

FINANCIAL SERVICES BOARD



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

FAIS CIRCULAR 02/2011

DATE: 23 February 2011

Circular on Regulatory Examinations: Frequently asked questions

The Office of the Registrar has received various enquiries concerning specific issues relating to the Regulatory Examinations. The Registrar has deemed it necessary to address these issues in an Information Circular in order to provide the clarity that is needed in terms of the regulatory examinations.

Previous communication that was issued regarding the Regulatory 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)

1. Language of the regulatory examinations

The regulatory examinations will be made available in English only. There are important practical reasons for only using one language:

- The sub-ordinate legislation issued in terms of the FAIS Act is only available in English.

- If the regulatory examinations are made available in another language such as Afrikaans, then it follows that they must also be made available in all of the official languages. In total there are 39 examinations, and if all 39 examinations are offered in the eleven official languages, then there will be 429 examinations in total.
- The resources and infrastructure required to offer the examinations in English only, is already significant. Should the examinations be available in all languages, then the resources required will have to be multiplied ten-fold in order to mark, moderate, quality assure and communicate with candidates.
- The Registrar does not want to add a financial burden to FSPs and the fee for the examination was set at R900.00 per examination (including VAT). This cost covers the cost of development of the examination, the venue and the resources and administration required for each examination. If the examinations are made available in all of the official languages, then the cost of the examinations will be significantly higher to cover the additional translation costs, development costs, resources etc as explained in bullet 2 above.
- All the legal terminologies are not translatable into all eleven official languages, and translations can also result in changing the meaning of the legislation.
- There are currently regulatory functions that Financial Services Providers are performing that only takes place in English, such as the Compliance Reports that they have to submit to the Registrar. The regulatory examinations are therefore not unique in that they are only available in English.

2. The training material for the regulatory examinations are only available in English

The FSB is not an accredited training provider, and can therefore not become involved in the development or delivery of training or training materials. Training providers that are offering training towards the regulatory examinations have not been mandated by the FSB to conduct training. The FSB does not have control over the language in which training providers make their training available.

It must also be stated that training is not a requirement for the regulatory examinations. (Please refer to Information Circular 9 dated 5 November 2010 in terms of specific information regarding the preparation for the level 1 regulatory examinations.)

If an individual use the relevant qualifying criteria and cross-reference the criteria to the Act and sub-ordinate legislation, then this should be sufficient preparation to successfully complete the regulatory examination level 1.

3. **The fee for the regulatory examination is too high / it's a money making scheme**

The fee for the regulatory examination was set as follows:

In 2008 the four Examination Bodies submitted their budgets and cost estimation in terms of what it will cost to develop the regulatory examinations, as well as what it will cost to roll out with these examinations. Cost included for example direct, indirect and development costs such as invigilators, venues, courier costs, printing and stationary, travel, moderation and assessor costs, marketing costs, IT Bandwidth and license fees, rent, set-up of fixed assets, setting examinations and IT development.

The number of examinations per examination category for the level 1 and level 2 examinations were also taken into consideration, and the cost for these examinations were calculated.

The fee per examination was then calculated based on the premise that the examination bodies should break even within the first 4 years. The intention was to keep the cost per examination as low as possible.

The fee was then set at R900 per examination, and the FSB receives R20 of this fee from the Examination Bodies in order to cover administrative, oversight and IT development costs.

It should also be noted that the fee was calculated on the budgets submitted in 2008, which have not taken into consideration any inflation over the last 2 years. There is also no intention to increase the fee until such time that the regulatory examination level 2 period is completed i.e. 31 December 2013.

4. **Why should people write examinations if they have extensive experience?**

There are many people in the financial services industry with a significant number of years experience. The important of experience is not being questioned or discounted in any way.

However, what is also important to bear in mind is that the FAIS Act came into effect 6 years ago in 2004. People that have been in the industry for an extended time, do not necessarily know what the FAIS Act requires of them, and in fact, the FSB has encountered countless examples where key individuals and representatives did not understand their regulatory role and responsibility.

There is a general perception in the financial services industry, that the compliance officer is responsible for compliance with the FAIS Act. This is not the case. The key individual is responsible for overseeing compliance and each representative must know his/her duties relating to compliance with the Act

The intention of the Fit and Proper Requirements has always been to increase the competence requirements over a period of time, and this is what has been done with the addition of the regulatory examinations.

The purpose of the regulatory examination level 1 is to ensure that all key individuals and representatives fully understand their regulatory role, and the accountability and responsibility they have in terms of this role.

Should any key individuals and/or representatives be in breach of the FAIS Act in future, they would not be able to say that they did not know what the requirements were and what their responsibilities are.

Experience does therefore not equate to sufficient knowledge regarding the FAIS Act and its requirements. And therefore all financial advisors and intermediaries are expected to complete the level 1 regulatory examinations, regardless of the number of years experience gained in the industry.

In terms of the regulatory examination level 2 – these examinations are product specific, and experience in dealing with these financial products may assist individuals in successfully completing these examinations. In addition, if an individual has a “specifically” recognized qualification, then this qualification can exempt the individual from having to write the level 2 regulatory examination.

5. The FSB is trying to put FSPs out of business

The FSB is charged by the Government to administer, inter alia, the FAIS Act. The two main goals of the Act are the protection of consumers of defined financial services and the professionalisation of the intermediary/advisor.

For excellent reasons in pursuit of these goals, and after extensive consultation with representatives of all role players, it was deemed necessary to introduce the regulatory examinations as a requirement for intermediaries/advisors – a practice relevant to all professions. In any business there is a cost of doing business which include in professions ongoing learning and development, compliance with legislation and in service orientated business also investing in employees. It is not the intention of the FSB to put any financial services providers out of business but to ensure that industry is empowered to do its business better for its own and its clients benefit.

Upcoming trials: request for participation in the Pension Benefits trials

One of the quality assurance steps in the question development process is to conduct trials to test whether questions that were developed for the examinations are actually working, for example that the questions is understandable, the distracters are working, the language used is simple, etc.

Leselo, one of the Examination Bodies responsible for developing the Pension Benefits examination (level 2 regulatory examination) will be conducting trials shortly, and is looking for interested parties to participate in these trials.

For more information regarding these trials, please contact Daphnè Hamilton at: [011 481 7016](tel:0114817016), daphne@job.co.za or (011) 011 481 7016.

Information regarding the regulatory examinations will be distributed and communicated on an ongoing basis, and the FSB Website will be updated with all the relevant information to make it easier for intermediaries/advisors to find information regarding the regulatory examinations.



DEPUTY REGISTRAR: FINANCIAL SERVICES PROVIDERS

