

FSCA COMMUNICATION 2 OF 2019 (FAIS)

Continuous Professional Development (CPD)

5 June 2019

1. PURPOSE

The purpose of this Communication is to provide guidance to FSPs, key individuals and representatives regarding compliance with the continuous professional development (“CPD”) requirements set out in Chapter 4 of the Determination of Fit and Proper Requirements for Financial Services Providers, 2017 (Board Notice 194 of 2017) (“Fit and Proper Requirements”).

2. BACKGROUND AND INTRODUCTION

2.1. One of the outcomes of the Fit and Proper Requirements is to ensure that persons who render financial services have adequate, appropriate and relevant skills, knowledge and expertise in respect of the financial service, financial products and functions that they perform.

2.2. The Financial Sector Conduct Authority (“Authority”) introduced CPD requirements in order to ensure that FSPs, key individuals and representatives maintain their competence and that their knowledge, skills and abilities remain up to date in a changing and dynamic environment. As a consequence, customers have access to appropriately, knowledgeable and skilled financial services providers.

2.3. The CPD requirements were introduced in Board Notice 106 of 2008, but came into effect on 1 June 2018. A CPD cycle runs over a period of 12 months commencing 1 June of every year to 31 May of the following year.

- 2.4. In addition, section 12 of the Fit and Proper Requirements sets overarching principle-based competence requirements with which FSPs, key individuals and representatives must comply with at all times. This means that there must be on-going processes, procedures and mechanisms in place to evaluate and monitor the competence of FSPs, key individuals and representatives. Section 13 of the Fit and Proper Requirements describes the responsibilities of FSPs in respect of adequate policies, internal systems, control and monitoring mechanisms that must be in place to continuously evaluate and review compliance with section 12, and the keeping of records to demonstrate compliance with section 12 and section 13.
- 2.5. In addition, section 13(5) of the Fit and Proper Requirements provides that a FSP must establish, maintain and update on a regular basis a competence register in which all qualifications, successfully completed regulatory examinations, product specific training, class of business training and CPD of the FSP, its key individuals and representatives are recorded.
- 2.6. The Authority has not yet prescribed the form, manner and intervals in which FSPs must submit the competence register to the FSCA.¹ This means that FSPs must continue to maintain these registers, and will be required to submit the competence register once this information is requested by the FSCA. Once prescribed, there will be support processes in place in order to provide FSPs with assistance when submitting the competence register information for the first time.

Important: *It will be extremely difficult to comply with the general competence requirements without having proper policies, procedures, processes, systems and record keeping mechanisms in place. This is fundamental for continuous compliance with the competence requirements.*

The requirements as set out in section 13 provides clear guidance to FSPs in respect of the critical key aspects that must be taken into consideration in order to develop policies, procedures, processes and systems that will be robust and efficient and where the desired outcomes will be achieved.

¹ As stated in section 13(6) of the Fit and Proper Requirements.

3. EMBEDDING CPD

- 3.1. CPD must be planned, implemented, maintained and monitored by the FSP on an on-going basis to ensure that it –
 - 3.1.1. **maintains** existing knowledge and skills appropriate to the activities and responsibilities of affected persons;
 - 3.1.2. **updates** knowledge and skills on a continuous basis; and
 - 3.1.3. **acquires new** knowledge and skills to assist with their current activities and responsibilities/functions contemplated in the future.
- 3.2. This can only be achieved if CPD is implemented in a structured manner where the FSP has clear training and development plans in place for each CPD cycle. These plans must show how the existing knowledge and skills of FSPs, key individuals and representatives will be maintained, updated, and what new knowledge and skills must be developed (based on gaps that have been identified).²

Important: *The principle is that the training and development that takes place in respect of CPD must be targeted, and must address any competence gaps that were identified, and/or develop additional knowledge and skills expertise where this was identified as a future need.*

It is therefore clear that CPD activities must not be undertaken with the sole purpose of obtaining sufficient CPD hours to meet the CPD requirements. This approach purposefully undermines the principle that CPD aims to achieve.

This is why it is the responsibility of the FSP, key individual and representative to ensure that the CPD activities undertaken are relevant to the function and role of the FSP, key individual and representative – section 32(1)(c).

- 3.3. An FSP, key individual and representative **must** ensure that the type and combination of CPD activities undertaken by the FSP, key individual and representative³ -
 - 3.3.1. are **relevant** to their function and role;
 - 3.3.2. **contribute** to their knowledge, skill, expertise, professional and ethical standards;

² See, for example, section 32(2)(b) of the Fit and Proper Requirements.

³ As stated in section 32(1)(c) of the Fit and Proper Requirements.

- 3.3.3. **address any identified gaps** in technical knowledge, generic knowledge, the context within which the financial services are rendered and knowledge of the applicable laws; and
- 3.3.4. **take into consideration** changes to internal/external conditions relevant to the financial service and financial products of the particular FSP, key individual and representative.

3.4. The CPD requirements were not intended to be a mere “tick-box” exercise. CPD is therefore a controlled process where relevant and appropriate pre-determined CPD activities are undertaken to address identified needs and where evidence of the processes that were implemented are documented and recorded as evidence of how the FSP complied with section 32(1) and 32(2).

4. FREQUENTLY ASKED QUESTIONS

The questions included below are questions that have been received from the financial services industry, particularly in respect of CPD. The responses to these questions must be read together with Chapter 4 of the Fit and Proper Requirements and the content of this document. The questions are divided into two sections, The first section deals with questions surrounding the application of the CPD requirements. The second section deals with questions relating to non-compliance with the CPD requirements.

APPLICATION OF CPD REQUIREMENTS		
NO.	QUESTION	AUTHORITY’S RESPONSE
1.	What is the FSCA hoping to achieve?	<p>CPD was first introduced in 2008, but at the time the FSPs, key individuals and representatives were under pressure to comply with the regulatory examination(s) requirements. In order to provide relieve to FSPs, key individuals and representatives, a general exemption was granted in respect of CPD. However, the intention has always been to implement the CPD requirements which implementation was effected by the Fit and Proper Requirements. CPD is therefore not a new requirement, although implementation thereof was delayed until June 2018.</p> <p>The purpose of the Financial Advisory and Intermediary Services Act (“the FAIS Act”) is to protect consumers and professionalise the financial</p>

APPLICATION OF CPD REQUIREMENTS		
NO.	QUESTION	AUTHORITY'S RESPONSE
		<p>services industry. CPD is fundamental for maintaining competence, and the continuous development and updating of knowledge, skills and abilities in order to remain current in a changing and dynamic environment. Clients will be better protected and professional standards will be maintained.</p> <p>It is also important to note that a risk-based proportionate approach is followed. The competence requirements applicable to FSPs, key individuals and representatives take into consideration the type of financial service, the financial product and the risk to the client – the more complex the product and the higher the risk to the client, the more onerous the competence requirements.</p>
2.	What is a CPD cycle?	"CPD cycle" is defined in section 1 of the Fit and Proper Requirements as a period of 12 months commencing on 1 June of every year and ending 31 May of the following year.
3.	What must a FSP do if a representative had interrupted employment during a CPD cycle?	Section 34(1) of the Fit and Proper Requirements creates a dispensation to accommodate representatives that were continuously absent from work for the reasons set out in that section. In any of the circumstances referred to in section 34(1), the FSP must calculate the reduced CPD hours applicable to that representative for the CPD cycle, using the calculation set out in section 34(2).
4.	Can any training or development activity be used to meet the CPD requirements?	<p>No. A CPD activity must be accredited by a "Professional Body", allocated an hour value by that Body and it must also be "verifiable".⁴</p> <p>It should also be noted that a CPD activity <u>excludes</u> an activity performed towards a qualification and product specific training.</p>
5.	Can class of business training be recognised for CPD purposes?	Yes. However, FSPs must ensure that the CPD activities that are undertaken are relevant and appropriate and meet the requirements as set out in section 32(1) and 32(2) of the Fit and Proper Requirements.
6.	Can class of business training be used for a supervised representative to meet the class of	No. One of the aims of CPD is to maintain competence. Accordingly, the requirement to do CPD only applies to a supervised representative after he/she has complied with the qualification,

⁴ Refer to the definitions of "CPD activity" and "Professional Body" in section 1 of the Fit and Proper Requirements.

APPLICATION OF CPD REQUIREMENTS		
NO.	QUESTION	AUTHORITY'S RESPONSE
	business training AND CPD requirement at the same time?	regulatory examination and class of business training requirements or after the period to comply with the aforementioned requirements has expired (six years), whichever occurs first. Refer to Condition 2 of FSCA FAIS Notice 86 of 2018.
7.	Why is product specific training not recognised for CPD purposes?	Product specific training means the training referred to in section 29(5) of the Fit and Proper Requirements in respect of a particular financial product, including any amendments in relation to that product. It is essential that a person offering services in respect of a financial product receives up-to-date training before the person can continue rendering the financial services in relation to that product. CPD is intended to <u>maintain</u> competence and to develop additional <u>appropriate</u> expertise. If product specific training is recognised for CPD purposes, it can undermine the purpose and the rationale of CPD – the focus should not be on product specific knowledge, but rather on the full competence profile of the individual.
8.	Is there a rule that 50% of CPD hours can be earned by reading and 50% of CPD hours must be earned by going to conferences/workshops?	The Fit and Proper Requirements do not prescribe what type of activities must be undertaken by FSPs, key individuals and representatives. It is essential for FSPs, key individuals and representatives to apply their minds to the definition of “CPD activity”. Any activity that falls within this definition can be recognised for the purposes of meeting the CPD requirement, provided it also complies with the requirements set out in section 32(1)(c) of the Fit and Proper Requirements.
9.	Why must CPD activities be accredited by SAQA recognised professional bodies?	The purpose of a professional body is to set professional standards. Professional bodies are therefore best placed to evaluate the activities against the professional standards and to allocate a CPD hour value to it.
10.	Which SAQA recognised professional bodies can be approached to accredit CPD activities?	The list of recognised professional bodies can be accessed by copying the following link: http://www.saqqa.org.za/show.php?id=5749 The FSP must, however, determine relevance to the function and role of the FSP, key individual and representative.
11.	Is it correct to say that any CPD activity that was	No. Even if a CPD activity was accredited by a SAQA recognised Professional Body, it does not

APPLICATION OF CPD REQUIREMENTS

NO.	QUESTION	AUTHORITY'S RESPONSE								
	<p>accredited by a SAQA recognised Professional Body can be accepted and recognised for CPD purposes?</p>	<p>necessarily mean that the CPD activity is relevant/ appropriate to the role, function and activities of the FSP, key individual and/or representative. The FSP remains responsible for ensuring that the CPD activities comply with the requirements set out in sections 32(1) and 32(2) of the Fit and Proper Requirements.</p>								
<p>12.</p>	<p>What happens if I completed a CPD activity but the CPD provider issued me with a certificate for CPD “points” and not CPD “hours”?</p>	<p>If a SAQA recognised Professional Body has accredited the CPD activity, the activity will have a CPD hour value. Where a CPD activity was completed before a SAQA recognised Professional Body accredited the activity and allocated an hour value to it, then the activity must first be submitted to one of the SAQA Professional bodies where a CPD hour value will be allocated to it. You can also contact the Professional Body and request them to allocate an hour value to the activities.</p>								
<p>13.</p>	<p>How many CPD hours must I complete?</p>	<table border="1"> <thead> <tr> <th data-bbox="735 1025 1059 1167">If you render financial services for...</th> <th data-bbox="1059 1025 1350 1167">Then you must complete a minimum of...</th> </tr> </thead> <tbody> <tr> <td data-bbox="735 1167 1059 1384"> <p>... a single subclass of business within a single class of business e.g. FSP, KI or Representative with only Personal Lines: Motor Policy</p> </td> <td data-bbox="1059 1167 1350 1384"> <p>... six hours of CPD activities per CPD cycle</p> </td> </tr> <tr> <td data-bbox="735 1384 1059 1630"> <p>... more than one subclass of business within a single class of business e.g. FSP, KI or Representative with Personal Lines: Motor Policy and Personal Lines: Liability Policy</p> </td> <td data-bbox="1059 1384 1350 1630"> <p>... 12 hours of CPD activities per CPD cycle</p> </td> </tr> <tr> <td data-bbox="735 1630 1059 1877"> <p>... more than one class of business e.g. FSP, KI or Representative with Short-term Insurance Personal Lines, Long-term Insurance and Investments.</p> </td> <td data-bbox="1059 1630 1350 1877"> <p>... 18 hours of CPD activities per CPD cycle</p> </td> </tr> </tbody> </table>	If you render financial services for...	Then you must complete a minimum of...	<p>... a single subclass of business within a single class of business e.g. FSP, KI or Representative with only Personal Lines: Motor Policy</p>	<p>... six hours of CPD activities per CPD cycle</p>	<p>... more than one subclass of business within a single class of business e.g. FSP, KI or Representative with Personal Lines: Motor Policy and Personal Lines: Liability Policy</p>	<p>... 12 hours of CPD activities per CPD cycle</p>	<p>... more than one class of business e.g. FSP, KI or Representative with Short-term Insurance Personal Lines, Long-term Insurance and Investments.</p>	<p>... 18 hours of CPD activities per CPD cycle</p>
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NO.	QUESTION	AUTHORITY'S RESPONSE
14.	Why are industry stakeholders referring to "FAIS CPD"?	<p>While there is no such thing as "FAIS CPD", industry stakeholders are referring to "FAIS CPD" because of the provisions in the Fit and Proper Requirements and, more specifically, section 32 thereof. CPD must be relevant and appropriate to the role/ function of the FSP, key individual and representative.</p> <p>Reference is made to "FAIS CPD" by industry to distinguish between –</p> <ul style="list-style-type: none"> • CPD activities completed for other reasons (such as Professional Body membership requirements/maintaining a designation) that may not be relevant or appropriate to the role and function of the FSP, key individual and representative; and • CPD activities that are relevant and appropriate as required in section 32(1). <p>Example: John Doe is a member of a Professional Body, and is required to complete 30 CPD hours every year as part of the membership requirement. Of the 30 CPD hours only 10 hours are required to be "verifiable CPD activities".</p> <p>This means that if the 10 hours verifiable CPD activities that John Doe completed are relevant and appropriate to his role and function as a representative, and were accredited and allocated a hour value by a SAQA recognised Professional Body, then the 10 CPD hours can be recognised for purposes of the Fit and Proper Requirements.</p>
15.	If I am a CPD Provider, how must I ensure that the CPD activities that I facilitate can be recognised towards FAIS Fit and Proper purposes?	<p>The CPD Provider must submit the CPD activities to one of the SAQA recognised Professional Bodies for the activities to be accredited and allocated an hour value.</p>
16.	How must the CPD activities be recorded?	<p>The CPD activities must be recorded in the competence register of the FSP within 30 days after the expiry of the CPD cycle. Section 32(3) of the Fit and Proper Requirements sets out the duties on the FSP in this regard.</p>
17.	I am a member of a professional body. As part of my membership requirement I have to complete CPD as prescribed by the	<p>Yes, provided that it -</p> <ul style="list-style-type: none"> • meets the definition of CPD activity; and • is relevant and appropriate to your role and function as set out in section 32(1) of the Fit and Proper Requirements.

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	professional body. Can this CPD be recognised towards the "FAIS CPD" requirement?	If you are a member of a foreign professional body then the CPD activities can be recognised towards the "FAIS CPD" requirement, provided that it meets the definition of "extended CPD activity" as per FSCA FAIS Notice 35 of 2019.
18.	If I am a member of a foreign professional body, or if I am a designated member of a foreign professional body, am I exempted from the CPD requirements as set out in Chapter 4 of Board Notice 194 of 2017?	FSCA FAIS Notice 35 of 2019 does not exempt any FSP, key individual or representative from the CPD requirements. It merely makes provision for the foreign professional body's CPD activities to be accepted even though they are not SAQA recognised.
19.	I hold a professional designation. I am required to be a member of a professional body and comply with the prescribed requirements of this professional body in order to retain this designation. CPD forms part of the prescribed requirements. Will the CPD that I complete towards maintaining my designation also count towards meeting the "FAIS CPD" requirement?	<u>Scenario 1:</u> If you are a member of a SAQA recognised professional body, please refer to the response to question 17 above. <u>Scenario 2:</u> If you are a member of a foreign professional body and the CPD activities that you have completed qualify as "extended CPD activities" as defined in FSCA FAIS Notice 35 of 2019, and comply with section 32(1)(c) of the Fit and Proper Requirements, then this CPD activities can count towards meeting your "FAIS CPD" requirements.
20.	UK-based representatives are no longer required to be registered with or approved by the FCA under the Senior Managers and Certification Regime (SM&CR), but the regulated financial firm is responsible for ensuring that the representatives in their employ remain competent, which includes monitoring CPD. In order to meet this responsibility these representatives are registered with the Chartered Institute for	The FSCA FAIS Notice 35 of 2019 makes provision for CPD activities completed through a foreign professional body that is not recognised by SAQA. However, the CPD activities that are completed must still comply with the definition of "extended CPD activity" and section 32(1)(c) of the Fit and Proper Requirements. One can therefore not assume that all CPD activities completed through a foreign professional body qualify as "extended CPD activities".

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	<p>Securities and Investments (CISI), and accredited provider through which they complete their FCA required CPD hours.</p> <p>Will the CPD hours required under the FCA training and competence requirements be sufficient to exempt the UK-based representatives from the CPD requirements under Board Notice 194 of 2017?</p>	

NON-COMPLIANCE WITH CPD REQUIREMENTS		
NO.	QUESTION	AUTHORITY'S RESPONSE
1.	<p>What happens if the FSP/ key individual / representative do not meet the CPD hour requirement by the end of a CPD cycle?</p>	<p>Non-compliance with any competence requirement will result in regulatory action being taken against the FSP, key individual and/or representative. The same principle applies to non-compliance with the CPD requirements.</p> <p>If it is clear that a representative will not meet the CPD requirements by the end of a CPD cycle, the FSP can pro-actively move the representative to a role that does not require compliance with the CPD requirements <u>prior</u> to the expiry of the CPD cycle and remove the representative from its representative register. However, if a representative is already non-compliant with the CPD requirements, the FSP must debar the representative.</p>
2.	<p>If a representative didn't comply with the CPD requirements by the end of a CPD cycle, and was required to stop rendering any financial services and was removed from the central representative register before they became non-compliant – must the person first complete the required CPD</p>	<p>Yes. The person must first meet the CPD requirements applicable to him/her before he/she can be registered as a representative again.</p> <p>If the FSP moves the representative to another role and removes him/her from its representative register before they are non-compliant, then the person can be appointed as a representative again and the representative register can be updated when they become compliant.</p>

NON-COMPLIANCE WITH CPD REQUIREMENTS		
NO.	QUESTION	AUTHORITY'S RESPONSE
	hours before he/she can be registered as a representative again to render financial services?	
3.	What if the representatives are all compliant but the Key Individual is not?	If the FSP does not have a KI that meets the competence requirements, regulatory action will be taken against the FSP. Alternatively, to avoid regulatory action, the FSP could nominate a key individual that complies with all the relevant requirements.
4.	What happens if the FSP is a sole proprietor, and does not meet the CPD requirements?	The situation is similar to that of an FSP where the key individual does not meet the CPD requirements except that a sole prop cannot appoint another key individual. The FSP will be non-compliant and regulatory action will be taken.
5.	If a person did not meet the CPD requirements for a Tier 1 product, can they be appointed as a representative for a Tier 2 product?	Yes, a representative appointed to render financial services in respect of Tier 2 products only is not required to comply with the CPD requirements. Should that representative wish to be appointed in respect of Tier 1 products again, he/she must first comply with the CPD requirements.
6.	The deadline for meeting the CPD requirement was extended from 31 May 2019 to 31 July 2019, does this mean that the next CPD cycle will only commence on 1 August 2019?	No, the CPD cycle was not extended. Persons have merely been given an additional two months to comply with the CPD cycle ending 31 May 2019. The exemption granted - <ul style="list-style-type: none"> • does not detract from the CPD hours required for the next CPD cycle, i.e. 1 June 2019 to 31 May 2020 ("2019 CDP cycle"); • does not affect the period of the 2019 CPD cycle, i.e. the CPD cycle will still commence on 1 June 2019 and end on 31 May 2020; • has the effect that the CPD hours completed for the 2018 CPD cycle in the exemption period 1 June 2019 until 31 July 2019 by non-compliant persons cannot be calculated towards the 2019 CPD cycle; and • has the effect that the CPD hours completed in the exemption period 1 June 2019 to 31 July 2019 by those who already comply with the CPD requirements for the 2018 CPD cycle, can be calculated towards the 2019 CPD cycle.
7.	Why was the CPD deadline of 31 May 2019 extended?	One of the objectives of the FAIS Act is to professionalise the financial services industry and to protect financial consumers. A careful balance must be struck between these duties of the

NON-COMPLIANCE WITH CPD REQUIREMENTS		
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		<p>Authority and the feedback received from the financial services industry stakeholders.</p> <p>From the feedback received, it appeared that there was confusion regarding the manner of accumulation of CPD hours as well as sources of CPD training that complied with the requirements.</p> <p>This is the first year of implementation and past experience has shown us that there is often a high level of non-compliance in the first period. Due to the fact that the consequences for non-compliance is removal from the register and thus an inability to earn income, or debarment which could result in job losses, the FSCA took the decision to mitigate this risk by affording an additional 2 months to comply with the CPD requirements.</p> <p>The Authority was of the view that the dispensation granted would not conflict with the public interest, prejudice the interests of clients or frustrate the achievement of the objects of the FAIS Act.</p> <p>It should be noted that this dispensation will not be repeated in future. FSP, key individuals and representatives must ensure that in the next CPD cycle the proper policies, procedures and processes are in place to comply with the deadline of 31 May 2020.</p>