

FINANCIAL SERVICES BOARD



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

FAIS CIRCULAR 7/2011

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INFORMATION CIRCULAR: REGULATORY EXAMINATIONS

A. INTRODUCTION

The FSB congratulates all those individuals who have passed the level 1 regulatory examination. Well done! A special word of congratulation is extended to Mr Clive Archer, who at 81 years of age is the oldest person to date to have successfully completed the examination - with a 74% pass mark. When asked what his recipe for success is he stated: *“Hard work and preparation”*. His advice to other candidates is to ensure that they have a proper understanding of the FAIS Act. According to him, the process of preparing and writing the examination added value in that he has improved his understanding of the legislative framework and requirements applicable to him. This is the objective the FSB strives to achieve with the regulatory examination.

To those who have not passed the examination the first time round, do not despair. The FSB appreciates that it takes a lot of self discipline and commitment to put in the effort and work required to complete the examination successfully. It is important to remain positive. Frederick Langbridge said: *“Two men look out the same prison bars; one sees mud and the other stars”*. Your attitude and preparation will determine your success.

The FSB encourages employers to support and motivate their staff in the preparation for the examination. The early statistics suggest that the main cause for candidates failing the examination is lack of proper preparation. Candidates it is believed, tends to underestimate the time that has to be set aside to effectively and sufficiently prepare for the examination. The current upward trend in the success rate of candidates suggests that there is a greater appreciation of the time required for proper preparation. The FSB, to further assist candidates with their preparation for the examination, is in the process of updating the Preparation Guide that will include a complete mapping of the qualifying criteria against the relevant legislation.

The FSB acknowledges that difficulties have been experienced since the inception of the examination process. Although the FSB has engaged with a range of industry representatives and the four examination bodies on an on-going basis in order to address these difficulties, it is important to remember that any new system requires continuous improvement and through continuous dialogue between the FSB and industry stakeholders there is no doubt that this will be achieved.

Some of the issues raised by industry stakeholders are addressed in this information circular with the objective of providing further clarity and feedback.

B 31 DECEMBER 2011 DEADLINE

Insofar as the implementation of the regulatory examination is concerned and the possible impact of the 31 December 2011 deadline on industry, the Registrar is in active and ongoing consultation, not only with industry representative bodies but also with other relevant industry players. In his interaction with these bodies, the Registrar had previously indicated that the impact of the implementation of the examination would be closely monitored with due regard to the number of candidates who had registered for the examination. A decision on any possible extension of the timeframe for the completion of the examination process would only be taken once a more detailed picture has emerged from the registration and examination data.

The examination data as at 30 June 2011 indicated that only 11% of candidates who are required to write the examination have in fact sat for the examination. Accordingly the Registrar has decided to extend the deadlines for the level 1 regulatory examinations as follows:

TABLE A

Level 1 Regulatory Examination	New deadline	Deadline for rewrite
RE1 (key individual for category I, II, IIA, III and IV)	30 June 2012	30 September 2012
RE3 (key Individual for Category II and IIA)	30 September 2012	31 December 2012
RE4 (key individual for Category III)	30 September 2012	31 December 2012
RE5 (representatives of Categories I, II, IIA, III and IV excluding representatives for sub-categories 1.1 and 1.19)	30 June 2012	30 September 2012

* The deadline for the RE2 level 1 regulatory examination for sole proprietors and key individuals for subcategories 1.1 and 1.19 is 31 December 2013. Representatives for sub-categories 1.1 and 1.19 are not required to write the level 1 regulatory examination.

The Registrar has also decided to extend the deadline, as detailed in the table above, for those persons who wrote the examination but who were not successful.

Despite the above concession, affected persons are urged not to delay their enrolment for the examination as this will result in candidates being placed under unnecessary time constraints and ultimately being unable to write the examination on a preferred date and at a preferred venue due to examination sessions being fully booked.

C COST OF REWRITE

The FSB is investigating the possibility of reducing the cost of rewriting an examination and will communicate the outcome of such investigation as soon as possible.

Please note that the FSB will not apply the reduction of the examination fee, if implemented, retrospectively.

D AFRIKAANS EXAMINATION

The FSB previously indicated that it will make the level 1 regulatory examination available in Afrikaans. This decision was taken after industry representative bodies indicated to the FSB that at

least 40% of candidates who were required to write the examination are Afrikaans speaking and may prefer to write the examination in Afrikaans.

Contrary to earlier indications, only 2% of all candidates who are required to write the examination elected, through the preliminary registration process, to write the examination in Afrikaans.

In order to save costs, and based on the limited interest in the Afrikaans examination, the Afrikaans version of the examination will be made available on a limited number of specific dates and at specified venues. The dates of these examination sessions and venues will be communicated in due course.

Persons who preliminary registered for the Afrikaans examination are no longer required to finally register to write the examination in Afrikaans as was previously communicated. Those who wish to write the examination in Afrikaans (irrespective of whether or not they registered provisionally) need to enrol to write the examination on one of the specified dates and at one of the specified venues. The enrolment procedures will only be made available once the development of the examination in Afrikaans has been finalised. The FSB does not anticipate that the development of the Afrikaans examination will take too long. The FSB will keep the industry informed of the progress.

No additional enrolment fee, above R900, will be payable by persons writing the examination specifically in Afrikaans. The same fee will be applicable to all candidates who write the examination, whether in Afrikaans or English.

Due to the general extension granted to the 31 December 2011 deadline, it is no longer necessary to grant a specific extension, as previously communicated, for the Afrikaans level 1 regulatory examination beyond the deadlines referred to in Table A above.

D EXEMPTION FROM THE CONFLICT OF INTEREST PROHIBITIONS WITH REGARD TO THE PROVISION OF TRAINING IN RESPECT OF THE LEVEL 1 REGULATORY EXAMINATION

The Registrar, in order to further assist affected persons in preparing for the examination, intends to exempt FSPs and representatives from the conflict of interest provisions (section 3A(1)(a) of the General Code of Conduct) to the extent that the FSP or representative may offer or receive training in respect of the first level regulatory examination, provided that:

- the training is not made available exclusively to a selected group of FSPs or representatives;
- the training is not subject to giving preference to the quantity of business secured for the FSP to the exclusion of the quality of service rendered to clients;
- the training is not subject to giving preference to a specific product supplier, where an FSP or representative may recommend more than one product supplier to a client; and
- the training is not subject to giving preference to a specific product of a product supplier, where an FSP or representative may recommend more than one product of the product supplier to a client.

The FSB encourages corporate entities to avail themselves of this exemption by offering training to FSPs and representatives aimed at the examinations.

E EXAMINATION PROGRESS

As at 30 June 2011, only 17 302 out of 149 440 candidates had written the level 1 regulatory examination. This is less than 12% of candidates who are required to take the examination. The FSB is engaged in ongoing discussions with the relevant industry associations and corporate entities regarding the enrolment of their staff members for the examinations. The FSB was informed that a large number of candidates have been enrolled to write the examination by the end of September 2011.

The FSB, on advice of examination assessment experts, will publish the pass rate of the examination when at least 25% of candidates have written the examination as it will only then be in a position to identify the trends and factors influencing the pass rate, for example preparation, quality of training, diversity of industry, demographics, etc.

Contrary to the unsubstantiated speculation which currently abounds concerning the standard and degree of difficulty of the examination, analysing the trends and factors influencing the pass rate is a complex process and the pass rate cannot be correctly interpreted or accurate conclusions drawn therefrom without meaningful statistical information, which is lacking at this stage. Simply put, and by way of example, one candidate may find a particular question ambiguous, but whether that question can in fact be classified as such can only be determined from a statistical perspective once the particular question has been posed (and answered) in at least 50 examination papers.

There is, however, at this early stage, evidence to suggest that candidates linked to institutions which provide structured training and where candidates' progress is monitored, are more successful.

It should be borne in mind that the FSB and industry are jointly responsible for the establishment of a regulatory system that re-assures the public that the services they receive are from well qualified financial advisers and intermediaries. Most investors lack knowledge of financial matters and must be protected from this situation by financial advisers and intermediaries who know the law and will act in their best interest.

F EXAMINATION PROCESS

Open book examination versus a closed book examination

The FSB has received various requests to change the format of the examination from a closed book examination to an open book examination. The feasibility of effecting such a change was investigated by the FSB and an opinion was, *inter alia*, sought from the Independent Examination Board on this matter.

The FSB was informed that there are a variety of assessment methods which may be employed, depending primarily on the purpose of the assessment. Open-book tests are generally used in upper levels of study e.g. honours levels and higher, where the purpose of the assessment requires that a learner demonstrates higher cognitive skills such as critical thinking, analysis and evaluation. In these examinations, the candidate is often required to argue a specific standpoint and cite the exact sections of an act, formula or other documentation, depending on the discipline, in support of their position. The focus of the assessment is then to use multiple resources to support a particular position. The recalling of the basic knowledge and principles is not the primary purpose of an open-book examination.

The purpose of the level 1 regulatory examination is to ensure that all key individuals and representatives fully understand the content of the legislation applicable to them, their role in the

regulatory framework, and the accountability and responsibility they have in terms of this role. For example, it requires providers to know and understand the General Code of Conduct that, *inter alia*, requires providers to furnish clients with adequate and correct information.

The intention of the examinations, therefore, is to assess whether a candidate knows and understands the content of the specific material being assessed. The purpose is not for the candidate to argue whether the requirements of the law are appropriate or could be addressed in a different way, but rather to show that they are able to recall the legal content and understand its implications. Hence an open-book examination is not appropriate for the purpose that has been set.

Lowering of pass mark

The FSB has also received continuous requests from industry to lower the pass mark from 65% to 50%. The lowering of the pass mark will defeat the purpose of the examination which is to ensure that persons rendering financial services to clients know what is expected of them under the Act and the Codes.

Although most tertiary institutions require only 50% as a pass mark when using multiple choice examinations, negative marking methodology is applied. The Independent Examination Board informed the FSB that if the pass mark is reduced to 50% and negative marking is not applied, it could happen that a person who knows 35% of the subject matter could obtain 51%. Negative marking may also negatively affect the overall pass rate.

A person who only knows 35% of the legislative framework under which he/she operates cannot be regarded as competent to perform their regulatory role. The valid question arises: why should the examinations be implemented if it cannot confidently be stated that persons that have successfully completed the examination really know and understand their regulatory role and responsibilities? The whole examination process would then be rendered meaningless.

Timeframe in which results are issued

The FSB has received complaints that the turnaround time by examination bodies to make results available is too long. The criterion set by the FSB for examination bodies to issue examination results is 20 business days. This timeframe cannot be shortened due to the moderation and quality assurance process that all examination bodies must follow before issuing results.

Providing examination papers to candidates

The FSB has been inundated with requests from industry representative bodies and individuals to make available the examination papers after candidates have written the examination in order for them to identify which questions they have answered incorrectly. That would have enabled them to concentrate their preparation for a rewrite on those areas where they had got the answers wrong. This is unfortunately not possible due to the structure of the examination process.

The individual question papers are generated from an item bank of a large but limited number of questions. If these questions were to be made available they would have to be replaced with new questions on a continuous basis to ensure the effectiveness of the examination. This will inevitably result in an increase of the costs and ultimately the examination fee.

However, the FSB recognises the need of candidates to have more information regarding the result of their examination. The FSB is investigating the possibility of providing more information

without affecting the integrity of the examination, and will communicate further details in due course.

Monitoring of examination bodies

The FSB is aware of a perception that the examination bodies have *carte blanche* regarding the examination process. This is not true. The examination bodies must perform their functions according to specific criteria set by the FSB. The compliance with these criteria is continuously monitored by the FSB via, *inter alia*, on-site visits.

The FSB is aware of rumours that examinations bodies have made extreme adjustments to examination results after requests for remarks of the examinations have been submitted, for example a 40% fail result was adjusted to a 80% pass result. As a result some persons are questioning the credibility of the examination, the validity of the results and the integrity of the examination bodies.

Incidents of this kind did occur in isolated instances. However, these instances were investigated by the FSB and it was found that the candidates had recorded the incorrect examination numbers on their answer sheets which resulted in the marking of the answer sheets against the incorrect electronic marking memorandums. The examination bodies have now, in consultation with the FSB, put additional controls in place to prevent this from re-occurring by, for example, verifying the information supplied by the candidate on the answer sheet.

Affected persons and representative bodies are requested to please refrain from using such isolated incidents out of context which serve to discredit the examination process in general without possessing all the facts. The FSB will investigate any specific complaint regarding the examination process and will, where necessary, ensure prompt corrective action.

Moderation of examination process

The FSB has received a number of complaints and feedback regarding the examination questions and the examination process. All specific complaints are investigated and where appropriate, corrective action has been taken.

The examination bodies must implement the examination process according to specified standards and examination best practices. For example, the questions were developed based on a scientific process and with the input and approval of the Independent Examination Board. The examination bodies and the FSB monitor the performance of the questions on an ongoing basis.

If a question does not perform according to the set standards, the question is removed from the question item bank. This does not mean that the question was ambiguous, unfair or factually incorrect. It may be that the interpretation of the question by candidates was problematic. The moderation process is an ongoing and standard examination assessment practice.

Candidates are encouraged to refer any complaints regarding the examination process to the relevant examination body. Only when the complaint cannot be resolved by the examination body should it be referred to the FSB.

G FOREIGN FSPS

The examination is currently not available to candidates who would like to write it overseas. However, the FSB is investigating the possibility of making the examination available offshore and will communicate this as soon as is practicable.

H AVAILABILITY AND DEADLINE OF THE LEVEL 2 REGULATORY EXAMINATIONS

The FSB has decided, given the impact of the level 1 regulatory examination on industry, to postpone the roll-out of the level 2 regulatory examinations. This will enable industry to focus their efforts on the level 1 regulatory examination. The effect of the postponement will impact on the deadlines for the level 2 regulatory examinations. The FSB will monitor the process closely and will communicate the roll-out details and deadlines for the level 2 regulatory examinations once a decision has been reached in this regard.

I CONCLUSION

Lastly, the FSB would like to ensure all concerned that it considers all feedback and input received and, with the assistance of the industry representative bodies will continue in striving to improve on the relatively new examination process. This organisation is committed to implement corrective measures where problems are encountered with due regard to the interests of industry. Appreciation is expressed to those members of the industry that have provided constructive feedback.