



FINANCIAL SERVICES BOARD

FINANCIAL ADVISORY AND INTERMEDIARY SERVICES ACT, NO. 37 OF 2002

FAIS INFORMATION CIRCULAR 8/2013

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UPDATE ON DEVELOPMENTS IN RESPECT OF THE REGULATORY EXAMINATIONS AND CONTINUOUS DEVELOPMENT REQUIREMENTS

1. PURPOSE

The purpose of this information circular is to provide an update on the review of the Level 2 regulatory examinations and continuous professional development requirements, the development of the bespoke regulatory examination and to inform industry of the Financial Services Board's (FSB) intent to review the Level 1 regulatory examinations.

2. INTRODUCTION

- 2.1. The objective of the regulatory examinations is to ensure that all persons that render financial services to clients know and understand the relevant laws and regulations with which they must comply and that they are aware of their legal responsibilities as well as potential liabilities.
- 2.2. The regulatory examination requirements were introduced into law under the Determination of Fit and Proper Requirements for Financial Services Providers and Representatives (Determination of Fit and Proper Requirements)¹ in 2008. The requirements provide for two types of examinations namely: Level 1 and Level 2.
- 2.3. The purpose of the examinations was twofold, firstly, to test a person's knowledge and understanding of the Financial Advisory and Intermediary Services Act, 2002 (the Act), and secondly, to test a person's knowledge of the financial products in respect of which financial services are being rendered.

¹ See Board Notice 106 of 2008.

- 2.4. The deadline² by which most providers of financial services had to successfully complete the Level 1 regulatory examination has now passed.
- 2.5. The FSB, in compliance with good regulatory practices and given the lapse of time and regulatory developments since the introduction of the Level 1 examinations, has decided to commence with a review of the Level 1 examinations. The review will mainly focus on the RE1 examination that is prescribed for sole proprietors and key individuals and the RE5 examination that is prescribed for representatives.
- 2.6. The FSB already announced earlier this year its decision to temporarily suspend the implementation of the Level 2 examinations until such time that it could finalise a review of the current development and delivery models of those examinations.

3. REVIEW OF THE LEVEL 1 REGULATORY EXAMINATION

- 3.1. In terms of the Determination of Fit and Proper Requirements all FSPs (who are sole proprietors), key individuals and representatives must successfully complete the relevant Level 1 examination. Different types of Level 1 examinations are prescribed depending on a person's function or the type of financial service being rendered.
- 3.2. The Act recognises that a person may fulfill more than one function eg. he/she may manage or oversee the activities of a FSP relating to the rendering of financial services and may also be rendering financial services directly to clients. In this example, the person referred to act as a key individual as well as a representative and must, therefore, complete both the RE1 and RE5 examinations.
- 3.3. The examinations are developed in accordance with the qualifying criteria³ determined by the FSB, after consultation with relevant stakeholders, and consist of, *inter alia*, knowledge criteria and skills criteria.
- 3.4. The knowledge criteria test a person's knowledge of the content he/she is supposed to know, in this case, the Act. There is a significant overlap in the knowledge criteria for the RE1 and RE5 examinations. In fact, the knowledge criteria for the RE5 are to a large subsumed in the content required for the RE1 examination. This is so because the knowledge base for both examinations is the same. The knowledge criteria for the RE1 examination, however, are more extensive than the RE5 examination as the focus of the examinations differs substantially.

² 30 June 2012 for those persons who have not attempted to write the relevant level 1 examination prior to that date and 31 March 2013 for those persons who have attempted the relevant level 1 examination at least once.

³ See Board Notice 105 of 2008.

- 3.5. Apart from the above, the main difference between the two examinations is the skills criteria that are determined to test a person's ability to apply the knowledge required to perform his/her specific regulatory role. The function of each regulatory role is therefore incorporated in the skills criteria of the respective examinations. The effect thereof is that the application of the knowledge differs per examination, even though the knowledge criteria are the same.
- 3.6. The FSB intends to investigate the possibility of combining the RE1 and RE5 examinations into one cost effective and time efficient examination. This will result in a person who currently may be required to write both the RE1 and RE5 examination the option of writing one examination only.
- 3.7. More information regarding the above will be communicated in due course.

4. UPDATE ON THE REVIEW OF THE LEVEL 2 REGULATORY EXAMINATIONS

- 4.1. The FSB has commenced with the review process of the Level 2 examinations. A Focus Group will be established shortly to consider different delivery models and the extent of the re-development of the applicable qualifying criteria.
- 4.2. On completion of the above, the FSB will publish, for comment, a discussion document that details the proposed new delivery model.
- 4.3. It is anticipated that the exemption granted in respect of the Level 2 examinations⁴ will be in force for at least the next three years to allow for the development and implementation of the new model.

5. UPDATE ON BESPOKE LEVEL 1 REGULATORY EXAMINATION

- 5.1. The FSB has decided to temporarily suspend the development of the bespoke examination until further clarity can be obtained regarding the impact of the proposed micro-insurance legislation and other regulatory developments on that examination.
- 5.2. The exemption granted to representatives rendering financial services in respect of certain defined financial products will remain in force⁵.

6. UPDATE ON CONTINUOUS PROFESSIONAL DEVELOPMENT (CPD) REQUIREMENTS

- 6.1. The FSB, at the end of 2012 suspended the implementation of the CPD requirements

⁴ See Board Notice 120 of 2013.

⁵ See Board Notice 102 of 2012 as amended by Board Notice 164 of 2012.

in order to review the requirements to ensure that it was still relevant, efficient and effective.

- 6.2. In reviewing the design of the Level 2 examinations, the FSB will consider the CPD requirements and any impact thereon that may result from a change to the Level 2 examination model.
- 6.3. The FSB anticipates that it would be able to publish the proposed new CPD requirements by 31 December 2014. Until then, the current exemption granted to all providers of financial services in respect of CPD requirements will remain in force.⁶

7. **CONCLUSION**

The FSB is committed to ensuring that only competent persons conduct business with consumers of financial services. However, it is also cognisant of the fact that regulation must not only be effective but also needs to be efficient without compromising the achievement of the regulatory objectives.

⁶ See Board Notice 163 of 2012.