



## **COMPETENCY FRAMEWORK REVIEW CONTINUES....**

During November 2015, the FSB issued a RDR Phase 1 status update which included a brief summary of the progress being made with regard to the competency framework for approved persons.

Further, a proposed revision to the fit and proper requirements was published for industry comment during December. Both the RDR and the revised fit and proper requirements are relevant to the competency framework currently under review.

This communication is a further update of the progress we are making with the drafting of the competency framework.

The RDR update referred to above addresses the progress with regard to final adviser categorisation model which will also be informed by the review of the FAIS competency framework that is currently under review. Industry consultation on this framework is in progress, with an initial workshop being conducted in December 2015.

Once the consultation process is complete, the FSB will issue a proposal for public consultation by the end of the first quarter of 2016. The objective of this review is to build on the existing FAIS “fit and proper” competency requirements by establishing an effective and proportionate regulatory framework to ensure advisers and other intermediaries have the right levels of competence, namely product related knowledge, appropriate standards of professionalism and undergo continuous professional development where necessary. The development of appropriate standards for different levels of advice – including standards for financial planners and standards for advisers in so-called “low advice” models – will also be dealt with through this work.

Regular updates of the progress made will be published.

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#### **Disclaimer**

*The FAIS Newsletter must not be construed as a substitution of the FAIS Act and subordinate legislation. The newsletter is aimed at addressing specified areas and provides a quick reference to the reader. It does not take away the obligations that are imposed on FSPs, key individuals, representatives, compliance officers or any person involved in the rendering of financial services to acquaint himself or herself with the provisions of the FAIS Act.*

## ADDITIONAL SERVICES OFFERED ON THE FAIS ONLINE SYSTEM

The FAIS online reporting system is a web based system which can be accessed via the FSB website and may be used by approved compliance officers and Key Individuals to:

- View what information the Registrar has on record for the FSP;
- Update the contact details for the FSP;
- Request a copy of the FSP's representative register;
- Submit extension requests for the submission of annual financial statements;
- Submit annual financial statements;
- Submission of assets under management for levy purposes (Cat II and III FSPs only);
- Submit compliance reports; and
- Create a pre-populated Form FSP 4 for the approved Key Individual(s)

At the end of December 2015, the following two additional services were added to the FAIS online system:

- Changes to the representative register of the FSP; and
- Submission of requests to amend a license ("profile changes")



These two additional services are dealt with in more details below:

### ❖ **Maintenance of the representative register of an FSP:**

This service allows FSPs to make the following changes to their representative register:

- Addition of representatives;
- Removal of representatives; and
- Update of information for an existing representative

The system fully automated i.e. any updates to the representative register of the FSP are processed automatically by the FAIS Department's systems.

As soon as the change has been processed, both the user who logged onto the FAIS online reporting system as well as the contact person for the FSP will a letter via e-mail confirming the change.

**Note:** Only FSPs with an approved compliance officer will be able to make use of this functionality as the FAIS Act requires that any FSP with one or more representatives have an approved compliance officer.

## ❖ Online submission of profile changes

The following types of profile changes can be submitted online:

- Application for the approval of a new key individual;
- Application for approval of additional financial products;
- Application for approval in an additional category of license;
- Application for the approval of a new auditor;
- Application for phase II approval of a compliance officer;
- Application for change of FSP name / trading name;
- Removal of a person;
- Removal of an auditor;
- Removal of a compliance officer;
- Remove financial products from the license; and
- Update the details of an approved key individual

Users are able to capture different kinds of profile changes and submit them together as one request e.g. the request for the phase II approval of a compliance officer, an application for approval of additional financial products and an application for a change of FSP name can all be selected and submitted together.

The system will automatically calculate the amount payable for all profile changes captured and this will display on the “Capture new profile change” screen (see example below):

Type Of Profile Change	Date Captured	ID Number	Person Name	Service Fee			
Application for change of FSP name / trading name	10/12/2015			700.00	Capture	Cancel	Attachments
Application for the additional approval of Category III	18/01/2016			33580.80	Capture	Cancel	Attachments
Update FSP details	14/09/2015						Cancelled
FEE TOTAL				34280.80			

The user will need to validate the profile change request prior to submitting to ensure that any errors / problems have been rectified. Once the profile change request passes the validation the user will be able to submit the request (the same process as the compliance reports).

There are certain mandatory attachments that are required for the various profile changes and users are required to upload the mandatory attachments before they will be able to submit the profile change to the FAIS Registration Department. Users should ensure that all mandatory attachments are uploaded correctly to ensure that there are no unnecessary delays in the processing of the profile change request.

**IMPORTANT: The profile change is only submitted to the Financial Services Board once you have validated and clicked on the submit button.**



Once the profile change has been successfully submitted to the FAIS Registration Department both the user that logged onto the FAIS online system and the contact person for the FSP will receive an acknowledgment letter via e-mail that confirms the case number that has been allocated to the request. This case number must be quoted should you wish to query the progress of the profile change with the FAIS Registration Department.

Any queries relating to the online submission of profile changes should please be submitted to [Faispfc@fsb.co.za](mailto:Faispfc@fsb.co.za)

## **PROPOSED AMENDMENTS TO FIT AND PROPER REQUIREMENTS**

On 17 December 2015 the Registrar published the proposed amendments to the fit and proper requirements applicable to the different categories of financial services providers, their key individuals and representatives within each of those categories. The Registrar's reasons for the proposed amendments are set out in the Explanatory Memorandum published that same day.

Interested parties may submit their comments on the proposed amendments to [FAIS.Consultation@fsb.co.za](mailto:FAIS.Consultation@fsb.co.za).

The closing date for the submission of comments is 15 March 2016.



The proposed amendments are designed to meet the consumer protection objective of the FAIS Act and to ensure clarification of the applicable requirements. No amendment to the current categorisation of financial services providers is proposed as that is a matter that will be addressed through the Retail Distribution Review.

Separate to the above, the Registrar is also reviewing the competency framework applicable to financial services providers, their representatives and key individuals. The Registrar intends to issue a proposal for public consultation by the end of the first half of 2016. The objective of the review is to build on the existing competency requirements by establishing an effective and proportionate regulatory framework to ensure financial services providers have the right levels of product related knowledge, meet appropriate standards of professionalism and undergo continuous professional development where necessary.

## **UPDATE ON THE SPECIAL COMPLIANCE REPORT FOR LONG-TERM INSURERS WHO ARE ALSO FSPs**

In June 2015 we provided feedback on the responses of the Long-term Insurers who are also FSPs, to the Special Compliance Report that was published in March 2015. The purpose of the report was to determine the situation regarding the payment of sign-on bonuses, and the extent to which this could be linked to churning of policies by the recipients of the sign-on bonuses.

During the period 01 September 2014 and 31 March 2015 sign-on bonuses were paid by 4 FSPs to 600 recipients. These responses have been further investigated, and comparisons on reported figures have been compiled. The number of recipients has reduced, as the reported recipients included new entrants into the industry, who were essentially paid a salary for their first months of employment, until they could start generating an income. The investigation by the Registrar is now focusing on those recipients who had built up a client base before they were offered a sign-on bonus (genuine experienced individuals). Additional information and statistics were received from the 4 FSPs. The additional information is under review. The information will determine the action taken by the Registrar.

## EXTENSION REQUESTS FOR ANNUAL FINANCIAL STATEMENTS

Volume 18 of the FAIS newsletter included an article relating to extension requests in respect of the submission of annual financial statements. A number of additional concerns relating to the submission of extension requests have been identified and we are therefore including an additional article on this important topic.

In terms of section 19(2)(b)(iii) of the FAIS Act a FSP must ensure that its audited financial statements are submitted to the Registrar within 4 months of financial year end.

Reminder letters are e-mailed to all authorised FSPs just prior to their financial year end (the letters are e-mailed to the designated contact person for the FSP).

If a FSP is unable to submit the financial statements within the prescribed period, it can apply for an extension. The request for extension must be submitted at least 15 days before the due date of the financial statements, and the extension period cannot exceed 2 months.

The extension request must include:

- a detailed explanation as to why the extension is required;
- confirmation as to what period of extension is being requested; and
- proof of payment for the fee of R550.00 that is payable

As per the reminder letters sent to all FSPs in relation to the requirement for them to submit their annual financial statements, extension requests can be submitted by:

- way of the FAIS online reporting system (**preferred method**);
- sending an e-mail to one of the dedicated e-mail inboxes;
- post (not recommended as the documents are normally received too late to action)

**IMPORTANT:** Where the extension request is submitted via e-mail it should only be sent to one of the dedicated inboxes listed below:

- [Faisfins2@fsb.co.za](mailto:Faisfins2@fsb.co.za); OR
- [Faisfins3@fsb.co.za](mailto:Faisfins3@fsb.co.za); OR
- [Faisfins4@fsb.co.za](mailto:Faisfins4@fsb.co.za) ; OR

It was noted that during 2014 and 2015 that most extension requests were submitted to all of the e-mail inboxes which is incorrect. This creates unnecessary bottlenecks and delays as the administrative staff need to conduct additional checks to determine whether an extension has already been initiated by way of one of the other e-mail inboxes.



## PROPOSED AMENDMENTS TO PROFESSIONAL INDEMNITY REQUIREMENTS

During December 2015 the Registrar published proposed amendments to the professional indemnity requirements applicable to the different categories of financial services providers.

The purpose of the proposed amendments is to, *inter alia*,-

- (a) enhance the requirements to achieve the objects of the FAIS Act;
- (b) address the practice of financial services providers obtaining guarantees from their immediate family members or from other persons that are not registered Banks, most often resulting in the guarantees not being suitable;
- (c) remove the distinction in the requirements applicable to Category II, IIA and III financial services providers based on whether or not they receive or hold client funds. The Registrar is of the view that irrespective of whether or not those financial services providers receive client funds the same requirements should apply due to the inherent risks associated with their activities and the fact that they may exercise some form of control over the assets of clients;
- (d) incorporate the exemptions granted to Category I financial services providers who are authorised to render financial services in respect of certain financial products only and to registered insurers who are also financial services providers from having to comply with the professional indemnity insurance requirements; and
- (e) to extend the dispensation granted to insurers referred to in paragraph (d) to registered Banks.

Interested parties may submit their comments to  
[\*\*FAIS.Consultation@fsb.co.za\*\*](mailto:FAIS.Consultation@fsb.co.za)

The closing date for the submission of comments is  
28 February 2016.



## FEEDBACK ON FICA INSPECTIONS

One of the key components of our supervisory plan is onsite reviews. The FAIS Supervision department conducted inspections on a number of car dealerships over the past two years. The purpose of the inspections was to determine the level of compliance with the Financial Intelligence Centre Act (FICA).

Most of the dealerships visited are small family owned businesses selling pre-owned vehicles. The dealerships were visited in their capacity as accountable institutions for carrying on business as financial services providers (FSPs) in respect of Short-term insurance (both personal lines and commercial lines) as well as Long-term insurance.

This article provides an overview of the findings and concerns identified from the visits. It highlights the challenges faced by small FSPs such as car dealerships from fully implementing FICA requirements. It also offers suggestions for improving the level of compliance in the business. Small FSPs in general may find the information very useful.

The key issues to emerge from the inspections are summarised below:

### **Incorrect registration with the FIC**

In terms of section 43B of FICA, every accountable institution referred to in Schedule 1 and every reporting institution referred to in Schedule 3 must register with the Financial Intelligence Centre (FIC) within the prescribed period and in the prescribed manner. Car dealerships are generally classified as reporting institutions for selling cars. They can also be classified as accountable institutions for rendering financial services on other products defined in the FAIS Act, with the exception of Short-term insurance and Health service benefits.

During the inspections, we have noticed that most of the dealerships were incorrectly registered with the FIC. The dealerships were only registered as reporting institutions and were not aware of the implications of having Long-term insurance products

on their licence. Notwithstanding the fact that the dealerships later corrected their registration status, they registered as accountable institutions outside of the prescribed 90 days period.

A dealership that conducts the business of a FSP should register under Item 12 as an accountable institution in respect of its FSP business as well as under Item 1 of Schedule 3 as a reporting institution in respect of its business as a car dealer.

If in the process of selling vehicles, a dealership also sells credit life cover underwritten as a Long-term insurance policy; such dealership is an accountable institution and should register with the FIC.

If a FSP focuses on short-term insurance and health service benefits only but is also licensed for other products, such FSP is still an accountable institution and should fully comply with FICA.

FSPs that are licensed for other products but have never conducted business on such products, or have only conducted business on these products in the past or intend to conduct any future business on said products are accountable institutions and must comply with all the FICA requirements.

Where a FSP conducts the business of more than one accountable institution, as described in Schedule 1 of FICA, such FSP should register separately under each item.

FSPs licensed for Short term insurance and Health service benefits only are not accountable institutions in terms of Schedule 1. However, section 29 of FICA applies to them. It provides that any person who carries on a business or is in charge of or manages a business or is employed by a business should report suspicious and unusual transactions to the FIC.

## Issues concerning internal rules

One of the obligations of accountable institutions is to formulate and implement internal rules in terms of section 42 of FICA. Most, if not all, dealerships visited had internal rules or some written document on AML/CFT policies and procedures.

Internal rules is a document which sets out practical working methods and procedures implemented in the business to ensure AML/CFT compliance. It guides relevant staff to enable them to correctly discharge their duties and obligations under FICA.

Some of the car dealerships faced challenges in fully implementing the internal rules requirements. Most of the internal rules reviewed were drafted by external compliance officers of the FSPs and were not customised, updated or approved by senior management of the dealerships. Some of the internal rules contained lengthy, inaccurate and irrelevant information.

Internal rules should be tailored and aligned to the business of the FSP. Internal rules should also be simplified and easy to understand. The internal rules should be approved by senior management of the FSPs. It is expected that senior management of the FSPs should have comprehensive knowledge of the AML/CFT risks as this will improve the culture of compliance in the business.

Internal rules should have standard operating procedures and working methods to ensure identification and verification of clients, record keeping and reporting suspicious transactions to the FIC. There is an expectation that internal rules should have separate procedures to report cash transactions amounting to R25 000 or more, as well as property associated with terrorist activities; even though this requirement is not expressly provided for in FICA and the underlying Regulations.

Relevant staff in the business of the FSP who are involved in transactions to which FICA apply should be made aware of the internal rules. They should be provided with training on both FICA and the internal rules. Internal rules should stipulate the roles and responsibilities of the different role players involved in ensuring AML/CFT compliance. Internal rules

should further provide for disciplinary measures against staff for not complying with internal rules and for failing to discharge their duties and obligations under FICA.



## Cash threshold reporting

The majority of the dealerships did not accept cash in their premises, while those who did so, allowed a minimum of R10 000 only to be put forward as a deposit towards the purchase of the vehicle. Clients were generally encouraged to use EFT or deposit funds into the dealership's bank account.

All dealerships were aware of the requirement to report cash transactions above R25 000, however, some were not aware of the 2 business days period within which to file reports with the FIC. As already alluded to, some of the dealerships did not have separate procedures in their internal rules to detect, monitor and report cash transactions above specified limit. They were advised to amend their internal rules to cater for this requirement.

If a client deposits R25 000 or more into the FSP's bank account, both the bank and the FSP should report such a transaction to the FIC because they both became aware of it. Similarly, if a dealership pays a client an amount of R25 000 or more for vehicle trade-in, this will have to be reported to the FIC.

## Terrorist property reporting

The majority of the dealerships did not have separate processes and procedures in place to identify, monitor and report property associated with terrorist activities. The internal rules did not set out steps taken to determine when a transaction is reportable under section 28A of FICA. As already mentioned, this requirement is not expressly provided for under FICA and the Regulations.

Furthermore there were no processes or procedures in place to screen clients against the UN 1267 sanction list. Those who were able to do so, did not apply the screening process consistently. Some of the dealerships used incorrect sanction lists such as the Financial Industry Regulatory Authority (FINRA) list, which it was assumed was the same as the UN 1267 list. The dealerships were not aware that the FINRA list has not been proclaimed as the official sanction list. The dealerships also did not know where to find the UN 1267 list. The dealerships were however advised to ensure that their internal rules catered for this requirement.

### **Training of staff**

In terms of section 43 of FICA an accountable institution must provide training to its staff to enable them to comply with the provisions of FICA and the internal rules applicable to them.

Training was provided to relevant staff of most of the dealerships. Training was predominantly on a face to face basis while computer based training also enjoyed good support. However, even though it is not expressly provided for in the Act, there were no assessments done in some of the training provided to determine the level of understanding. Some of the employees interviewed did not demonstrate sufficient knowledge of FICA. It was also found that the training provided focused on FICA only and excluded internal rules. These issues were discussed with the compliance officers in attendance and they undertook to amend their training material to address the shortcomings.

It was also found that refresher training was not provided in the majority of the cases in order to update staff's knowledge on FICA. Although both FICA and the Regulations do not expressly provide for refresher training, it is highly recommended by the FIC.

The provision of periodic training to relevant staff enables them to remain informed of the developments in AML/CFT legislation and other evolving risks and trends. FSPs should establish from their risk framework which of their employees need to be trained on the provisions of FICA and the level of training to be provided to relevant staff. FSPs should ensure that training is relevant, tailored to their businesses, and has a strong practical dimension. Relevant staff in the business should receive appropriate training in line with their responsibilities, activities and skills. Some staff may require only basic training while those interacting with clients may be required to have more intensive training.

### **High risk clients**

Car dealerships are prone to doing business with high risk clients such as Politically Exposed Persons (PEPs). Most of the dealerships indicated that they might have had dealings with PEPs but were not aware that they had to have separate procedures for identifying and verifying this type of clients. Although FICA does not expressly provide for a risk-based approach, Regulation 21 requires institutions to obtain additional information in relation to a business relationship or transaction deemed to pose a high risk of AML/CFT. FSPs should conduct own risk assessments to characterise clients and apply proportionate measures in signing such clients.

In conclusion, FSPs have made significant progress implementing the FICA requirements. They have relevant AML/CFT policies and procedures in place. However, the document needs to be tailored to incorporate procedures relating all requirements.

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### **Disclaimer**

*The article does not constitute a guidance note envisaged in section 4(c) of FICA. The FIC is the only institution that is empowered by FICA to issue guidance notes. The article is only intended to raise awareness so that affected FSPs can improve their processes.*





## CONTACT DETAILS

### FSB Call Centre:

Are you aware that the Financial Services Board has a Call Centre / Contact Centre that is dedicated to resolving all your queries? The following toll free numbers may be used to contact the FSB Call Centre:

- 0800110443
- 0800202087

### Website :

All the important information applicable to financial services business is posted on our website. You are encouraged to frequently visit our website for latest information and updates. Our website address is [www.fsb.co.za](http://www.fsb.co.za).

On the FSB homepage select "FAIS" from the drop down list of departments.

	PURPOSE
<a href="mailto:Faisinfo@fsb.co.za">Faisinfo@fsb.co.za</a>	General FAIS related enquiries.
<a href="mailto:Faispfc@fsb.co.za">Faispfc@fsb.co.za</a>	Submission of profile change requests specifically relating to FSPs.
<a href="mailto:Reps@fsb.co.za">Reps@fsb.co.za</a>	Submission of the excel rep import spread sheet. This e-mail address should <b>only</b> be used where the person submitting the excel spreadsheet is registered to submit on behalf of the FSP.  Where the person is not registered to submit an excel spreadsheet on behalf of the FSP then the request should be sent to the <a href="mailto:faispfc@fsb.co.za">faispfc@fsb.co.za</a> inbox.
<a href="mailto:Fais.Lapse@fsb.co.za">Fais.Lapse@fsb.co.za</a>	Submission of any requests to lapse licenses and enquiries relating to lapse requests that have been submitted.
<a href="mailto:Fais.Licensecopies@fsb.co.za">Fais.Licensecopies@fsb.co.za</a>	Requests for duplicate copies of FAIS licenses and annexures. Please ensure that proof of payment accompanies the request for a duplicate license copy.
<a href="mailto:Fais.Newlicense@fsb.co.za">Fais.Newlicense@fsb.co.za</a>	E-mail submissions of new license applications for FSPs.
<a href="mailto:Fais.COapprovals@fsb.co.za">Fais.COapprovals@fsb.co.za</a>	E-mail submissions for application for phase 1 approval of compliance officers.
<a href="mailto:Fais.Mandates@fsb.co.za">Fais.Mandates@fsb.co.za</a>	Submission of specimen mandates for approval.

E-MAIL INBOX	PURPOSE
<a href="mailto:Fais.Exams@fsb.co.za">Fais.Exams@fsb.co.za</a>	All queries relating to the regulatory examinations e.g. queries related to duplicate certificates, how to register for exams, authentication etc.
<a href="mailto:Fais.Qualifications@fsb.co.za">Fais.Qualifications@fsb.co.za</a>	Queries relating to qualifications e.g. credits, recognition of qualifications.
<a href="mailto:Fitandproper@fsb.co.za">Fitandproper@fsb.co.za</a>	Queries relating to the Fit and Proper Requirements e.g. new entrants wanting to know what competency requirements they have to meet.
<a href="mailto:Fais.Compliance@fsb.co.za">Fais.Compliance@fsb.co.za</a>	Submission of documents and queries in response to an intention to suspend or suspension letter sent to an FSP.
<a href="mailto:Faisfins2@fsb.co.za">Faisfins2@fsb.co.za</a>	Extension requests for the submission of annual financial statements.
<a href="mailto:Faisfins3@fsb.co.za">Faisfins3@fsb.co.za</a>	Extension requests for the submission of annual financial statements.
<a href="mailto:Faiscomp1@fsb.co.za">Faiscomp1@fsb.co.za</a>	Queries on compliance reports and queries related to the FAIS online reporting system.
<a href="mailto:FaisComplaints@fsb.co.za">FaisComplaints@fsb.co.za</a>	Submission of FAIS related complaints against key individuals, representatives and FSPs.
<a href="mailto:Debarment@fsb.co.za">Debarment@fsb.co.za</a>	Submission of debarment notifications relating to representatives.
<a href="mailto:Fais.Exemptions@fsb.co.za">Fais.Exemptions@fsb.co.za</a>	Submission of exemption applications for exemptions specific to a person or FSP.
<a href="mailto:Fais.Examexemptions@fsb.co.za">Fais.Examexemptions@fsb.co.za</a>	Submission of excel spread sheets to register for the regulatory examination exemptions that published under Board Notice 102 of 2012.
<a href="mailto:Fais.conditions@fsb.co.za">Fais.conditions@fsb.co.za</a>	Submission of proof that conditions associated with exemptions that were granted have been complied with.
<a href="mailto:Fais.Dofa@fsb.co.za">Fais.Dofa@fsb.co.za</a>	Submission of DOFA related enquiries and requests for DOFA reports.