemption would apply.

However, the exemption would not apply if you are also authorised to render financial services in respect of any other subcategory of financial product not referred to in the definition of 'policy' in the Notice. For example, the exemption does not apply to a representative authorised to render financial services in respect of any product other than those referred to in the Notice. Similarly, the exemption will not apply when rendering financial services in respect of policies referred to in the definition of Long-term Insurance subcategory B1 and B2 and Short-term Insurance Personal lines and such policies do not comply with the restrictions/requirements referred to in the definition of 'policy' in the Notice. In other words, for the exemption to apply the only products in respect of which you are allowed to render financial services are the ones complying with the definition of 'policy' in paragraph 1 of the Notice.

It is further important to note that the exemption afforded to persons who render financial services in respect of a 'policy' as defined is limited to representatives only.

The same principle applies to a person who renders financial services to or on behalf of a private equity fund and a person who renders financial services as an underwriting manager. If such persons render financial services on behalf of any other person other than a private equity fund or render financial services other than in the capacity of an underwriting manager the exemption would not apply respectively.

5. CONDITIONS ATTACHED TO EXEMPTION

It is important to strictly adhere to the conditions attached to the exemption in order to benefit therefrom.

The Registrar will advise, as soon as is practicable, the dates by which persons must write the specific Level 1 examinations. Please note that the exemption falls away if you do not successfully complete the specific Level 1 examination by the date determined by the Registrar. This will result in you not being able to render financial services until such time that you successfully complete the examination.

If you do not register in the prescribed form and manner for the exemption before 30 June 2012, the exemption will not apply and you will have to write the current Level 1 regulatory examination. The prescribed application form for registration of the exemption is attached for ease of convenience. The application form is also available on the FSB's website at www.fsb.co.za. The completed application form and annexures must be e-mailed to the following address: FAIS.ExamExemptions@fsb.co.za. The annexures to the application form

may not be converted to a PDF or Word format and must be submitted in its original format, namely an Excel spreadsheet.

In terms of the application form for registration of the exemption, the FSP must register its representatives for the exemption. Representatives that qualify for the exemption must therefore ensure that the FSP complies with such registration requirement on their behalf.

It is a further a condition of the exemption to inform the Registrar in writing within 15 days after the change has taken place, of any change in respect of the information that was submitted to the Registrar for purposes of registering the exemption. Such notification must also be submitted to [s FAIS.ExamExemptions@fsb.co.za](mailto:FAIS.ExamExemptions@fsb.co.za).

6. IMPORTANT NOTE

It has come to the attention of the Registrar that some persons interpret the exemption to apply if a representative is authorised to render financial services in respect of a 'policy' as defined in paragraph 1 of the Notice and such representative is authorised to render financial services in respect of other financial products (including policies referred to in the subcategories Long-term Insurance B1 and B2 and Short-term Insurance Personal lines that are excluded from the exemption). This is incorrect. The exemption only applies to a person who renders financial services in respect of the policies that comply with the restrictions/requirements listed in the definition of 'policy' in paragraph 1 of the Notice.

FSPs are further advised to ensure that only representatives who qualify for the exemption rely on the exemption and that the mandates given to such representatives are amended to reflect the limitations/restrictions placed on them by the exemption.

The FSP, in order to comply with its responsibilities under section 13 of the FAIS Act, must amend the mandates of representatives falling under the exemption and must adapt its processes to ensure the FSP is able to monitor that representatives only render financial services in respect of those products that fall under the exemption.

Your attention is further drawn to the fact that all persons registered for the exemption cannot render financial services other than that permitted by the exemption. If such persons wish to render financial services in respect of other products falling outside the scope of the exemption they must at least have attempted the current Level 1 examination by 30 June 2012 and must successfully complete it by 30 September 2012.