

MOONSTONE
COMPLIANCE AND RISK MANAGEMENT

The new Fit and Proper Regime for FSPs

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Overview

- Qualification Requirements
- Experience Requirements
- Regulatory Exams
- Class of Business Training
- Product Specific Training
- CPD
- Transitional Arrangements

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What's New?

- **“‘automated advice’** means the furnishing of advice through an electronic medium that uses algorithms and technology without the direct involvement of a natural person.
- “Cash, Assets and Liabilities” are all newly defined.
- “CPD” is defined. Excludes product specific training and studies towards a qualification.

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What's New?

- **"execution of sales"** means an intermediary service performed by a person on the instruction of a client that results in the conclusion of an agreement to buy, sell, deal, invest or disinvest in, replace or vary one or more financial products.
- **"Liquid Assets"** include 70% of value of CIS and listed securities.

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What's New?

- **"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.
- **"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.

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What's New?

- **"no or limited underwriting"** means where an insurer requires no or limited medical, financial, demographic or lifestyle information from a prospective policyholder or life insured to assess the risks under a policy or to pay a claim.
- **"participatory interest in a hedge fund"** means a participatory interest in a collective investment scheme that is a hedge fund.

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What's New?

"short-term insurance personal lines A1" means the short-term insurance policies referred to in the definition of 'short-term insurance personal lines', excluding-

- (a) group policies; and
- (b) marine policies, engineering policies and guarantee policies as defined in section 1 of the Short-term Insurance Act,

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;

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What's New

Continuing with "short-term insurance personal lines A1" exclusions ...

- (iv) Policies which are not subject to the principle of 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) to (ee);

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Honesty, Integrity and Good Standing

- Expanded list of prima facie disqualifiers.
- Juristic entities to be judged on corporate citizenship.
- Disclosure requirements to FSB and FSPs.

Minimum Experience

- Minimum experience requirements as per published Table.

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Competence Requirements

- Expanded responsibilities.
- Provision regarding KI requirements for FSPs who provide automated advice.
- FSPs must be able to demonstrate and record evaluation of KI and Rep competence and CPD.
- Evaluation must take technical knowledge, skills and changes in the market into account.
- FSP must establish and maintain a competence register.

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Minimum Qualifications

- Does not apply to:
 - Long Term Subcategory A and Friendly Society Benefits only.
 - Cat 1 FSP representatives that preform execution of sales only provided that conditions are met.
 - Conditions include: approved script, direct supervision, no advice provided and regular reviews etc.

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Regulatory Exams

- First level regulatory exams continue except for:
 - Long Term Subcategory A and Friendly Society Benefits only.
 - Cat 1 reps performing execution of sales only in respect of Tier 1 Products (if all conditions are met).
 - Cat 1 reps appointed to render financial services in respect of Tier 2 products only.

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Class of Business and Product Specific Training

- Same exclusions apply.
- Cat II, IIA and III are exempt from product specific training. (Must undergo class of business training).
- FSP must ensure that prior to rendering financial services its KI's and Reps are **proficient**, that they **understand** (class of business and product), have **completed** training and have been **assessed** on that training.
- Extensive prescription on what training must consist of and how completed training must be recorded.

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Continuous Professional Development

- Same exclusions apply and also reps appointed for intermediary services only.
- CPD must be accredited and tracked by a recognised professional body.
- Minimum hours of CPD ranging from 6-18 hours dependent on subcategories and class of business.
- FSP must record CPD activity in competence register.

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Operational Ability

- FSPs must adopt, document and implement an effective governance framework which must (inter alia):
 - Be Proportionate;
 - Provide for oversight of policies;
 - Define roles and responsibilities;
 - Include effective systems of corporate governance.
- Very specific requirements for FSPs that provide automated advice.
- Provisions regarding outsourcing of functions.

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Financial Soundness

- Solvency requirements extend to Juristic Representatives.
- Liquidity requirements for Cat 1 FSPs who collect premiums, Cat II, IIA, III and IV's and include Juristic Representatives of these.
- JRs to submit Form A to FSP every 6 months.
- Early warning requirements.

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Transitional Arrangements

- KI's appointed before this notice are deemed to have met experience requirements.
- KI's and reps (excluding those under supervision) appointed before this notice will be deemed to have completed the product specific training. (Only for those presently authorised).
- KI's and reps (excluding those under supervision) appointed prior to 01/01/2015 will be deemed to have completed the class of business training. (Only for those presently authorised).

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Transitional Arrangements

- KI or rep appointed between 01/01/2015 and date of this notice must complete class of business training within 12 months.
- Reps working under supervision at date of notice have 12 months to complete the class of business training.
- Licences will be updated by FSB to reflect new categories where applicable.
- FSPs must update rep registers within 3 months.

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Questions?

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