

Regulatory Exam: 4

Description: RE 4: Regulatory Examination: FSPs and Key Individuals In Category III

| Task No | Task | Qualifying Criteria | Knowledge (K) or Skill (S) | Motivation |
|---------|---|---|----------------------------|---|
| 1. | Apply the Category III FSP business model | 1. Describe the characteristics of a category III FSP and how that differentiates it from other product providers such as insurers and unit trusts. | K | COC Administrative FSPs - Sec 1 COC Administrative FSPs - Sec 2 COC Administrative FSPs - Sec 3 COC Administrative FSPs - Sec 3.4 COC Administrative FSPs - Sec 4 FAIS Act - Sec 1 Definition of Financial Product FAIS Regulations - Sec 10(2) COC Administrative FSPs - Sec 2 Definition of bulking COC Administrative FSPs - Sec 2 Definition of Administrative FSPs BN 106 of 2008 - Sec 4(4)(a) |
| | | 2. Take the difference between Category III FSPs and other product providers into account when making business related decisions. | S | |
| | | 3. Describe the reason for separation of client assets from Category III FSP's assets. | K | COC Administrative FSPs - Sec 9.1 FAIS Regulations - Reg 9(2) |
| | | 4. Perform the fiduciary duty of the category III FSP. | S | GCOC - Sec 2 GCOC - Sec 7(1)(xiii) GCOC - Sec 10. GCOC - Sec 10(1) COC Administrative FSPs - Sec 3.3b COC Administrative FSPs - Sec 9.1 |
| | | 5. Identify which assets belong to the client and which belong to the category III FSP. | S | COC Administrative FSPs - Sec 9 GCOC - Sec 10(1)(d) FAIS Act - Sec 19(3) BN85 of 2008, Section 19(3) requirements |
| | | 6. Interpret basic financial systems. | S | |
| | | 7. Check that there are systems and processes to separate client and Category III FSP assets. | K | GCOC - Sec 10. |
| | | 8. Explain the role and responsibilities of the different parties involved, including but not limited to: * different parties/ legal entities involved, * nominee, * MANCO, * insurers, * pension funds, * 3rd party FSP's, * Financial Advisors, * brokers, *clients | K | COC Administrative FSPs - Sec 2 Definitions COC Administrative FSPs - Sec 5.2(b) COC Administrative FSPs - Sec 5.6 COC Administrative FSPs - Sec 5.13 |
| | | 9. Explain the concept of bulking and pooling of assets into a single account with investment provider. | K | COC Administrative FSPs – Part I COC Discretionary FSPs – Part I |
| | | 10. Verify that there are systems and processes to allow for the bulking of client assets without pooling or unitisation. | S | |
| | | 11. Explain the relevant contractual agreements that need to be in place with the relevant other party. | K | GCOC - Part III |
| | | 12. Confirm that the relevant contractual agreements are in place with the relevant other party and business is conducted in accordance with the contractual agreements. | S | COC Administrative FSPs - Sec 5 COC Administrative FSPs - Sec 5.10 |

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| 2. | Understand the role of the independent nominee. | 1. Explain the duties the nominee company is responsible for. | K | FAIS Regulations - REG 9(1) FAIS Regulations - Sec 10(2) FAIS Regulations - Reg 10(2)(a) FAIS Regulations - Sec. 10 (2) (e) FAIS Regulations - Sec 10(3) FAIS Regulations - Reg 10(4) BN 63 of 2007 - Sec 7 |
| | | 2. Verify that there are processes in place to check that the nominee company executes its' responsibilities toward the Category III FSP - reporting independence. | S | FAIS Regulations - Sec 7(3) FAIS Regulations - Reg 9 FAIS Regulations - Sec 9(1) |
| | | 3. Explain the purpose of the nominee company. | K | COC Discretionary FSPs - Sec 5(2)(d) COC Administrative FSPs - Sec 9 COC Administrative FSPs - Sec 9.1 COC Administrative FSPs - Sec 9.2 FAIS Regulations - Sec 10(1) |
| | | 4. Check the nominee company complies with its duties | S | FAIS Regulations - Sec 7 FAIS Regulations - Sec 8 FAIS Regulations - Sec 10 FAIS Regulations - Reg 10. FAIS Regulations - Sec 10(2) |
| | | 5. Describe the obligations and requirements regarding the use of nominee companies NEW BN 60 | K | BN 63 of 2007 BN 63 of 2007 - Sec 5 BN 63 of 2007 - Sec 5.1 BN 63 of 2007 - Sec 5.2 BN 63 of 2007 - Sec 7 COC Administrative FSPs - Sec 9 |
| | | 6. Check that any nominee companies used have been approved by the FSB in terms of the nominee policy. Confirm that the reports concerning the nominee company are provided timeously to the FSB NEW BN 60 | S | BN 63 of 2007 - Sec 7.1 |
| 3. | Manage and oversee client mandates. | 1. Explain why the Category III FSP must use mandates that have been approved by the FSB. | K | COC Administrative FSPs - Sec 5 |
| | | 2. Manage client mandates in accordance to mandatory requirements. | S | COC Administrative FSPs. COC Administrative FSPs - Sec 5 COC Administrative FSPs - Sec 5.6 |
| | | 3. Explain why a mandate cannot be used if it is not approved by the FSB. | K | COC Administrative FSPs - Sec 5 COC Administrative FSPs - Sec 5.4 |
| | | 4. Explain why a mandate cannot be used if it is not signed by the client or his duly authorised representative. | K | COC Administrative FSPs - Sec 5 COC Administrative FSPs - Sec 5.1 COC Administrative FSPs - Sec 5.2 |

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| | | 5. Explain why such a mandate must adhere to the requirements in the Discretionary Code of Conduct. | K | COC Administrative FSP's - Sec 5.2 COC Administrative FSPs - Sec 5.2(b) |
| | | 6. Explain what the requirements are for mandates | K | COC Administrative FSPs - Sec 2 Definition of completed day COC Administrative FSPs - Sec 5 COC Administrative FSPs - Sec 5.1 COC Administrative FSPs - Sec 5.1(f) COC Administrative FSPs - Sec 5.2 COC Administrative FSPs - Sec 5(2)(b) COC Administrative FSPs - Sec 5(2)(c) COC Administrative FSPs - Sec 5.2(e)(i) COC Administrative FSPs - Sec 5.2(f) COC Administrative FSPs - Sec 5.4 COC Administrative FSPs - Sec 5.6(a) COC Administrative FSPs - Sec 5.7 COC Administrative FSPs - Sec 5.8 COC Administrative FSPs - Sec 5.9 COC Administrative FSPs - Sec 6 COC Discretionary - Sec 5.1 COC Discretionary - Sec 5.1(c) COC Discretionary FSPs - Sec 5.1 (j) COC Discretionary FSPs - Sec 5(1)(d) COC Discretionary FSPs - Sec 5.2 COC Discretionary - Sec 8A |
| 4. | Manage/oversee typical daily transactions. | 1. Explain how different products have different turnaround times and should be adhered to. | K | COC Administrative FSPs - Sec 5.2(e) |
| | | 2. Check that the systems and processes enable the implementation and execution of different turnaround times for different products. | S | COC Administrative FSPs - Sec 5.2(e) |
| | | 3. Describe how there should be adequate controls in place to manage risks. | K | GCOC - Sec 11 GCOC Administrative FSP - Sec 5.5 COC Administrative FSPs - Sec 5.5 |
| | | 4. Check that the systems and processes have embedded controls to manage and contain risk | S | |
| | | 5. Explain how Category III FSPs are only allowed to take in one day's interest. | K | COC Administrative FSPs - Sec 5.11 |
| | | 6. Check that the processes and systems only take one day's interest. | S | |
| 5. | Manage and oversee disclosures. | 1. Explain how to ensure transparency and manage conflict of interests. | K | GCOC - Sec 3A GCOC - Sec 7 |

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| | | 2. Confirm that disclosures are adequate to enable client's ability to make an informed decision. | S | GCOC - Sec 2 GCOC - Sec 3 GCOC - Sec 4 GCOC - Sec 5 GCOC - Sec 7 GCOC - Sec 7(1)(c)(iii)(ee) COC Administrative FSPs |
| 6. | Understand the legal environment of the Category III FSP. | 1. Explain the liquidity requirement. | K | BN 106 of 2008 - Sec 9(5) |
| | | 2. Apply the liquidity requirements to own business | S | BN 106 of 2008 - Sec 9(5) BN 106 of 2008 - Sec 9(5)(a),(b) & (c) |
| | | 3. Explain the implications of the liquidity requirements. | K | BN 106 of 2008 - Definition of liquid assets BN 106 of 2009 - Sec 9 |
| | | 4. Describe the fidelity cover requirements. | K | BN 123 of 2009 - Sec 3 BN 123 of 2009 - Sec 3(h) |
| | | 5. Apply the fidelity requirements to own business. | S | BN 106 of 2008 - Sec 9 BN 123 of 2009 - Sec 3(h) |
| | | 6. Explain the implications of the fidelity cover requirements | K | BN 123 of 2009 - Sec 3 BN 123 of 2009 - Sec 4 |
| | | 7. Describe the applicable capital requirement. | K | BN 106 of 2008 - Sec 9. BN 106 of 2008 - Sec. 9(5) BN 106 of 2008 - Sec. 9 (6) |
| | | 8. Apply the applicable capital requirements to own business. | S | BN 106 of 2008 - Sec 9(5) |
| | | 9. Explain the implications of the capital requirements. | K | |
| | | 10. Explain why the Category III FSP is not allowed to engage in the netting of transactions. | K | GCOC Administrative FSPs - Sec 2 Definition of Netting COC Administrative FSPs - Section 3.2 |
| | | 11. Verify that there are systems in place to check that netting of transactions will not take place. | S | COC Administrative FSPs - Sec 3 |
| | | 12. Explain how a Category III FSP must ensure that it only conducts business with another FSP that has the appropriate categories/subcategories on its license, and that business must also be conducted within the parameters of the client mandate. | K | COC Administrative FSPs - Sec 4 |
| | | 13. Confirm that it only conducts business with another FSP that has the appropriate categories / subcategories on its license, and that business must also be conducted within the parameters of the client mandate, to ensure that all business is legitimate. | S | |
| | | 14. Describe what the continual compliance with the license requirements and conditions are. | K | Compliance Report - Sec. 1.1.1. COC Administrative FSPs - Sec 5.5 COC Administrative FSPs - Sec 5.7 COC Administrative FSPs - Sec 5.8 COC Administrative FSPs - Sec 5.10 FAIS Act - Sec 8(8) |

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| | | 15. Check that there are systems in place to check that new products or proposed business ventures will meet the limitations of the license requirements and conditions are. | S | FAIS Act - Sec 7(3) |
| 7. | Apply the record keeping requirements. | 1. Explain the period for which records must be kept. | K | FAIS Act - Sec 18 FAIS Act - Sec 18(b) FAIS Act - Sec 18(d) COC Discretionary FSPs - Sec 7.2 |
| | | 2. Incorporate the record keeping requirements when planning system updates and strategic initiatives. | S | COC Administrative FSPs - Sec 7.1 COC Administrative FSPs - Sec 7.2 |
| | | 3. Describe the requirements specifically applicable to telephone and/or electronic requirements. | K | COC Administrative FSPs - Sec 5.8 GCOC - Sec 3(2)(b) FAIS Act - Sec 18 |
| | | 4. Verify that systems are in place to manage the record keeping risks of electronic and telephonic transactions. | S | |
| 8. | Comply with requirements when reporting to clients. | 1. Explain why clients must receive written reports at quarterly intervals, that provide them with Investment and related information. | K | COC Administrative FSPs - Sec 10 COC Administrative FSPs - Sec 10.1 COC Administrative FSPs - Sec 10.2 COC Administrative FSPs - Sec 10.3 COC Administrative FSPs - Sec 10.3(g) |
| | | 2. Verify that there are systems and processes that enable the preparation and delivery of accurate quarterly reports. | S | COC Administrative FSPs - Sec 10.1(b) COC Administrative FSPs - Sec 10.2 |
| 10. | Apply knowledge of how intermediaries must be licensed before they do business. | 1. Explain how intermediaries must be licensed before they can do business. | K | FAIS Act - Sec 7(3) COC Administrative FSPs - Sec 4 & FSP 2 Form ML & TFC Regulations - Reg 7 & 8 |
| 11. | Deal with rebates. | 1. Explain how rebates work. | K | |
| | | 2. Explain all the related disclosures as it applies to rebates. | K | GCOC - Sec 7(1)(c)(iii)(dd) |