



## FINANCIAL SERVICES BOARD

### FINANCIAL ADVISORY AND INTERMEDIARY SERVICES ACT, 2002

#### INVITATION TO COMMENT ON PROPOSED AMENDMENTS OF FIT AND PROPER REQUIREMENTS AND ACCOMPANYING MEASURES

EDITION	ISSUE DATE	STATUS
1 <sup>st</sup>	5 August 2013	Draft

### 1. Introduction

- 1.1. The Registrar of Financial Services Providers (Registrar) intends to amend the following Board Notices:
- Determination of Fit and Proper Requirements for Financial Services Providers, 2008 (Fit and Proper Requirements);
  - Determination of Qualifications and Qualifying Criteria, 2008 (Qualifying Criteria); and
  - Exemption of Services under Supervision in terms of Requirements and Conditions, 2008 (Exemption of Services under Supervision).
- 1.2. You are invited to comment on the proposed amendments and to submit such comment on or before 6 September 2013 to [loraine.vandeventer@fsb.co.za](mailto:loraine.vandeventer@fsb.co.za).

### 2. Purpose of proposed amendments

- 2.1. The purpose of the proposed amendments to the Fit and Proper Requirements and the Qualifying criteria is to provide for-
- a new category of FSP;
  - a new definition of “administration of assistance policies”;
  - a new definition of “continuous professional development”;
  - the deletion of the requirement that representatives must complete the relevant regulatory examinations within a certain time period;
  - new subcategories of financial products; and
  - qualifying criteria for such new subcategories of financial products.
- 2.2. The amendments to the Exemption of Services under Supervision and Qualifying Criteria are mainly consequential amendments or amendments that provide clarity.

### 3. Background

#### 3.1. *New Category V FSP*

In 2012 the Registrar published for comment the “*Draft Specific Code of Conduct for Financial Services Providers and Representatives conducting financial services business with Professional Clients*” (the Specific Code). This Code provides for the

requirements applicable to persons who conduct financial services related business with professional clients. The Registrar, due to regulatory developments in other laws administered by the FSB, held over the publication of the Specific Code to ensure consistency between it and the laws under development and to avoid regulatory arbitrage. The Registrar endeavours to have the Specific Code finalised before the end of the third quarter of 2013.

To enable effective monitoring of providers who would become subject to the Specific Code it is necessary to create a new category of financial services provider. The proposed amendments, therefore, provide for the establishment of such a new category of FSP with its own specific fit and proper requirements that, *inter alia*, include requirements in respect of honesty and integrity, competency, operational ability and financial soundness.

### **3.2. *New definition of “administration of assistance policies”***

The current definition of “administration of assistance policies” is not clear in its application and could be regarded as ambiguous. The proposed amendment provides the required clarity. The status of binder holders rendering services in respect of an assistance policy is addressed in the definition of “assistance business FSP”.

### **3.3. *New definition of “continuous professional development”***

The FSB, through the General Financial Services Laws Amendment Bill, 2012, proposed the insertion of a definition for “*continuous professional development*” in the FAIS Act. The Registrar, to ensure consistency within the FAIS legislative framework proposes an amendment to that definition in the Fit and Proper Requirements to ensure alignment between the Act and the Fit and Proper Requirements.

### **3.4. *Deletion of the requirement that representatives must complete the relevant regulatory examinations within a certain time period***

Paragraphs (f) and (g) of section 6(1) of the Fit and Proper Requirements provide for the time period within which a representative must complete the relevant regulatory examinations. These paragraphs must be read with the Exemption of Services under Supervision. The intention is to allow into industry new entrants who have not yet completed the regulatory examination subject to them working under supervision.

The time frames referred to in the Exemption of Services under Supervision differs from the time frames referred to in the Fit and Proper Requirements and this is causing confusion. The proposed amendment removes the discrepancy and makes it clear that all representatives must at date of first appointment have successfully completed the relevant regulatory examination unless they are working under supervision in terms of the Exemption of Services under Supervision.

In addition, it is proposed to remove the reference to the second level regulatory examinations in the Exemption of Services under Supervision due to the current non-availability of those examinations. The proposed amendment will result in representatives who comply with the experience, qualification and level 1 regulatory examination requirements to come out of supervision.

### **3.5. *New subcategories of financial products***

During 2012 the Registrar granted an exemption to specific persons referred to in paragraph (a) of the definition of “provider” 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). The objective of the

exemption was to address a problem that was being 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, would have been able to successfully complete the Level 1 regulatory examination.

The Registrar was satisfied that reasonable grounds existed 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. The exemption was subject to the condition that the relevant representatives must complete a bespoke first level regulatory examination by a date to be determined by the Registrar.

The exemption was only an interim measure until such time that the Registrar was able to affect the required legislative amendments to provide for the new subcategories of financial products. The proposed amendments provide for the new subcategories of financial products as well as the qualifying criteria applicable to such new subcategories.

**BOARD NOTICE ... OF 2013**

**FINANCIAL SERVICES BOARD**

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

**AMENDMENT OF FIT AND PROPER REQUIREMENTS AND  
ACCOMPANYING MEASURES, 2013**

I, DUBE PHINEAS TSHIDI, the Registrar of Financial Services Providers, after consultation with the Advisory Committee on Financial Services Providers, hereby under-

- (a) section 8(1) of the Financial Advisory and Intermediary Services Act, 2002 (Act No. 37 of 2002), amend the Determination of Fit and Proper Requirements for Financial Services Providers, 2008, the Exemption of Services under Supervision in terms of Requirements and Conditions, 2008, and the Determination of Continuous Professional Development Requirements, 2008, as set out in the Schedule;
- (b) the definition of “qualifying criteria” in paragraph 1(1) and paragraph 5 of the Determination of Fit and Proper Requirements for Financial Services Providers, 2008, amend the Determination of Qualifications and Qualifying Criteria for Financial Services Providers, Number 1 of 2008.

DP TSHIDI  
*Registrar of Financial Services Providers*

## SCHEDULE

### AMENDMENT OF FIT AND PROPER REQUIREMENTS AND ACCOMPANYING MEASURES, 2013

#### Definitions

1. In this Schedule-

**'Continuous Professional Development'** means the Determination of Continuous Professional Development Requirements, 2008;

**'Determination of Qualifications and Qualifying Criteria'** means the Determination of Qualifications and Qualifying Criteria for Financial Services Providers, Number 1 of 2008;

**'Exemption of Services under Supervision'** means the Exemption of Services under Supervision in terms of Requirements and Conditions, 2008; and

**'Fit and Proper Requirements'** means the Determination of Fit and Proper Requirements for Financial Services Providers, 2008.

#### Amendment of Fit and Proper Requirements

2. (a) Paragraph 1(1) in Part I of the Schedule to the Fit and Proper Requirements is hereby amended-

- (i) by the substitution of the definition 'administration of assistance policies' of the following definition:

**“administration of assistance policies”** means work performed by a person relating to the offsetting of claims, processing of claims or payment of fees or commission in respect of an assistance policy;”;

- (ii) by the substitution of the definition 'Assistance Business FSP' of the following definition:

**“Assistance Business FSP”** means a person that performs the administration of assistance policies and includes a person who is a binder holder as defined in the Regulations under the Long-term Insurance Act, 1998, in respect of any assistance policy;”;

- (iii) by the insertion after the definition of 'Assistance Business FSP' of the following definition:

**“assistance policy”** means an assistance policy as defined in section 1 of the Long-term Insurance Act, 1998;”;

- (iv) by the insertion after the definition of 'authorisation' of the following definition:

“**average**’ means a clause in a policy that provides that where assets are insured for less than their full value, the insured is required to bear a proportion of any loss;”;

- (v) by the insertion after the definition of ‘Category IV’ of the following definition:

“**Category V**”, in relation to a financial services provider, means a person that renders a financial service, other than the services referred to in Category II, IIA, III and IV, to a professional client as defined in the Specific Code of Conduct for authorised Financial Services Providers and Representatives conducting financial services business with Professional Clients, 2012;”;

- (vi) by the substitution of the definition of ‘continuous professional development’ of the following definition:

“**continuous professional development**’ means a process of learning and development with the aim of enabling a financial services provider, key individual, representative or compliance officer to maintain the competency to comply with this Act;”;

- (vii) by the insertion after the definition of ‘industry association’ of the following definition:

“**limited underwriting**’ means where the only requirements a prospective policyholder or life assured must comply with in order for a product supplier to accept risk or pay a claim are-

- (a) the furnishing of a health declaration by such policyholder or life assured, structured as answers to no more than eight questions relating to specific medical conditions;
- (b) a requirement that the policyholder or life assured must undergo an HIV test;
- (c) the requirements imposed by the National Credit Act, No. 34 of 2005; or
- (d) a combination of any of the requirements referred to in paragraphs (a), (b) and (c);”;

- (viii) by the insertion after the definition of ‘Long-term Insurance subcategory B1’ of the following definition:

“**Long-term Insurance subcategory B1-A**’ means those long-term insurance policies referred to in the definition of Long-term Insurance subcategory B1 which require no or limited underwriting;”;

- (ix) by the insertion after the definition of ‘Long-term Insurance subcategory B2’ of the following definition:

“**Long-term Insurance subcategory B2-A**’ means those long-term insurance policies referred to in the definition of Long-term Insurance subcategory B2 which provide for the premiums to be invested in an investment portfolio managed by the product supplier with no option by the policyholder to request a change or amendment to that portfolio;”;

- (x) by the insertion after the definition of ‘National Qualifications Framework’ of the following definition:

“**no underwriting**’ means there is no requirement by a product supplier for any medical, financial or lifestyle information to be provided by a prospective policyholder or life assured in order for such product supplier to accept risk or pay a claim;”;

- (xi) by the insertion after the definition of ‘Short-term Insurance Personal Lines’ of the following definition:

“**Short-term Insurance Personal Lines A1**’ the short-term insurance policies, excluding-

- (a) group policies; and
- (b) marine policies, engineering policies and guarantee policies as defined in section 1 of the Short-term Insurance Act, No. 53 of 1998, referred to in the definitions of ‘Short-term Insurance Personal Lines’ in section 1 of the Determination of Fit and Proper Requirements and which policies—
  - (i) require no or limited underwriting;
  - (ii) define policy benefits as a sum assured, provide for the replacement of the insured asset or provide for the settlement of outstanding balances due and payable to credit providers;
  - (iii) have contract terms of 24 months or less;
  - (iv) are not subject to average; and
  - (v) do not provide for any exclusions from liability of the insurer other than—
    - (aa) exclusions relating to unlawful conduct, provided that such exclusions may only be applied or relied on if there is a direct link between the cause of the loss and the unlawful conduct;
    - (bb) special risks referred to in the Conversion of the SASRIA Act, No. 134 of 1998;
    - (cc) exclusions relating to the condition of any asset insured at inception of the policy other than exclusions relating to the wear and tear of the asset;
    - (dd) exclusions relating to the maintenance and usage of the insured asset under a policy that insures against unforeseen mechanical or electrical component failure;
    - (ee) exclusions relating to consequential loss; or
    - (ff) any combination of (aa)-(ee);

- (xii) by the insertion after the definition of ‘voluntary professional body’ of the following definition:

“**wear and tear**’ means the normal expected deterioration of the insured asset arising from normal usage and age.”

(b) Part IV of the Schedule to the Fit and Proper Requirements is hereby amended-

(i) by the substitution for Table A in paragraph 4 of the following Table:

<b>TABLE A CATEGORY I EXPERIENCE REQUIREMENTS FOR AN FSP AND REPRESENTATIVE</b>			
	<i>Column one subcategory</i>	<i>Column Two Advice: minimum experience</i>	<i>Column Three Intermediary services: minimum experience</i>
1.1	Long-term Insurance subcategory A	6 months	2 months
1.2	Short-term Insurance Personal Lines	1 year	6 months
1.3	Long-term Insurance subcategory B1	1 year	6 months
1.4	Long-term Insurance subcategory C	1 year	6 months
1.5	Retail Pension Benefits	1 year	6 months
1.6	Short-term Insurance Commercial Lines	1 year	6 months
1.7	Pension Fund Benefits	1 year	6 months
1.8	Securities and instruments: Shares	2 years	1 year
1.9	Securities and Instruments: Money market instruments	2 years	1 year
1.10	Securities and Instruments: Debentures and securitised debt	2 years	1 year
1.11	Securities and Instruments: Warrants, certificates and other instruments acknowledging debt	2 years	1 year
1.12	Securities and Instruments: Bonds	2 years	1 year
1.13	Securities and Instruments: Derivative instruments excluding warrants	2 years	1 year
1.14	Participatory Interests in one or more collective investment schemes	1 years	1 year
1.15	Forex Investment Business	2 years	1 year
1.16	Health Service Benefits	2 years	2 years
1.17	Long-term Deposits	6 months	3 months
1.18	Short-term Deposits	6 months	3 months
1.19	Friendly Society Benefits	6 months	2 months
1.20	Long-term Insurance subcategory B2	1 year	6 months
1.21	Long-term Insurance	1 year	6 months



<b>TABLE A CATEGORY I EXPERIENCE REQUIREMENTS FOR AN FSP AND REPRESENTATIVE</b>			
	<i>Column one subcategory</i>	<i>Column Two Advice: minimum experience</i>	<i>Column Three Intermediary services: minimum experience</i>
	subcategory B2-A		
1.22	Long-term Insurance subcategory B1-A	1 year	6 months
1.23	Short-term Insurance Personal Lines A1	1 year	6 months

and

(ii) by the substitution for Table B in paragraph 4 of the following Table:

<b>TABLE B CATEGORY II EXPERIENCE REQUIREMENTS FOR FSP AND REPRESENTATIVE</b>		
	<b>Column One Subcategory</b>	<b>Column Two: Minimum Experience</b>
2.1.	Long-term Insurance subcategory B1	2 years
2.2	Long-term Insurance subcategory C	2 years
2.3	Retail Pension Benefits	2 years
2.4	Pension Fund Benefits	2 years
2.5	Securities and Instruments: Shares	3 years
2.6	Securities and Instruments: Money market instruments	3 years
2.7	Securities and Instruments: Debentures and securitised debt	3 years
2.8	Securities and Instruments: Warrants, certificates and other instruments acknowledging debt	3 years
2.9	Securities and Instruments: Bonds	3 years
2.10	Securities and Instruments: Derivative instruments excluding warrants	3 years
2.11	Participatory Interests in one or more collective investment schemes	2 years
2.12	Forex Investment Business	3 years
2.13	Long-term Deposits	1 year
2.14	Short-term Deposits	1 year
2.15	Long-term Insurance subcategory B2	2 years
2.16	Long-term Insurance subcategory B2-A	2 years
2.17	Long-term Insurance subcategory B1-A	2 years

(c) Part VI of the Schedule to the Fit and Proper Requirements is hereby amended-

(i) by the deletion of subparagraphs 1(f) and (g) of paragraph 6.

(ii) by the substitution for Table C in paragraph 6 of the following Table:

<b>TABLE C CATEGORIES I AND IV: REGULATORY EXAMINATIONS</b>			
	<b>Column One Subcategory</b>	<b>Column Two First Level</b>	<b>Column Three Second Level</b>

<b>TABLE C</b>			
<b>CATEGORIES I AND IV: REGULATORY EXAMINATIONS</b>			
	<b>Column One Subcategory</b>	<b>Column Two First Level</b>	<b>Column Three Second Level</b>
	<b>Category I</b>		
1.1	Long-term Insurance subcategory A	Applies	Applies (key individual only)
1.2	Short-term Insurance Personal Lines	Applies	Applies
1.3.	Long-term Insurance subcategory B1	Applies	Applies
1.4	Long-term Insurance subcategory C	Applies	Applies
1.5	Retail Pension Benefits	Applies	Applies
1.6	Short-term Insurance Commercial Lines	Applies	Applies
1.7	Pension Fund Benefits	Applies	Applies
1.8	Securities and Instruments: Shares	Applies	Applies
1.9	Securities and Instruments: Money market instruments	Applies	Applies
1.10	Securities and Instruments: Debentures and securitised debt	Applies	Applies
1.11	Securities and Instruments: Warrants, certificates and other instruments acknowledging debt	Applies	Applies
1.12	Securities and Instruments: Bonds	Applies	Applies
1.13	Securities and Instruments: Derivative instruments excluding warrants	Applies	Applies
1.14	Participatory Interests in one or more collective investment schemes	Applies	Applies
1.15	Forex Investment Business	Applies	Applies
1.16	Health Service Benefits	Applies	Applies
1.17	Long-term Deposits	Applies	Applies
1.18	Short-term Deposits	Applies	Applies
1.19	Friendly Society Benefits	Applies	Applies (key individual only)
1.20	Long-term Insurance subcategory B2	Applies	Applies
1.21	Long-term Insurance subcategory B2-A	Applies	Applies
1.22	Long-term Insurance subcategory B1-A	Applies	Applies
1.23	Short-term Insurance Personal Lines A1	Applies	Applies
	<b>Category IV: Assistance Business FSP</b>		Applies
		Applies	Applies

(iii) by the insertion of the following subparagraph after subparagraph (3):

**“(4) Category V: Regulatory Examinations**

- (a) An FSP (who is a sole proprietor) must, by a prescribed date, successfully pass the first level regulatory examinations as determined by the Registrar; and
- (b) A key individual must, by a prescribed date, successfully pass the first level regulatory examinations as determined by the Registrar.”.

(d) Part X of the Schedule to the Fit and Proper Requirements is hereby amended-

(i) by the substitution of Table E of the following Table:

<b>TABLE E: TRANSITIONAL PROVISIONS FOR CATEGORIES I, II, IIA III AND IV</b>				
	<b>Column One: Category</b>	<b>Column Two: Qualification Requirements</b>	<b>Column Three: First Level Regulatory Examination</b>	<b>Column Four: Second Level Regulatory Examination</b>
<b>Category I</b>				
1.1	Long-term insurance subcategory A	<u>Representatives:</u> ABET level 1 or the proven ability to read and write to the satisfaction of the provider.	Not applicable	Not applicable
		<u>FSPs and key individuals:</u> Recognized qualification on NQF level 2; or a recognized skills programme of 30 credits at NQF level 2 by 31 December 2011	31/12/2013	Not applicable
1.2	Short-term insurance personal lines	An appropriate NQF level 4 skills programme consisting of a minimum of 30 credits; or an appropriate qualification at NQF level 4.	31/12/2011	31/12/2013
1.3.	Long-term insurance Subcategory B1	An appropriate NQF level 4 skills programme consisting of a minimum of 30 credits; or an appropriate qualification at NQF level 4	31/12/2011	31/12/2013
1.4	Long-term insurance subcategory C	An appropriate NQF level 5 skills programme consisting of a minimum of 60 credits; or an appropriate qualification at NQF level 5.	31/12/2011	31/12/2013
1.5	Retail pension benefits	An appropriate NQF level 5 skills programme consisting of a minimum of 60 credits; or an appropriate qualification at NQF level 5.	31/12/2011	31/12/2013
1.6	Short-term insurance commercial lines	An appropriate NQF level 4 skills programme consisting of a minimum of 60 credits; or an appropriate qualification at NQF level 4.	31/12/2011	31/12/2013
1.7	Pension fund benefits	An appropriate NQF level 5 skills programme consisting of a minimum of 60 credits; or an appropriate qualification at NQF level 5.	31/12/2011	31/12/2013
1.8 to 1.13	Securities and instruments	An appropriate NQF level 6 skills programme consisting of a minimum of 60 credits; or an appropriate qualification at NQF level 6, provided 3 years of experience is obtained; or	31/12/2011	31/12/2013
		an appropriate qualification at NQF level 5, provided 2 years of experience is obtained; or	31/12/2011	31/12/2013

		an appropriate qualification at NQF level 6, provided 1 year of experience is obtained.	31/12/2011	31/12/2013
1.14	Participatory interests in one or more collective investment schemes	An appropriate NQF level 5 skills programme consisting of a minimum of 60 credits; or an appropriate qualification at NQF level 5.	31/12/2011	31/12/2013
1.15	Forex investment business	An appropriate NQF level 6 skills programme consisting of a minimum of 60 credits; or an appropriate qualification at NQF level 5 or 6.	31/12/2011	31/12/2013
1.16	Health service benefits	An appropriate NQF level 5 skills programme consisting of a minimum of 60 credits; or an appropriate certificate at NQF level 5.	31/12/2011	31/12/2013
1.17	Long-term deposits	An appropriate NQF level 4 skills programme consisting of a minimum of 30 credits; or an appropriate qualification at NQF level 4.	31/12/2011	Not applicable
1.18	Short-term deposits	An appropriate NQF level 2 skills programme consisting of a minimum of 30 credits; or an appropriate qualification at NQF level 2.	31/12/2011	Not applicable
1.19	Friendly society benefits	<u>Representatives:</u> ABET level 1 or the proven ability to read, write and calculate to the satisfaction of the provider.	Not applicable	Not applicable
		<u>FSPs and key individuals:</u> Recognized qualification on NQF level 2 or a recognized skills programme of 30 credits at level 2 by 31 December 2011	31/12/2013	Not applicable
1.20	Long-term Insurance subcategory B2	An appropriate NQF level 4 skills programme consisting of a minimum of 30 credits; or an appropriate qualification at NQF level 4	31/12/2011	31/12/2013
1.21	Long-term Insurance subcategory B2-A	An appropriate NQF level 4 skills programme consisting of a minimum of 30 credits; or an appropriate qualification at NQF 4 level.	A date determined by the Registrar by Notice in the Gazette	A date determined by the Registrar by Notice in the Gazette
1.22	Long-term Insurance subcategory B1-A	An appropriate NQF level 4 skills programme consisting of a minimum of 30 credits; or an appropriate qualification at NQF 4 level.	A date determined by the Registrar by Notice in the Gazette	A date determined by the Registrar by Notice in the Gazette
1.23	Short-term Insurance Personal Lines A1	An appropriate NQF level 4 skills programme consisting of a minimum of 30 credits; or an appropriate qualification at NQF 4 level.	A date determined by the Registrar by Notice in the Gazette	A date determined by the Registrar by Notice in the Gazette
<b>Category II</b>		An appropriate qualification at NQF level 5 or 6.	31/12/2011	31/12/2013
<b>Category IIA</b>		An appropriate qualification at NQF level	31/12/2012	31/12/2013

	6 consisting of a minimum of 360 credits (full business degree/ diploma)		
<b>Category III</b>	An appropriate NQF level 6 skills programme of 60 credits; or an appropriate qualification at NQF level 5 or 6.	31/12/2011	31/12/2013
<b>Category IV</b>	A minimum of an appropriate NQF level 2 skills programme consisting of a minimum of 30 credits; or an appropriate qualification at NQF level 2.	31/12/2011	Not applicable

and

- (ii) by the insertion after subparagraph (13) of paragraph 10 of the following subparagraphs:

“(14) An FSP (who is a sole proprietor) and representative who is authorised between 30 September 2004 and 1 December 2013 for Short-term Insurance Personal Lines, and/or Long-term Insurance subcategory B1 or B2 as defined in paragraph 1(1), have until 30 June 2014 to-

- (a) amend the restrictions on their licences to indicate whether they render financial services in respect of one or both Long-term Insurance subcategories B1-A and B2-A;
- (b) amend the restrictions on their licenses to indicate whether they render financial services in respect of Short-term Insurance Personal Lines A1;
- (b) indicate who the key individual is in respect of one or both Long-term Insurance subcategories B1-A and B2-A or Short-term Insurance Personal Lines A1;
- (c) amend the representative register to indicate whether a representative must be recorded for one or both Long-term Insurance subcategories B1-A and B2-A or Short-term Insurance Personal Lines A1.

(15) An FSP (who is a sole proprietor) and representative who is authorised or appointed to render financial services in respect of Long-term Insurance subcategory B1 is exempt from having to complete the level 1 and level 2 regulatory examinations and continuous professional development requirements applicable to Long-term Insurance subcategory B1-A.

(16) An FSP (who is a sole proprietor) and representative who is authorised or appointed to render financial services in respect of Long-term Insurance subcategory B2 is exempt from having to complete the level 1 and level 2 regulatory examinations and continuous professional development requirements applicable to Long-term Insurance subcategory B2-A.

(17) An FSP (who is a sole proprietor) and representative who is authorised or appointed to render financial services in respect of

Short-term Insurance Personal Lines is exempt from having to complete the level 1 and level 2 regulatory examinations and continuous professional development requirements applicable to Short-term Insurance Personal Lines A1.

**Amendment of Exemption of Services under Supervision**

3. The Schedule to the Exemption of Services under Supervision is hereby amended-

- (a) by the substitution of the definition ‘services under supervision’ of the following definition:

“**‘services under supervision’** means financial services rendered by a representative who does not meet the prescribed experience, qualification and/or first level regulatory examination requirements and which services are rendered under the guidance, instruction and supervision of a supervisor”;

- (b) by the substitution of subparagraph (c) of paragraph 3 of the following subparagraph:

“the first level regulatory examinations referred to in Part VI of the Fit and Proper Requirements, 2008: Provided that the provider must comply with the requirements and conditions detailed in paragraph 4 below.”;

- (c) by the substitution of subparagraph 6(e) of paragraph 4 of the following subparagraph:

“(e) the representative must-

- (i) successfully complete the relevant first level regulatory examination by 31 December of the second year after the date of first appointment as a representative; and
- (ii) obtain the relevant qualification by 31 December of the sixth year after the date of first appointment as a representative; and”;

- (d) by the substitution for Table A in paragraph 4 of the following Table:

<b>TABLE A</b>			
<b>CATEGORIES I and IV: LEVEL OF SUPERVISION REQUIRED</b>			
	<i>Column one: subcategory</i>	<i>Column two: direct supervision</i>	<i>Column three: ongoing level of supervision</i>
1.1	Long-term Insurance subcategory A	The first 2 months of the period under supervision	After 2 months for the rest of the period under supervision
1.2	Short-term Insurance Personal Lines		
1.3	Long-term Insurance subcategory B1		

<b>TABLE A</b>			
<b>CATEGORIES I and IV: LEVEL OF SUPERVISION REQUIRED</b>			
	<i>Column one: subcategory</i>	<i>Column two: direct supervision</i>	<i>Column three: ongoing level of supervision</i>
1.4	Long-term Insurance subcategory C		
1.5	Retail Pension Benefits		
1.6	Short-term Insurance Commercial Lines		
1.7	Pension Fund Benefits (excluding Retail Pension Benefits)		
1.8	Securities and Instruments: Shares		
1.9	Securities and Instruments: Money Market Instruments	The first 4 months of the period under supervision	After 4 months for the rest of the period under supervision
1.10	Securities and Instruments: Debentures and Securitised Debt		
1.11	Securities and Instruments: Warrants, certificates and other instruments acknowledging debt		
1.12	Securities and Instruments: Bonds		
1.13	Securities and Instruments: Derivative Instruments		
1.14	Participatory Interests in one or more Collective Investment Schemes		
1.15	Forex Investment Business		
1.16	Health Service Benefits	The first 2 months of the period under supervision	After 2 months for the rest of the period under supervision
1.17	Long-term Deposits	The first 6 weeks of the period under supervision	After 6 weeks for the rest of the period under supervision
1.18	Short-term Deposits		
1.19	Friendly Society Benefits	The first 2 weeks of the period under supervision	After 2 weeks for the rest of the period under supervision
1.20	Long-term Insurance subcategory B2	The first 2 months of the period under supervision	After 2 months for the rest of the period under supervision
1.21	Long-term Insurance subcategory B2-A		
1.22	Long-term Insurance subcategory B1-A		
1.23	Short-term Insurance Personal Lines A1		
	<b>Category IV: Assistance Business FSP</b>		

5. Annexure 1 of the Determination of Qualifications and Qualifying Criteria is hereby amended-

(a) by the substitution of the index of Annexure 1 of the following index:

**“ANNEXURE 1: QUALIFYING CRITERIA**

- Section 1: First Level Regulatory Examination: FSPs (sole proprietors) and Key Individuals in Categories I, II, IIA, III and IV
- Section 1A: First Level Regulatory Examination: FSPs (sole proprietors) and Key Individuals in Category V
- Section 2: First Level Regulatory Examination: FSPs (sole proprietors) and Key Individuals in Categories II and IIA
- Section 3: First Level Regulatory Examination: FSPs (sole proprietors) and Key Individuals in Category III
- Section 4: First Level Regulatory Examination: FSPs (Sole Proprietors) and Representatives
- Section 4A: First Level Regulatory Examination: Representatives in Category I appointed for Short-term Insurance Personal Lines A1, Long-term Insurance subcategory B1-A and/or B2-aA only
- Section 5: Second Level Regulatory Examination: Long-term Insurance subcategory A, Friendly Society Benefits and Category IV
- Section 6: Second Level Regulatory Examination: Short- and Long-term Deposits
- Section 7: Second Level Regulatory Examination: Long-term Insurance subcategory C and Retail Pension Funds
- Section 8: Second Level Regulatory Examination: Participatory Interests in Collective Investment Schemes
- Section 9: Second Level Regulatory Examination: Securities and Instruments
- Section 10: Second Level Regulatory Examination: Short-term Insurance: Personal Lines
- Section 10A: Second Level Regulatory Examination: Short-term Insurance Personal Lines A1
- Section 11: Second Level Regulatory Examination: Short-term Insurance: Commercial Lines
- Section 12: Second Level Regulatory Examination: Health Care Benefits
- Section 13: Second Level Regulatory Examination: Pension Benefit Funds



Section 14: Second Level Regulatory Examination: Category IV

Section 15: Second Level Regulatory Examination: Long-term Insurance subcategory B1

Section 15A Second Level Regulatory Examination: Long-term Insurance subcategory B1-A

Section 16: Second Level Regulatory Examination: Long-term Insurance subcategory B2";

Section 16A Second Level Regulatory Examination: Long-term Insurance subcategory B2-A".

- (b) by the insertion after section 1 of the following section:  
**"Section 1A: First Level Regulatory Examination: FSPs (sole proprietors) and key individuals in Category V**

"(1) A FSP (who is a sole proprietor) and all key individuals of a Category V FSP must successfully pass a first level regulatory examination based on qualifying criteria to be determined by the Registrar."

- (c) by the substitution of the heading and preamble of section 4 of the following heading and preamble:

**"Section 4: First Level Regulatory Examination: FSPs (sole proprietors) and Representatives**

All FSPs (sole proprietors) and representatives in relation to Categories I, II, IIA, III and IV must complete the first level regulatory examination based on the following qualifying criteria:"

- (d) by the insertion after section 4 of the following section:

**"Section 4A: First Level Regulatory Examination: Representatives in Category I appointed for Short-term Insurance Personal Lines A1, Long-term Insurance subcategory B1-A and/or B2-A only**

All representatives in Category 1 appointed for Short-term Insurance Personal Lines A1, Long-term Insurance subcategory B1-A and/or B2-A only are required to complete the first level regulatory examination, based on the qualifying criteria listed in the Table below.

No	Task	Knowledge Criteria	Skills Criteria
1.	Execute the required actions as a representative, in terms of the FAIS Act.	Describe the role of, responsibilities and requirements applicable to a representative as defined in the FAIS Act.	Apply knowledge of the role of the representative as defined in the FAIS Act.

		Describe the role and function of the key individual as defined in the FAIS Act as it impact on a representative.	
		Explain when an individual is obliged to be registered as a representative in terms of the FAIS Act.	
		Explain the fit and proper requirements applicable to a representative.	
		Distinguish between advice and intermediary services as defined in the FAIS Act.	
		Explain when a representative can act under supervision.	
		Describe the implications if a representative does not meet all the fit and proper requirements by the dates specified, if any.	
2.	Contribute towards maintaining a FSP license.		
		Explain what is meant by “undesirable practices”.	
		Explain the effect of a suspension and/or withdrawal of a licence on a representative.	
		Describe the role and powers of the Ombud.	Comply with any requirements the Ombud may have in the event of an investigation.
3.	Adhere to the specific	Explain the obligations and requirements	Adhere to the

obligations in terms of the relevant Code of Conduct and other subordinate legislation.	when client funds or premiums are received.	requirements of the Code of Conduct when depositing client's monies.
	Explain the importance of disclosures.	Use disclosures that are adequate to enable client to make an informed decision.
	Discuss the required disclosure requirements applicable to a representative when rendering financial services to a client.	Apply the requirements of the General Code of Conduct.
	Explain the requirements regarding disclosure of commission, fees and other monies payable to a representative.	Apply disclosure requirements in terms of financial products.
	Describe the disclosure requirements regarding the FSP, product suppliers, product suppliers acting as FSPs and financial services.	
	Discuss how to ensure transparency and manage conflict of interests.	
	Distinguish between actions regarded as advice and intermediary services in terms of the Act.	
	Describe the concept of ethical conduct in the financial services environment.	Behave ethically when providing financial services within the financial services environment.
	Discuss a representative's role regarding ethical conduct in the financial service environment.	Provide an example of ethical vs. unethical conduct in the financial services environment.
	Explain requirements applicable to complaints handling as detailed in the General Code of Conduct.	Follow the complaints procedures and processes that are in place.
	Explain the steps that must be taken by a representatives when furnishing advice to a client.	
	Explain the provisions of the General Code of Conduct relating to: <ul style="list-style-type: none"> <li>• Holding and custody of client funds and assets</li> <li>• Complaints</li> </ul>	

		<ul style="list-style-type: none"> <li>Advertising</li> </ul>	
5.	Awareness of consequences for representatives that acted fraudulently or that committed any other act that gave rise to debarment.	Discuss the purpose of debarment.	Check that the employment/mandatory agreement with representatives includes the reason for possible debarment.
		Describe the reasons why debarment would be considered.	
		Discuss the process that would be followed in such instances.	
		Explain what recourse a representative may have.	
6.	Align execution of duties and actions with the compliance requirements.	Describe the role and function of a Compliance Officer.	Confirm that where the compliance officer found any instances of non-compliance that this is addressed and rectified.
7.	Comply with record keeping requirements.	Explain the record keeping requirements as imposed by the FAIS Act and subordinate legislation.	Keep records as required by the FAIS Act and follow the correct processes to ensure that the FSP is able to comply with its statutory obligations.
		Explain the requirements regarding the maintenance of records in terms of the FAIS Act.	
		Explain the requirements regarding the maintenance of records as required by other applicable legislation, eg. FICA.	
		Describe the requirements imposed when record keeping is outsourced to a third party.	
		Explain in what format the records should be stored and the requirements relating	

		the retrieval of such stored records.	
		Explain what the security requirements for these records are in terms of confidentiality and access to records.	
8.	Adhere to the requirements of FICA and other relevant anti-money laundering legislation, as it applies to the FSP.	Explain what FICA governs and requires.	
		Describe how the FSP is impacted by FICA.	Comply with the identification, verification, record-keeping and reporting obligations under Act no.38 of 2001.

(e) by the insertion after section 10 of the following section:

**“Section 10A: Regulatory Examination: Short-term Insurance Personal Lines A1**

(1) (a) All representatives in relation to Short-term Insurance Personal Lines A1, are required to complete a first level regulatory examination based on the qualifying criteria in section 4A.

(b) All FSPs who are sole proprietors, representatives and key individuals (contemplated in paragraph 3(5) of the Fit and Proper Requirements or who render financial services) in relation to Short-term Insurance Personal Lines A1, are required to complete a second level regulatory examination based on the qualifying criteria in Section 10A.

(2) The qualifying criteria in Sections 4A and 10A are the criteria against which qualifications will be evaluated for inclusion on the list of recognised qualifications in respect of Short-term Insurance Personal Lines A1.”;

(f) by the insertion after section 15 of the following section:

**“Section 15A: Regulatory Examination: Long-term Insurance subcategory B1-A**

(1) (a) All representatives in relation to Long-term Insurance subcategory B1-A, are required to complete a first level regulatory examination based on the qualifying criteria in section 4A.

(b) All FSPs who are sole proprietors, representatives and key individuals (contemplated in paragraph 3(5) of the Fit and Proper Requirements or who render financial services) in relation to Long-term Insurance subcategory B1-A, are required to complete a second level regulatory examination based on qualifying criteria to be determined by the Registrar.

(3) The qualifying criteria in Sections 4A and 15A are the criteria against which qualifications will be evaluated for inclusion on the list of recognised qualifications in respect of Long-term Insurance subcategory B1-A.”;

(g) by the insertion after section 16 of the following section:

**“Section 16A: Regulatory Examination: Long-term Insurance subcategory B2-a**

(1) (a) All representatives in relation to Long-term Insurance subcategory B2-A, are required to complete a first level regulatory examination based on the qualifying criteria in section 4A.

(b) All FSPs who are sole proprietors, representatives and key individuals (contemplated in paragraph 3(5) of the Fit and Proper Requirements or who render financial services) in relation to Long-term Insurance subcategory B2-A, are required to complete a second level regulatory examination based on qualifying criteria to be determined by the Registrar.

(2) The qualifying criteria in Sections 4A and 16A are the criteria against which qualifications will be evaluated for inclusion on the list of recognised qualifications in respect of Long-term Insurance subcategory B2-A.”.

**Short title and commencement**

6. (1) This Notice is called the Amendment of Fit and Proper Requirements and Accompanying Measures, 2013.
- (2) This Notice comes into operation on the date of publication thereof in the *Gazette*.
- (3) Despite subsection (2),-
  - (a) the amendments to the definition of “administration of assistance policies” and “assistance business FSP” takes effect three months after the date on which this Notice takes effect;
  - (b) the insertion of the definition of “Category V” takes effect 9 months after the date on which this Notice takes effect.