

The successful implementation of regulatory examinations has improved financial service providers' compliance with the FAIS Act.

FINANCIAL ADVISORY AND INTERMEDIARY SERVICES (FAIS)

Registration

The FAIS registration department is responsible for processing new licence applications, profile changes (any amendment to the application detail that must be submitted in terms of licensing conditions of financial services providers (FSPs)), approving compliance officers, updating the central representative register, approving mandates, lapsing licences and regulatory examinations.

The registrar of financial services providers authorises five categories of FSP:

- Category I – Financial advisers and intermediaries who render financial services without discretion
- Category II (also referred to as discretionary FSPs) – Provide intermediary services using their discretion on the choice of financial product, but without bulking (segregated client accounts under one umbrella account). Category IIA FSPs are hedge fund managers
- Category III – Investment administrators that specialise mainly in bulking collective investments on behalf of clients (linked investment services providers)
- Category IV – Assistance business administrators that provide intermediary services in administering assistance policies on behalf of the insurer, under a written mandate with the insurer.

Category I	Category II	Category IIA	Category III	Category IV
10 152	613	113	27	87

During the period, 514 new licence applications were approved. Most applicants were authorised to render category I business and 53 for category II and IIA business. Sixty-eight applications were declined as applicants failed to meet the fit and proper requirements for FSPs and 661 licences were voluntarily lapsed. The registrar received 19 476 profile change applications during the period and completed 94% of these (18 396).

For the period category II, IIA and III FSPs had total assets under management of R6.3 billion.

The department had a successful year in collecting levies. This reflects collaboration with the finance department to put processes in place to ensure the profiles of FSPs were amended accordingly before the levy run.

The department embarked on nationwide training initiatives in the funeral insurance industry. The purpose was to increase awareness of legislation governing the activities of funeral parlours operating in the insurance industry.

Level 1 regulatory examinations continued. We have temporarily suspended development of the bespoke examination until there is more clarity on the impact of proposed microinsurance legislation and other regulatory developments.

We continued to collaborate with the insurance sector education and training authority (Inseta) on workshops for individuals having difficulty in successfully completing the level 1 regulatory examinations.

The level 2 regulatory examinations were postponed to allow the FSB to review qualifying criteria and investigate alternative delivery models. In this process, the FSB is also considering continuing professional development or CPD requirements and any impact from a change to the level 2 examination model.

There was no significant change in the number of qualification applications submitted for recognition, and an updated list of recognised qualifications was published in December 2013.

Compliance officers

Any authorised FSP with more than one key individual or one or more representatives must appoint a compliance officer to monitor compliance with the FAIS Act. This compliance officer must meet minimum prescribed requirements and be approved by the registrar. There are two types of compliance arrangements, ie compliance officers who can only monitor compliance for specific FSPs as part of their contract of employment; and compliance practices that offer these services to any FSP. During the period 10 compliance practices, 52 compliance officers and 33 compliance officers under supervision were approved.

The number of approved compliance practices and compliance officers at 31 March 2014 is shown below:

Compliance practices	Compliance officers	Compliance officers approved under supervision*
157	3 768	47

* Compliance services provided to one or more categories of providers by a supervisee who does not meet the required experience and regulatory examination requirements. These services are rendered under the guidance and instruction of a supervisor in terms of an exemption by the registrar under section 44 of the FAIS Act.

There was a slight increase in the number of approved compliance officers during the period, mainly due to the industry's cost-cutting measures.

We have noted a significant increase in FSPs delegating compliance services to employees who only focus on compliance monitoring without applying judgement. These employees do not require approval as compliance officers in terms of board notice 127 2010.

Financial advisory and intermediary services (FAIS)

Training workshops

Joint workshops were held with different industry associations and funeral parlours. The FSB also targeted industry participants who operate without authorisation to educate them on the importance of getting their businesses authorised in terms of the FAIS Act. This initiative has opened lines of communication between the registrar and the funeral insurance industry.

A dedicated team of training facilitators was appointed for this purpose. The mandate is to provide customised training to funeral parlours operating in the insurance industry, and 30 workshops were conducted during the period.

Regulatory examinations

The revised fit and proper criteria, published in October 2008, require FSPs who are sole proprietors, key individuals and representatives to complete regulatory examinations.

The purpose of the level 1 regulatory examinations is to ensure that all participants fully understand their regulatory roles, and their related accountability.

There are currently five level 1 examinations, summarised below:

RE number	Regulatory examination	Description
RE1/RE51	KI level 1: category I, II, IIA, III and IV (general)	All sole proprietors and key individuals responsible for managing and overseeing a business rendering financial services for FSPs in category I, II, IIA, III and IV are required to write this examination. RE1 and RE51 refer to the English and Afrikaans versions of this examination respectively.
RE2	KI level 1: category 1.1 and 1.19	This examination applies only to sole proprietors and key individuals authorised or approved to render advice and intermediary services on assistance business policies and friendly society benefits. On hold due to developments in microinsurance legislation.
RE3	KI level 1: category II and IIA	All sole proprietors and key individuals responsible for managing and overseeing the business of rendering financial services for FSPs in category II (discretionary FSPs) and IIA (hedge fund FSPs) are required to write this examination in addition to RE1.
RE4	KI level 1: category III	This is a specific examination that only applies to sole proprietors and key individuals in category III (administrative FSPs) in addition to RE1.
RE5/RE55	Representatives and sole proprietors	All sole proprietors and representatives employed or mandated by an FSP which render financial services to a client are required to write this examination. Representatives in category I who only deal with assistance business policies and friendly society benefits do not have to write this examination. RE5/RE55 refers to the English and Afrikaans versions respectively.

Regulatory examinations statistics at 31 March 2014

RE1/RE51	Total	%
<i>Breakdown</i>		
Number of sole proprietors, key individual and key individuals of juristic representatives required to write RE1/RE51 by 30 June 2012	15 048	N/A
Number of sole proprietors	2 018	13
Number of key individuals	11 439	76
Key individuals of juristic representatives	1 591	11
<i>Compliance</i>		
Number who attempted	13 313	88
Number who passed	12 531	94
Number required to rewrite	782	6
<i>Breakdown of compliance per FSP</i>		
Number of FSPs with key individuals and FSPs who are sole proprietors required to write RE1/RE51 by 30 June 2012	9 882	N/A
Number of FSPs where no attempt was made by key individual to write exam	212	2
Number of sole proprietors who made no attempt to write exam	36	0.4

Financial advisory and intermediary services (FAIS)

RE3	Total	%
<i>Breakdown</i>		
Number of sole proprietors, key individuals and key individuals of juristic representatives required to write RE3 by 30 September 2012	1 213	N/A
Number of sole proprietors	6	0.5
Number of key individuals	1 132	93
Key individuals of juristic representatives	75	6
<i>Compliance</i>		
Number who attempted	1 058	87
Number who passed	1 041	98
Number required to rewrite	17	2
<i>Breakdown of compliance per FSP</i>		
Number of FSPs with key individuals and FSPs who are sole proprietors required to write RE3 by 30 September 2012	615	N/A
Number of FSPs where no attempt was made by key individual to write exam	24	4
Number of sole proprietors who made no attempt to write exam	1	0.2
RE4		
<i>Breakdown</i>		
Number of key individuals required to write RE4 by 30 September 2012	61	N/A
<i>Compliance</i>		
Number who attempted	56	100
Number who passed	54	96
Number required to rewrite	2	4
<i>Breakdown of compliance per FSP</i>		
Number of FSPs with key individuals required to write RE4 by 30 September 2012	27	N/A
Number of FSPs where no attempt was made by key individual to write exam	5	4
RE5/RE55		
<i>Breakdown</i>		
Number of sole proprietors and representatives required to write RE5/RE55 by 30 June 2012	79 235	N/A
<i>Compliance</i>		
Number who attempted	72 017	91
Number who passed	66 970	93
Number required to rewrite	5 047	7
<i>Breakdown of compliance per FSP</i>		
Number of FSPs with representatives affected and FSPs who are sole proprietors required to write RE5/RE55 by 30 June 2012	9 792	N/A
Number of FSPs where no attempt was made by affected representatives to write exam	200	2
Number of sole proprietors who made no attempt to write exam	39	0.4

Financial advisory and intermediary services (FAIS)

In contrast to resistance and scepticism during the roll-out stages of regulatory examinations, the industry is now willing to meet these requirements with a corresponding improvement in the compliance culture, and reduction in suspended and withdrawn licences. The improvement in compliance is a clear indication that the objective of regulatory examinations is being achieved.

Candidates having difficulties in passing the examinations are being assisted. Workshops were advertised nationally by Inseta. During the period, 2 017 registrations were received for workshops starting from April 2014.

Exemptions to regulatory examinations

The registrar has granted temporary exemption from having to write the level 1 regulatory examination to the following persons:

- A representative who is employed or mandated by an authorised FSP to render financial services for certain defined financial products as discussed in the exemption notice.
- 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 the exemption notice.
- 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 Long-term Insurance Act 1998 and regulations under the Short-term Insurance Act 1998.

This exemption addresses areas of concern being experienced by these persons. Additional customised examinations will be developed to make provision for these affected persons. The exemption was published in board notice 102 2012 and amended by board notice 164 2012.

Regulatory examination exemption statistics as at 31 March 2014

Exemptions applied for	11 835
Exemptions granted	11 808
Exemptions declined	6
Exemptions pending	21

Developments in regulatory examinations Combined RE1 and RE5 examination

We investigated whether the level 1 regulatory examination for key individuals and representatives could be combined into one examination. The initial investigation is complete and the impact and consequences are now being considered.

Bespoke examination

The bespoke examination relates specifically to representatives who render financial services for certain defined financial products, generally referred to as "simple products". The registrar temporarily suspended the development of this examination until further clarity can be obtained on the impact of proposed microinsurance legislation and other regulatory developments.

The exemption granted to representatives rendering financial services on certain defined financial products therefore remains in force.

Financial Services Laws General Amendment Act No 45, 2013 This act came into effect on 28 February 2014, amending the FAIS Act and other laws administered by the FSB. As a result, content of the relevant level 1 regulatory examinations was updated.

Regulatory examination deadline for new entrants

Representatives first appointed in the industry from January 2011 were given up to 31 December of the second year from date of first appointment to pass the level 1 regulatory examination.

This time frame was amended in December 2013 (board notice 260 2013) after submissions from FSPs. The new deadline from 1 January 2014 is 30 June after the expiry of 24 months from date of first appointment.

Recognised qualifications

Qualifications satisfying specific criteria are now published in a list of recognised qualifications. This is an important step in the evolution of fit and proper requirements for the industry – one that will ultimately play an important role in promoting professional development of the financial services industry.

Qualifying criteria were developed in consultation with the financial services industry, and stipulate the minimum knowledge and skills required of an individual dealing with any specific financial product and fulfilling a regulatory role (such as a key individual or a representative).

The type of recognition may be affected by a review of product-specific qualifying criteria. The extent of any impact cannot be established until the review has been completed. Please refer to the next section on level 2 regulatory examinations for more information.

The number of qualification approved/declined at 31 March 2014 is shown below:

Month	Total	Approved	Declined
June 2013	16	16	0
August 2013	7	7	0
November 2013	29	27	2
20 March 2014	21	21	0
	73		

Since inception of the qualification recognition process, 948 qualifications have been approved for recognition.

Qualification exemptions statistics as at 31 March 2014

Exemptions applied for	320
Exemptions granted	315
Exemptions declined	0
Exemptions pending	5

Financial advisory and intermediary services (FAIS)

Compliance

The compliance department's goal is to ensure all financial services providers are held to a high degree of compliance with the Financial Advisory and Intermediary Services Act 37 2002 (the FAIS Act). It is also committed to instil the goals of the FSB Treating Customers Fairly (TCF) initiative, to ensure clients are treated fairly within the ambit of our responsibilities.

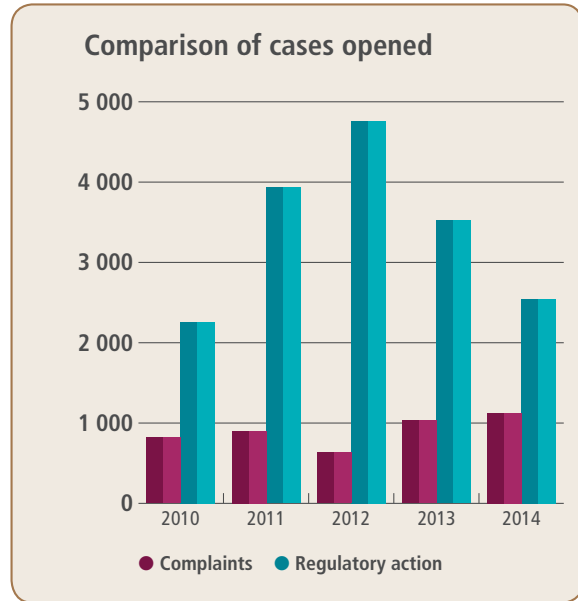
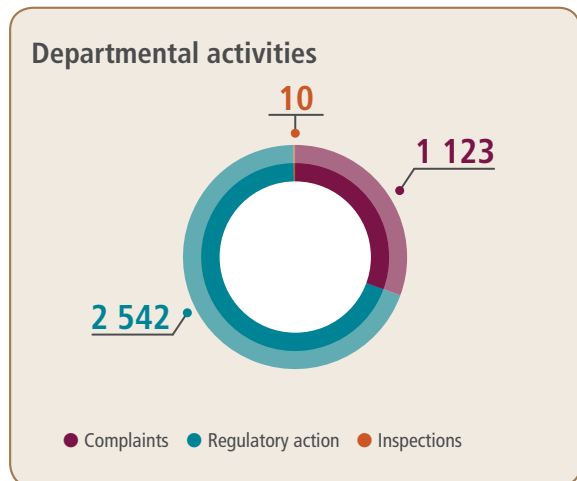
To achieve these goals, the department assesses complaints on financial services and investigates providers (authorised and unauthorised), which could lead to regulatory action. Its responsibilities therefore include:

- Suspending and withdrawing authorisation, as well as lifting suspension of authorisation
- Referral to the relevant authorities for possible prosecution
- Inspections: monitoring inspection process
- Dealing with requests for information from other regulators
- Curatorship.

The overview of departmental activities shown below indicates the number of cases opened and finalised. As matters do not always result in regulatory action, case numbers and the number of actions taken or issued differ. Actions taken or issued are illustrated later.

	Cases opened		Cases finalised*	
	2013	2014	2013	2014
Complaints	1 027	1 123	717	1 110
Regulatory action	3 521	2 542	3 009	1 951
Inspections	14	10	9	6
Curatorships	2	0	0	0

*Includes cases opened in prior reporting period.

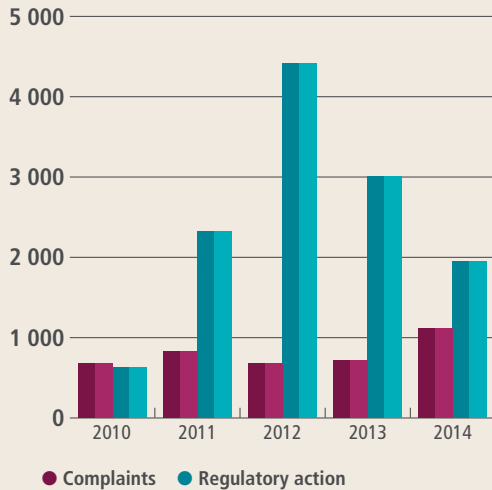


The department also manages walk-in financial services providers with queries on lifting suspensions, responses to notices and general compliance issues. It recorded 136 walk-in cases during the period, down from 195 in the prior year. The reduction can be attributed to the implementation of regulatory examinations as more providers become conversant with their duties under the FAIS Act.

In 2010, the department made a concerted drive to address instances of non-compliance among providers, mainly paying levies and submitting compliance reports and financial statements. The resulting sharp increase in regulatory action cases peaked in 2012, dropping 47% by 2014. This decline also reflects the successful implementation of regulatory examinations which improved providers' compliance with the FAIS Act.

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Comparison of closed cases



The difference between opened and closed cases reflects the number of licensees that avoided regulatory action by complying after notices of intention to take action were issued. The three-year trend since implementing regulatory examinations shows that 7%, 14% and 23% of providers (for 2012, 2013 and 2014 respectively) avoided regulatory action after notices were issued.

Complaints

An important aspect of this department's work is screening and handling complaints and enquiries, primarily non-compliance with the FAIS Act. These alert the registrar to areas of public concern and identify which areas of the financial services industry pose the greatest conduct risk.

One of the most significant issues in terms of number of consumers affected and amount involved relates to companies purporting to provide training to the public on stock-market trading. Providing training is not a regulated activity and these entities do not need to be licensed. However, our investigations showed that these entities not only offered training but took investment from clients and offered huge returns supposedly earned from trading. The modus operandi of these entities had been to pay earlier investors out of new investors' income – a typical pyramid scheme.

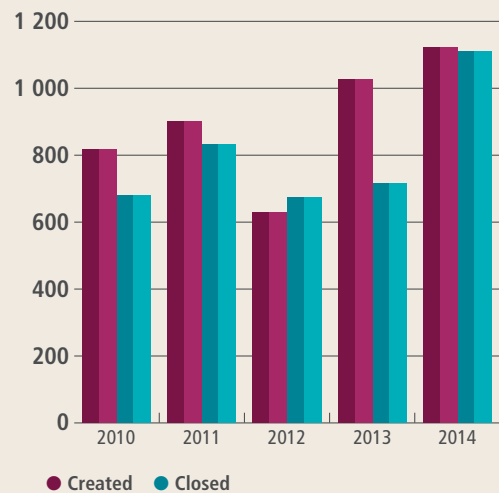
Investigating these schemes is challenging because investors are mostly unwilling to cooperate – they see no wrong in such schemes and have often been led to believe by the operators that the regulator had unduly intervened and stopped any payment of returns. The returns offered by these operators are initially large before they dry up completely – this is done to attract new investors.

Complaints have increased in recent years, reflecting both stakeholder awareness of the regulator's functions and renewed efforts by the department to ensure non-compliance is proactively identified and addressed.

In FY14, complaints received rose 9% but resolved cases rose 55%. This significant improvement in efficiencies reflects a

concerted drive to monitor complaint handling with resources previously allocated to regulatory action cases. The number of finalised cases as a percentage of received cases was 99%, but this includes cases received prior to the reporting period.

Complaints



Regulatory action

Suspensions and withdrawals

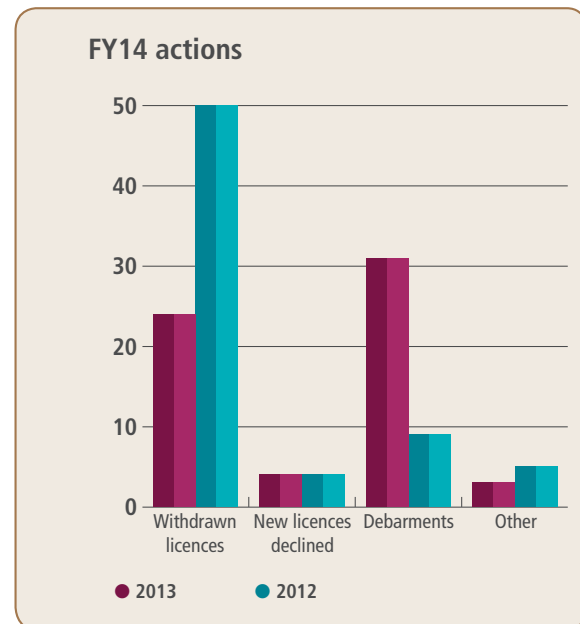
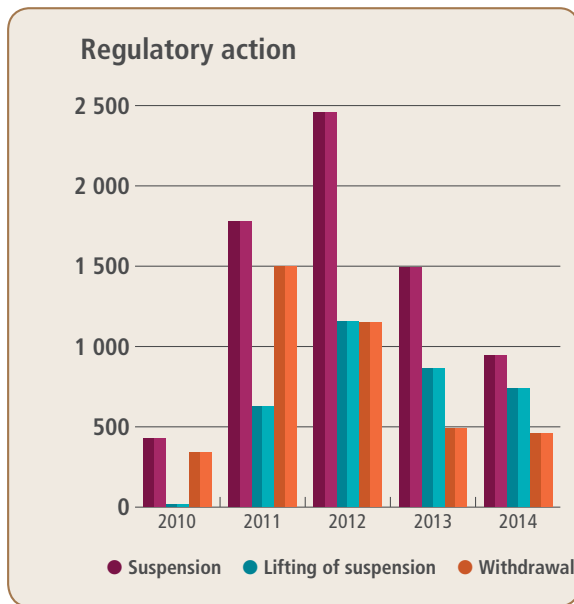
The registrar is empowered to suspend or withdraw licences if the licensee:

- No longer meets the fit-and-proper requirements for authorised FSPs
- Did not fully disclose all relevant information to the registrar when applying for a licence or furnished false or misleading information
- Has failed to comply with any other provision of the FAIS act
- Fails to pay the annual levy in terms of section 15A of the Financial Services Board Act 97 1990) (FSB Act).

A licence is usually suspended for non-material contraventions that can be rectified by the licensee during the period of suspension (usually 90 days). A suspension can be lifted at any time during this period if conditions are met. A licence is withdrawn if conditions are not met or if there are serious instances of non-compliance.

During the year, the registrar suspended 945 licences, compared to 1 489 in the prior year. This 36.5% decrease reflects the impact of regulatory examinations on general compliance by providers. An acceptable number of key individuals who oversee financial services providers' activities have now passed the regulatory examination and are proficient with duties imposed by the FAIS act. Some 740 suspensions were lifted after providers complied with conditions imposed. In FY14, 458 licences were withdrawn – down 6%.

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**Curatorships**

No provider was placed under curatorship during the period. Six remained under curatorship from the prior year.

FAIS ombud determinations

The office of the ombud for financial services providers was established by the FAIS Act to consider and resolve complaints in a procedurally fair, informal, economical and expeditious manner. Where a complaint is not settled between the provider and complainant, the ombud makes a final determination, which may lead to the registrar taking the necessary regulatory action. This can include suspension, withdrawal of a licence, debarment of a person or licensee, among others. During the year, the department dealt with 22 determinations.

Inspections

The registrar appoints inspectors under section 2 of the Inspection of Financial Institutions Act 1998 to inspect the affairs of any entity suspected of materially contravening the FAIS Act in a way that has prejudiced or may prejudice consumers. An inspection report assists in determining the appropriate regulatory action and relevant agency to which the matter can be referred for further investigation. During the reporting period, the compliance department requested inspections into 10 entities (authorised and unauthorised).

Appeals

Any person who feels aggrieved and is affected by the registrar's decision under the FAIS Act may appeal to the board of appeal established by the FSB Act. In FY14, 62 appeals were lodged against decisions of the registrar. Of these, 41 were finalised and 21 are ongoing. Of those finalised, 28 were reversed, two were dismissed by the appeal board and 11 were withdrawn after receiving the registrar's reasons.

Enforcement

The enforcement department is mandated to take enforcement action and may refer a contravention of the FAIS Act to the enforcement committee if the registrar believes a person is contravening a legal provision for which he is not authorised to impose an administrative sanction. It is also responsible for debarring representatives in terms of the FAIS Act, as well as reappointment and reinstatement.

Debarments

The department attended to more applications for debarring representatives under section 14A of the FAIS Act, which provides for debarment by the registrar as opposed to the authorised provider itself under section 14(1) of the act (see below). The registrar engaged with industry to assess reasons for the high number of requests under circumstances when the provider could have actioned the debarment itself. The department also processed a significant number of notices of debarring representatives by providers.

Debarments of representatives by FSPs under section 14(1) of the FAIS Act

Financial services providers (FSPs) must ensure that, at all material times, their appointed representatives meet the fit-and-proper requirements of section 8 of the FAIS Act. They must also prevent any non-compliant representative from providing financial services on their behalf by debarring and removing this person from the representative register and informing the registrar, who lists the debarred representative on a central register. A debarred representative can be reappointed under guidelines in board notice 82 of 2003: determination of requirements of reappointment of debarred representatives.

The registrar was cited in four court applications to challenge the validity of debarment by FSPs.

1 DH Walker v executive officer of the FSB and SALT Employee Benefits Proprietary Limited

In November 2013 the FSB received an urgent application relating to the applicant's debarment under section 14(1) of the FAIS Act by the second respondent (SALT Employee

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Benefits Proprietary Limited). Mr Walker contends that the debarment by the provider is a contractual arrangement between the parties and that the registrar must not publish it to the outside world as it effectively prevents a prospective employer from engaging his services. Mr Walker argues that the decision of the registrar to publish his debarment status constitutes an administrative act and, as such, he is entitled to a hearing under the Promotion of Administrative Justice Act (PAJA).

The FSB gave notice of its intention to oppose the application. As an interim measure, it proposed a consent order to the applicant in terms of which his name be removed from the list of debarred representatives. Mr Walker accepted the FSB's proposed consent order.

2 *Mr Khanyile v Old Mutual and FSB*

Mr Khanyile challenged his debarment by Old Mutual in the Labour Court on the basis of a settlement agreement concluded with Old Mutual at the CCMA where the findings at internal disciplinary proceedings were set aside and, as such, he should not be debarred.

This debarment was based on various acts of alleged misconduct, including Mr Khanyile's irregular and unlawful procurement of a qualification and collusion with one or more Financial Planning Institute employees to manipulate the FPI examination system.

The action is being opposed by Old Mutual and the registrar filed an affidavit to clarify that the relief sought against the registrar was not competent and ought not to be granted by the court. The settlement agreement was an issue between Khanyile and Old Mutual in which the registrar was not involved.

3 *Anne Louter v the Registrar of Financial Service Providers and Cadiant*

In January 2014, ENS on behalf of Louter complained to the registrar that Cadiant had unlawfully debarred her under section 14(1) of the FAIS Act. This resulted in her being unable to seek alternative employment and was done without complying with the principles of natural justice. ENS argued that Ms Louter's name should be removed from the list of debarred representatives and the conduct of Cadiant be investigated.

The registrar replied by clarifying that since the debarment of a representative by an FSP is done by exercising the latter's statutory power, the registrar has no authority to intervene in that process. As such, the remedies available to an aggrieved representative lie elsewhere. The matter is pending resolution and is likely to end in a court of law.

4 *Z Nopulalula v Old Mutual and FSB*

Old Mutual debarred Mr Nopulalula under section 14(1) of the FAIS Act for failing to satisfy honesty and integrity requirements. Mr Nopulalula has joined the FSB in the court application seeking to set aside this debarment, arguing that the settlement reached with Old Mutual provided that there should be no debarment and he seeks the court order that his debarment be lifted.

The action is being opposed by Old Mutual. The registrar has filed an affidavit to clarify that the relief sought against it was not competent and ought not to be granted by the court. The settlement agreement was an issue between Nopulalula and Old Mutual in which the registrar was not involved.

The registrar's position is that the legislative framework underpinning the debarment of representatives by FSPs precludes intervention and interference at the instance of the aggrieved representative.

However, in response to complaints of abuse of the regulatory tool by FSPs, the registrar issued a guidance note on 5 November 2013. The registrar clarified that a debarment under section 14(1) is a regulatory instrument intended to rid the industry of incompetent and dishonest representatives. Debarment should not be used to satisfy a provider's contractual or other grievances against a representative, unrelated to fitness or competency. Such use would be an unfair revenge or retaliation on the representative. Providers were cautioned against abusing their powers under this section of the act.

Debarments imposed by the registrar in terms of section 14A of the FAIS Act

The registrar is empowered to debar any person, including a representative, for a specified period if satisfied that the person does not meet the requirements of section 8 of the FAIS Act, or has contravened and/or failed to comply with this act.

The department spent considerable time attending to requests to debar representatives under this section of the act. The singular difficulty with section 14A cases is that representatives frustrate the process by deliberately ignoring postal notifications to collect the notice. The registrar cannot debar representatives who have not filed their responses, as this constitutes unfair administrative action. As a result, a number of cases remained open, creating a backlog. After assessing the efficiency of the process, the registrar made changes to achieve optimal results. All old cases were assessed in terms of steps taken to make contact with these representatives; if found that adequate steps were taken, but without success, these cases were listed in the registrar's internal register and closed.

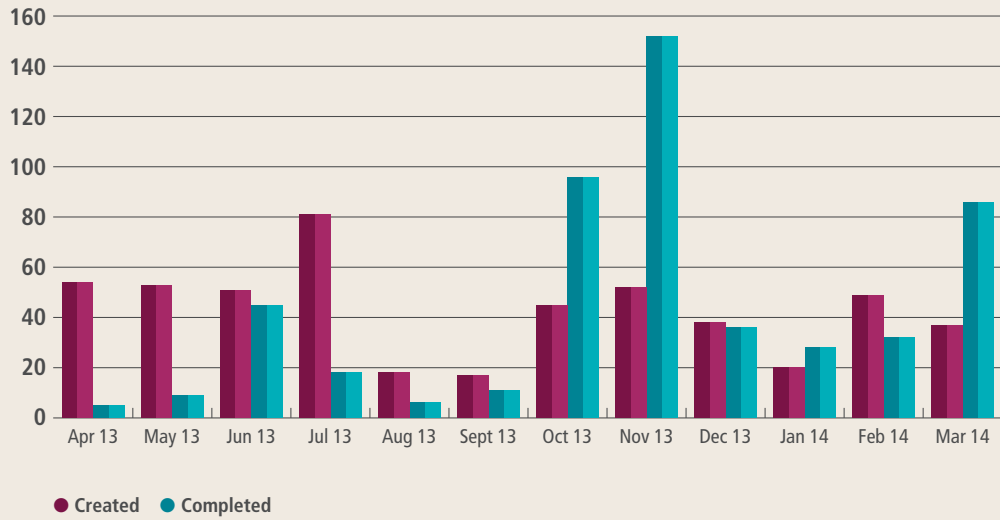
During the review period, 882 names were placed on the register of debarred persons under section 14(1) of the FAIS Act, compared to 895 in the prior period. This slight reduction could be due to compliance with due process when effecting debarments by FSPs and better compliance with regulatory examination requirements by representatives.

During the year, 231 people were debarred by the registrar under section 14A of the FAIS Act, compared to 90 in the prior period. This 156% increase reflects improved use of resources and enhanced processes to deal with section 14A recommendations by the registrar.

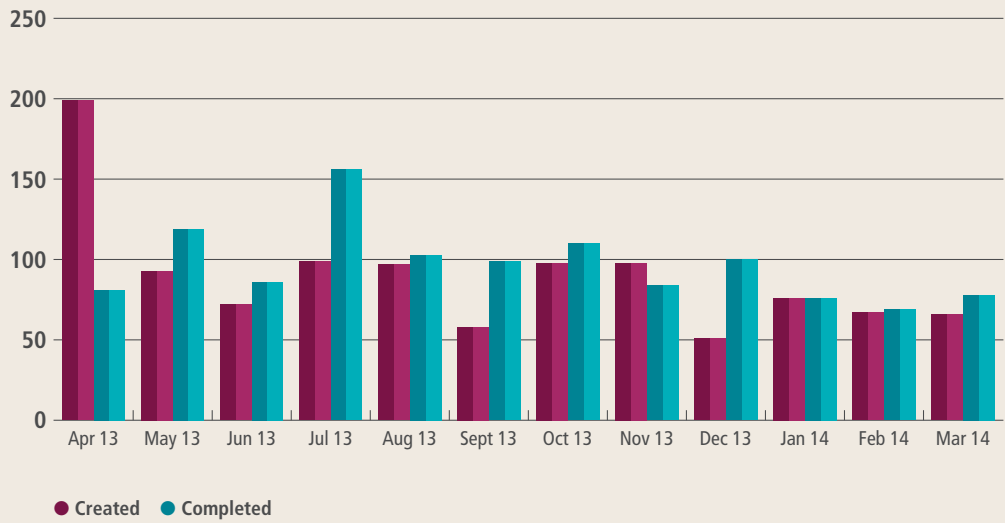
Some 182 debarred people were reappointed during the year, up from 147 in the previous period. This 23% rise reflects the increasing number of people who have passed regulatory examinations and want to re-enter the industry.

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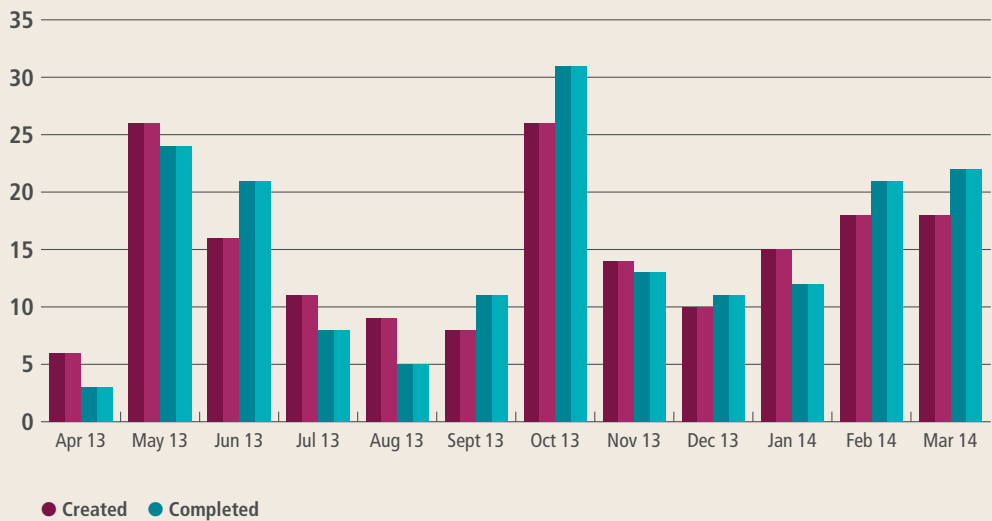
Section 14A debarments



Section 14(1) debarments



Reinstatements



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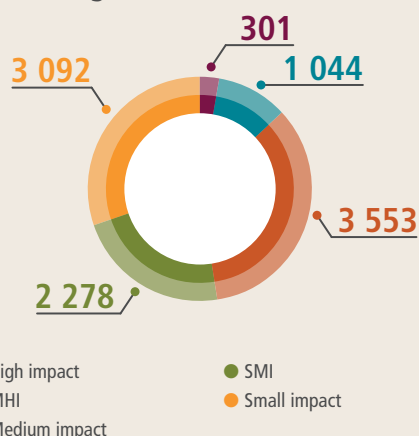
Supervision

This department supervises FSPs using a risk-based approach, which is continually reviewed and enhanced given the changing regulatory landscape, international trends and results of on-site visits. This enhancement entails revising the risk-based framework, risk elements and implementing an annual review programme of FSPs' profiles to sharpen the focus on areas where non-compliance was concentrated and equip supervisors to be more proactive.

Categorising FSPs

Under the risk-based supervision approach, FSPs are categorised. This enables the department to focus on monitoring (off-site) those with the greatest potential impact on consumers (high, medium-high and medium impact).

	2012	2013	2014
High impact	262	283	301
Medium-high impact (MHI)	0	973	1 044
Medium impact	2 331	3 411	3 553
Small-medium impact (SMI)	1 358	2 268	2 278
Small FSPs	6 839	3 362	3 092
Total	10 790	10 297	10 268

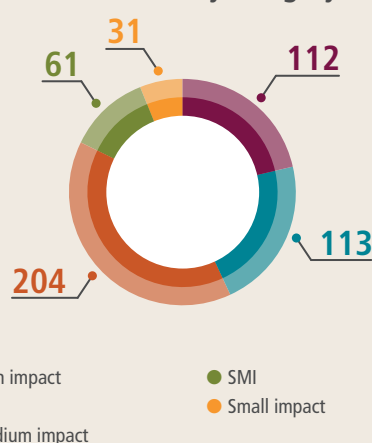
FSP risk categories at 31 March 2014**Supervisory developments****Off-site monitoring activities**

All FSPs must submit annual financial statements and compliance reports. In FY14, we continued to institute regulatory action against FSPs that failed to submit these reports. To address late submissions, we communicate with FSPs monthly to remind them of due dates to submit their annual financial statements and compliance reports.

In terms of the FAIS Act, compliance officers must report material breaches (irregularities) to the registrar. In FY14, 60 irregularity reports were received, investigated and 44 finalised. The balance was still being investigated at year end.

On-site monitoring activities**Risk assessment visits**

The department's major focus remains risk assessment visits, with 521 visits conducted in the review period. Management meetings were held with 28 FSPs to discuss changes and developments in their businesses. The diagram below depicts the number of visits paid to FSPs in line with their risk categorisations.

Risk assessment visits by category in FY14

We consider overall FSP compliance as satisfactory, and the noticeable improvement in compliance levels from the prior period is encouraging. The level of compliance understanding by key individuals and representatives continues to increase rapidly, primarily due to the knowledge gained preparing for regulatory examinations. Areas of concern identified during the risk assessment visits are shown below:

Description	2013	2014
Sections 4 and 5 of general code of conduct: disclosure documentation is non-compliant	148	82
Licence conditions: business information is not updated within 15 days of change	112	112
Good business practices are not followed	79	53
Non-compliance with part VIII of the determination of fit and proper requirements – no business continuity plan in place	71	64
Sections 11 and 12 of general code of conduct: inadequate risk management plan	67	44
Section 7 of general code of conduct: inadequate disclosures to client on product and services	61	32
Non-compliance with part IX of the determination of fit and proper requirements: FSP does not comply with financial soundness requirements	57	39
No register/records kept of training completed by key individuals and representatives	56	27

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Description	2013	2014
Section 3A of general code of conduct: FSP has not adopted, maintained and implemented a conflict of interest management policy	43	28
Section 9(1) of general code of conduct: FSP does not keep a copy of the record of advice	36	21
Sections 8 and 9 of general code of conduct: FSP does not have required procedures to perform analysis of client's situation and objectives before advice is furnished	35	15
Sections 11 and 12 of general code of conduct: FSP does not have a documented risk management plan	33	18
Section 13(1)(b)(i): representatives have not been given confirmation of their status (no representative appointment letter)/ letter is non-compliant	33	27
Corporate governance measures are inadequate	33	24
Section 16-19 of general code of conduct: FSP does not have a complaints handling policy and resolutions system in place	30	5

There is a marked improvement in 14 of the 15 highest-ranking issues raised in feedback to FSPs after our on-site reviews. We were particularly pleased with the improved disclosures made to clients. The one area showing no improvement is adhering to licensing conditions – FSPs are not diligent about updating their details with the registrar.

The supervision department and Treating Customers Fairly (TCF) unit collaborated on incorporating TCF goals into FAIS supervisory framework processes. As the financial services industry regulated under the FAIS Act is broad, we followed a two-phased approach:

- Specific guidelines were developed for small FSPs (independent financial advisers) and asset managers (category II FSPs)
- We incorporated a section on TCF into our on-site risk reviews.

The guidelines were developed in conjunction with industry. Representatives of these specific groups were invited to workshops at the FSB, to clarify the level of comprehension and challenges faced by industry in evaluating adherence to TCF goals. Although these guidelines were developed for specific FSP types, they can be used by any provider, as they offer additional aspects to consider when evaluating their status in implementing TCF goals.

The FAIS on-site reviews now include reviewing an FSP's status in implementing TCF. FSPs are queried on their understanding of this concept, how they have incorporated it into their business activities, and requested to provide evidence of related actions.

Compliance practice on-site visits

During the period, the department reviewed 15 independent compliance practices. Although most practices provided acceptable compliance services to their clients, some areas for improvement were identified and addressed by the respective practices.

The main issue resulting from these reviews is the frequency and manner of monitoring conducted by compliance officers for FSPs with discretionary licences, and for FSPs with branches and representatives in multiple locations. This matter will receive attention in the new financial year. In FY13, a risk-based framework to record information on compliance practices was developed and introduced in the review period. This enables supervisors to proactively focus on specific concerns relating to external compliance officers.

Relative Value Arbitrage Fund (RVAF)

In the 2013 annual report, we noted that the registrar ordered an inspection into the affairs of the late Mr Herman Pretorius, RVAF and Polus Capital Proprietary Limited. During the inspection, the RVAF scheme collapsed and we established that 16 authorised FSPs had been involved in soliciting clients on behalf of Mr Pretorius for the RVAF scheme. On-site visits to probe their role and conduct in helping clients place investments in RVAF and other private investment schemes offered by the late Mr Pretorius have been completed, with 12 cases closed and four pending.

Action	Number of FSPs	Description
No action	7	FSPs either facilitated investments in RVAF only or helped clients withdraw funds before it collapsed
Debar key individuals and record-list FSPs	5	FSPs facilitated investments in both RVAF and other private schemes involving unlisted shares, but lapsed licences prior to concluding the investigation
Enforcement action	4	FSPs were involved in both RVAF and other private schemes involving unlisted shares and contravened certain provisions of the general code of conduct and/or FAIS Act

Exemptions

During the period, 26 applications were received for exemption from financial soundness requirements.

Exemption applications at 31 March 2014

Status	Number
Exemptions granted	10
Exemptions declined	2
Applications withdrawn	1
Pending applications	13
Total	26

Financial advisory and intermediary services (FAIS)

Communicating with FSPs

The FAIS division implemented a comprehensive communication strategy during the review period. Written communications included bi-annual newsletters focused on topical issues. Ten information circulars focused on issues such as representative registers, regulatory examinations, qualification deadlines and compliance reports.

A total of 21 workshops (including satellite workshops) were held. Satellite workshops were broadcast to 17 venues nationally, across all provinces. Joint workshops were conducted with the Financial Intelligence Centre, TCF unit and insurance division, with participation from various industry bodies and FSPs.

The annual conference in November 2013 focused on the risk of cybercrime, technology and fraud. Industry bodies and associations involved with the workshops and conference include the South African Centre for Information Security (SACFIS), the South African Banking Risk Information Centre (SABRIC), the insurance sector training and education authority (INSETA) and various FSPs.

Specialisation areas

As part of the department's risk-based approach, supervisory staff members are involved in specialisation areas. Each focus group is tasked with a specific area of specialisation to provide guidance to independent financial advisers, investment administrators, pension funds, unconventional FSPs, insurance, banking, medical schemes and compliance officers. During the year, focus groups also organised workshops, compiled guides and published newsletters.

Financial Intelligence Centre Act 2001 (FIC Act)

The FAIS supervision department oversees implementation of anti-money laundering controls by FSPs. This includes inspections under section 45 of the FIC Act of FSPs designated as accountable institutions. During the year, 492 inspections

were conducted and accountable institutions questioned on a number of areas to ensure:

- Registration with the FIC
- Appointment of compliance officers to oversee compliance with the FIC Act
- Developing internal rules and other anti-money laundering policies and procedures
- Training relevant employees
- Adopting a risk-based approach to managing potential money-laundering risks
- Reporting suspicious transactions to the FIC.

The registrar continued to interact with regulated accountable institutions by providing information, guidance and assistance through conferences and workshops. Joint workshops with the FIC highlighted concerns on overall compliance with the act. The registrar also supports National Treasury and the FIC in developing processes to ensure our anti-money laundering legislative framework is aligned to international standards. The registrar is developing relationships with other authorities and supervisory bodies to encourage cooperation and greater information sharing. During the year, the registrar participated in all FICA enforcement forums hosted by the FIC.

Nominee companies

A nominee company that wishes to hold assets on behalf of financial institutions or their clients must be approved under the requirements of board notice 63 2007. The notice also prescribes continuing obligations for nominees to operate in South Africa. The approval of nominee companies was delegated to the deputy registrar of FSPs. Five nominee companies were approved during the review period.

The board notice is being amended and a second draft was issued for consultation in June 2013. The draft amendment is still under review by the nominee steering committee.