



NKWALI
COMPLIANCE CONSULTANTS



REI *for* **Key Individuals and Sole Proprietors**

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The purpose of these study notes is to provide help on preparation for the Regulatory Exam for Key Individuals (RE1) and is therefore not an exhaustive study of the legal requirements, principles, and practices.

This training manual is fully updated to reflect all legislative changes up to 28 April 2025. This manual serves as a comprehensive resource for the RE5 exam preparation, covering all essential information. Additionally, this manual includes the qualifying criteria for representatives as published by the FSCA.

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INTRODUCTION

This manual is designed to cover the knowledge and skills requirements for the Regulatory Examination: Key Individuals (RE 1) as specified in Board Notice 194 of 2017. The content is based on a range of regulatory frameworks, including:

- The Financial Advisory and Intermediary Services Act, 37 of 2002
- The General Code of Conduct provisions
- The Financial Sector Regulation Act, 9 of 2017
- Board Notice 194 of 2017 (Fit and Proper requirements)
- Board Notice 86 of 2018 (supervision requirements)

While this manual provides a comprehensive overview of the relevant laws, codes, and guidelines, it does not include actual legal extracts. Instead, references to these sources are provided, and readers are encouraged to access the original documents on the Financial Sector Conduct Authority's website.

To succeed in the RE 1 exam, it is essential to thoroughly study and practice the material presented in this manual. The exam questions are highly specific, and a general understanding of the topics is insufficient. Readers are urged to carefully review the details and practice answering questions to ensure they are adequately prepared for the exam.

For the sake of clarity and ease of use, this manual does not strictly adhere to a chronological sequence of the qualifying criteria and its associated tasks. Instead, we have intentionally structured the content to facilitate a logical and intuitive learning experience.

PREPARING FOR THE EXAM

RE Exam Format

The Regulatory Examination is a multiple-choice question exam that assesses the competence of financial services providers and representatives. The exam format is as follows:

- Question Type: Multiple-choice questions only
- Scope of Exam: The scope of each exam is determined by a set of qualifying criteria.

Mastering the Qualifying Criteria: The Key to Exam Success

To succeed in the regulatory examinations, it is crucial that you thoroughly understand the qualifying criteria for each module. The qualifying criteria outline the specific knowledge and skills required to pass the exam, and it is essential that you spend sufficient time reviewing and mastering these criteria before moving on to the next module.

Why are the Qualifying Criteria so important?

The qualifying criteria provide the foundation for the regulatory examinations, and only questions based on these criteria will be included in the exams. This means that if you do not understand the qualifying criteria, you may struggle to answer exam questions correctly.

What to expect

After each module, we have included the relevant qualifying criteria. It is essential that you:

- Spend time reviewing and mastering these criteria
- Ensure you can answer or demonstrate the required knowledge and skills
- Only move on to the next module once you feel confident in your understanding of the qualifying criteria

By following this approach, you will be well-prepared for the exam and set yourself up for success!

Below is the information that is relevant for the RE 1 exam:

- Target Audience: All key individuals, compliance officers and sole proprietors
- Pass Mark: 52 /80 (65%)
- Exam Duration: 2 hours 30 minutes

Multiple Choice Questions

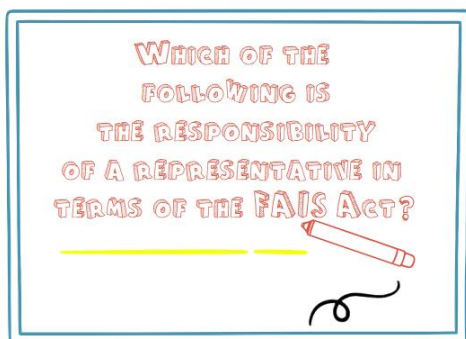
Multiple choice questions are a type of assessment where you are required to:

- Select the best possible answer(s) from a list of options.
- Choose the most appropriate grouping of options, which may be presented in a Roman numeral style (e.g., I, II, III, etc.).

In multiple choice questions, you will typically be presented with:

- A question or statement.
- A list of possible answers or options.
- Instructions to select the best answer(s) or grouping of options.

Let us take a look at an example:



OPTIONS

m m m



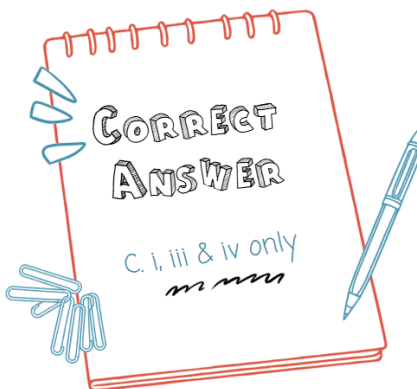
- ☐ i. Maintain fit & proper status **True**
- ☐ ii. Working under supervision **False**
- ☐ iii. Adherence to the FAIS Act **True**
- ☐ iv. Providing proof of authorisation **True**

ANSWERS

m m m



- ☐ A. i & ii only
- ☐ B. iii & iv only
- ☐ C. i; iii & iv only
- ☐ D. i; ii; iii & iv only



Selecting Your Answers

When answering the questions:

- Choose **ONE** answer from the options provided for each question.
- Completely color or shade your selected answer.

This will help to ensure that your answers are clear and easily identifiable.

RE Exam Question Levels

The RE exam includes multiple-choice questions at four different levels, designed to assess various cognitive skills:

Level 1: Knowledge Questions

Level 1 questions test your ability to recall factual knowledge.

Examples: Defining key terms, identifying legislation, or recalling regulatory requirements

Level 2: Comprehension Questions

Level 2 questions test your understanding and interpretation of factual information.

Examples: Explaining concepts, summarizing regulations, or identifying the implications of a specific rule

Level 3: Application Questions

Level 3 questions test your ability to apply factual information to everyday situations.

Examples: Applying regulatory requirements to a real-world scenario or determining the best course of action in a given situation.

Level 4: Analysis Questions

Level 4 questions test your ability to analyze information to decide on the best action to take.

Examples: Evaluating the consequences of a particular action or identifying the most appropriate solution to a complex problem.

In the RE 1 Exam, the following structure is followed for the different levels of questions:

Level	No of questions	% of the exam that makes up this level
1	27	21%
2	39	32%
3	22	18%
4	12	9%

Preparation is key to success

Failing to prepare means preparing to fail. To ensure success, invest sufficient time in studying and preparation.

Effective Study Techniques for Regulatory Exams

To succeed in the regulatory exams, it is crucial to develop a thorough understanding of the material. Here are some essential study tips:

Attention to Detail

- Every word count: A single word can change the meaning of a statement.
- Legal wording is precise: Understand the nuances of legal terminology.

In-Depth Study

- Do not just read: Absorb and understand the material.
- Focus on rules, facts, legal wording, and provisions.
- Go beyond just reading the training material and legal references.
- Engage with the material: Take notes, summarize key points, and ask questions.
- Review and practice regularly: Reinforce your understanding and build confidence.

By adopting these study techniques, you will be well-prepared to tackle the regulatory exams and achieve success!

Suggested Study Programme

This study timetable has been designed for busy professionals preparing for the RE 1 exam. It is structured over 21 days, with an average study commitment of 2–3 hours per day. The schedule focuses on working through one or two modules per day, followed by review and mock exam practice. Learners are encouraged to adjust the pacing based on personal availability but should maintain sequence for optimal understanding.

Day	Modules Covered	Topics and Focus Areas
Day 1	Module 1	FAIS Act background, purpose, regulatory evolution, FSCA structure, Twin Peaks model.
Day 2	Module 1 (continued)	FSCA functions, communication with the Authority, integration with other laws (FICA, NCA, POPIA).
Day 3	Module 2	Financial products and FSP categories (Cat I–IV), 27 subcategories, Tier 1 vs Tier 2, COB training.

Day 4	Module 2 <i>(continued)</i>	Advice vs Intermediary services, robo-advice, implications of unlicensed activity.
Day 5	Module 3	Licensing conditions, license applications and amendments, authority notifications, enforcement triggers.
Day 6	Module 4	Role of Key Individuals, Fit & Proper criteria, appointment, disqualifications, oversight responsibilities.
Day 7	Review Day 1–6	Summary of Modules 1–4: Use flashcards, knowledge checks, definitions, and comparison tables.
Day 8	Module 5	Fit and Proper: Honesty, integrity, competence, qualifications, experience, and RE exams.
Day 9	Module 5 <i>(continued)</i>	Class of Business, product-specific training, CPD, operational ability, and financial soundness.
Day 10	Module 6	General Code of Conduct: Disclosure, client file requirements, advertising, conflict of interest.
Day 11	Module 6 <i>(continued)</i>	Recordkeeping, complaints resolution, financial needs analysis, ROA.
Day 12	Module 7	Supervision requirements, responsibilities under BN 86 of 2018, timelines and reporting.
Day 13	Review Day 8–12	Summary of Modules 5–7. Create a quick-reference grid on Fit & Proper vs GCOC.
Day 14	Module 8	Compliance function: CO duties, reporting lines, CO appointment, BN 194, and BN 127 duties.
Day 15	Module 9	Outsourcing under BN 194: Section 39 obligations, SLAs, monitoring, FSP accountability.
Day 16	Module 10	Suspension and withdrawal of licenses, FSCA enforcement powers, debarment of representatives.
Day 17	Module 11	The FAIS Ombud: jurisdiction, process, outcome, examples of cases, escalation procedures.
Day 18	Review Day 14–17	Summary of Modules 8–11. Do self-quizzing on timelines, responsibilities, enforcement.
Day 19	Mock Exam 1 (Full-length)	Take the mock under exam conditions (2.5 hours). Review incorrect answers immediately.
Day 20	Mock Exam 2 (Targeted)	Retake or redo only weak areas. Use the manual to close gaps.

Day 21	Final Summary & Exam Tips	Quick-fire revision of red-flag topics, case law, exam technique, mental preparation.
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IMPORTANT DEFINITIONS

Below is a brief glossary defining major terms under the FAIS Act:

Term	Definition from the Act
Advertising	Means any communication published through any medium and in any form, by itself or together with any other communication, which is intended to create public interest in the business, financial services, financial products or related services of a provider, or to persuade the public to transact in respect of a financial product, financial service or related service of the provider in any manner, but which does not purport to provide detailed information to or for a specific client regarding a specific financial product, financial service or related service.
Advice	Means any recommendation, guidance, or proposal of a financial nature, furnished, by any means or medium, to a client or group of clients— a) in respect of the purchase of any financial product. b) in respect of the investment in any financial product. c) in respect of the conclusion of any other transaction, including a loan or cession, aimed at the incurring of any liability or the acquisition of any right or benefit in respect of any financial product. d) on the variation of any term or condition applying to a financial product. e) on the replacement of any financial product; or f) on the termination of any investment in a financial product. But excluding factual advice and advice on— procedures for entering into a transaction, the performance of a product, or a comparison of products without expressing a recommendation.
Authorised FSP's or Providers	Means a person who has been granted an authorisation as a financial services provider by the issue to that person of a license under section 8.
Client	Means a specific person or group of persons, excluding the general public, who is or may become the subject to whom a financial service is rendered intentionally, or is the successor in title of such person or the beneficiary of such service. Note: under section 14 (Advertising) of the GCOC client includes the general public.
Commissioner and	The executive officer and deputy executive officer of the FSCA (former registrar and

Deputy Commissioner	deputy registrar under FSB).
Compensation	Compensation refers to a monetary payment, benefit, or service offered by an FSP to rectify a proven or estimated financial loss caused by its actions or failures. However, compensation does not include goodwill payments made as a gesture of goodwill, contractual payments are due under an agreement and refunds contractually owed to the client.
Complaint	Complaint, as defined in Section 1, refers to a specific complaint relating to a financial service rendered by a provider or its representative to the complainant, where it is alleged that: <ul style="list-style-type: none"> a) The provider or representative contravened or failed to comply with a provision of the FAIS Act and the complainant suffered or is likely to suffer financial prejudice. b) The complainant was treated unfairly. c) The provider or representative gave incorrect or misleading advice or information. d) The complainant was subject to negligent, reckless, or improper conduct.
Compliance Officer	Means a compliance officer for an authorised financial services provider referred to in section 17 (which refers to the compliance officers). This is the person who embeds compliance within the FSP and reports to the FSCA on compliance issues within the FSP. The Compliance Officer could be an internal person or an outsourced function.
CPD – Continuous Professional Development	Means a process of learning and development with the aim of enabling a financial services provider, key individual, representative or compliance officer to maintain the competency to comply with this Act
Direct Marketing	Means the rendering of financial services by way of telephone, internet, digital application platform, media insert, direct or electronic mail, but excludes the publication of an advertisement.
DOFA	Date of First Appointment
Employed	Means that there is a service contract that exists between the employer, FSP or Product supplier and the representative
Financial Product	Means a product defined by the Registrar and includes: <ul style="list-style-type: none"> • Securities and instruments (such as shares, debentures, bonds), • A participatory interest in a collective investment scheme, • A long-term or short-term insurance policy, • A benefit provided by a pension fund organisation, • A foreign currency denominated investment instrument,

	<ul style="list-style-type: none"> Any other product declared by the Registrar to be a financial product.
Intermediary Services	<p>Means any act other than the furnishing of advice, performed by a person for or on behalf of a client or product supplier—</p> <p>a) the result of which is that a client may enter into, offers to enter into, or enters into any transaction in respect of a financial product with a product supplier; or</p> <p>b) with a view to buying, selling, administering, servicing, managing, or otherwise dealing in a financial product.</p> <p>Examples include:</p> <ul style="list-style-type: none"> Submitting a claim, Collecting premiums, Processing applications or changes.
Key Individual	<p>These are natural persons within the FSP who are either managing or overseeing the activities of the FSP relating to financial services. It also includes a corporate or unincorporated body, a trust, or a partnership, where the “natural person” is responsible for managing or overseeing, either alone or together with other such responsible persons, the activities of the body, trust or partnership relating to the rendering of any financial service.</p>
Mandate	<p>Means any authorisation that was given to the representative to act on behalf of the FSP or Product Supplier. This is usually an agency agreement that was signed between the FSP and Rep.</p>
Product supplier	<p>Means any person who issues a financial product</p>
Publish	<p>Means any direct or indirect communication transmitted by any medium, or any representation or reference written, inscribed, recorded, encoded upon, or embedded within any medium, by means of which a person, other than the registrar, seeks to bring any information to the attention of any other person, or all or part of the public</p>
Representative	<p>“Any person, including a person employed or mandated by a financial services provider, who renders a financial service to a client for or on behalf of a financial services provider, in terms of conditions of employment or any other mandate, but excludes a person rendering clerical, administrative, legal, accounting, technical or other service in a subsidiary or subordinate capacity, which service—</p> <p>a) does not require judgment on the part of the latter person; or</p> <p>b) does not lead a client to any specific transaction in respect of a financial product in response to general enquiries; or</p>

	c) does not lead a client to make any specific decisions in relation to any such transaction; or d) is otherwise not primarily intended to result in the client entering into any such transaction.”
The FSCA	The Financial Sector Conduct Authority (FSCA) is South Africa's financial market regulator. The FSCA's mission is to protect consumers and ensure a fair and stable financial system.

For the purpose of this manual, the following terms and abbreviations are used interchangeably:

Compliance Officer	CO
General Code of Conduct for authorised financial services providers and representatives	GCOC
Financial Advisory and Intermediary Services Act	FAIS or FAIS Act
Financial Intelligence Centre	FIC or The FIC
Financial Intelligence Centre Act	FICA or FIC Act
Financial Sector Conduct Authority	FSCA or The FSCA
Financial Sector Regulation Act	FSR or FSR Act
Financial Services Provider	FSP or The FSP
Key Individual	KI
Prudential Authority	PA or The PA
Representative	Rep or Financial Advisor

MODULE 1: THE FAIS ACT AS A REGULATORY FRAMEWORK

Learning outcomes:

By the end of this module, the learner will be able to:

1. Explain the background and motivation for the enactment of the FAIS Act, including historical gaps in consumer protection and industry regulation prior to 2002.
2. Identify the primary objectives and purpose of the FAIS Act in regulating financial advisory and intermediary services and ensuring consumer protection.
3. Describe the key drivers that led to the development of the FAIS Act, such as increased consumer complaints, lack of clear standards, and the need for alignment with international best practices.
4. Interpret the preamble of the FAIS Act and explain how it frames the scope and intention of the legislation.
5. Define subordinate legislation and identify examples relevant to the FAIS Act, including Regulations, Board Notices, and Codes of Conduct.
6. Summarize key legislative milestones related to the evolution of the FAIS regulatory environment.
7. Differentiate between the Financial Services Board (FSB) and its successor, the Financial Sector Conduct Authority (FSCA), with a focus on their respective roles and responsibilities.
8. Explain the integration of the FAIS Act with other legislation, including the Financial Sector Regulation Act, FICA, Insurance Act, National Credit Act, Cisca, Companies Act, and POPIA.
9. Demonstrate understanding of the Twin Peaks model, its regulatory framework, and how it enhances the supervision of financial services in South Africa.
10. Describe the mandate, mission, and structure of the FSCA, including its specialized departments and oversight responsibilities across different financial sectors.
11. Recognize the roles and functions of the FAIS Department within the FSCA, including the four divisions and their contributions to market conduct regulation.
12. Outline the procedures for communicating with the FSCA Commissioner, including application, submission, fees, and ongoing compliance monitoring.
13. Apply Section 7(3) of the FAIS Act to assess whether business arrangements between financial service providers are legally permissible based on licensing status.
14. Differentiate between financial service-related and non-financial service-related arrangements and explain when regulatory licensing checks are required.

In an era where financial products and services are becoming increasingly intricate, the need for robust consumer protection has never been more critical. The Financial Advisory and Intermediary Services Act (FAIS Act) serves as a cornerstone in safeguarding the interests of consumers within South Africa's financial landscape. This module delves into the origins, objectives, and implications of the FAIS Act, highlighting its role in establishing a regulatory framework that not only enhances consumer trust but also ensures that financial advisors operate with integrity and accountability. By understanding the FAIS Act, stakeholders can better navigate the complexities of the financial services sector and contribute to a more transparent and ethical industry.

BACKGROUND AND MOTIVATION

Before 2002, South Africa did not have a solid set of rules for financial advisors and intermediaries. People needed laws to protect them from unqualified advisors, ensure fair treatment, and promote good practices. To address these issues, the Financial Advisory and Intermediary Services Act 37 of 2002 was created.

This law was made to:

- Protect consumers when buying financial products.
- Improve the trustworthiness of the financial services sector.

KEY DRIVERS OF THE FAIS ACT

PREAMBLE OF THE ACT

The FAIS Act was primarily driven by the need to enhance consumer protection in a rapidly evolving financial landscape. With the rise of complex financial products and services, consumers often found themselves at a disadvantage, lacking the necessary knowledge to make informed decisions. The Act aimed to address these challenges by establishing clear standards for financial advisors, mandating that they possess the requisite qualifications and adhere to a code of conduct that prioritizes the interests of their clients. This regulatory framework not only fosters trust between consumers and financial service providers but also promotes a more transparent and accountable industry overall.

1. Inadequate Consumer Protection: The financial services sector lacked sufficient protection for consumers, making them vulnerable to exploitation.

2. Increasing Consumer Complaints: Rising complaints about the mis-selling of financial products highlighted the need for regulatory intervention.

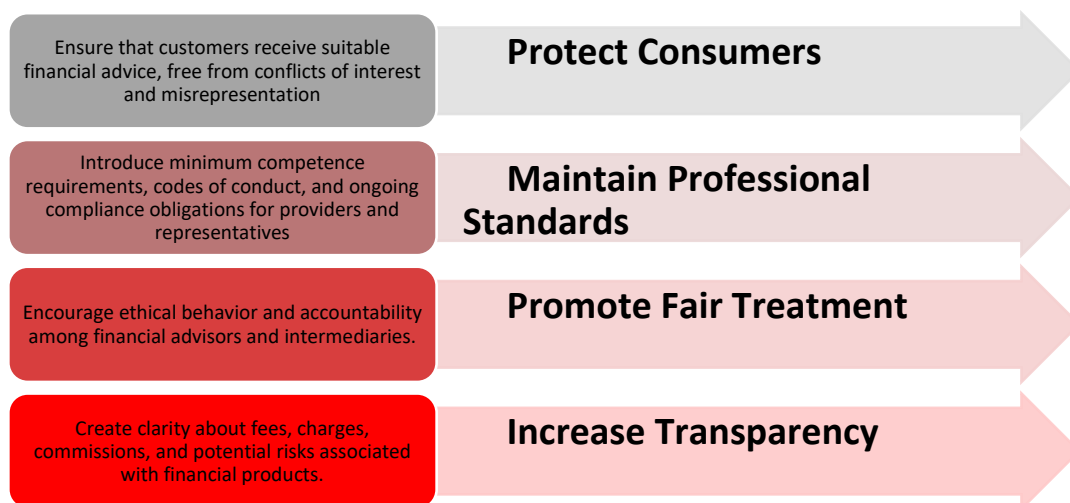
3. Lack of Clear Standards: The absence of clear standards for financial advice and intermediary services created confusion and inconsistencies in the industry.

4. Alignment with International Best Practices: The need to align South African financial legislation with international best practices and standards drove the development of the FAIS Act.

“To regulate the rendering of certain financial advisory and intermediary services to clients; to repeal or amend certain laws; and to provide for matters incidental thereto”

PURPOSE AND GOALS OF THE FAIS ACT

The main goal of the FAIS Act is to control how FSPs, and their Representatives (Reps) give advice and help clients. It sets rules for professionalism, ethics, and skill in the industry. This Act aims to:



SUBORDINATE LEGISLATION

Subordinate legislation refers to laws or regulations that are made under the authority of a primary legislation, such as an Act of Parliament. In other words, subordinate legislation is a type of law that is derived from a higher-level law.

In the context of the FAIS Act, subordinate legislation includes:

1. **Financial Advisory and Intermediary**

Services Regulations: These regulations provide detailed requirements for FSPs, including licensing, registration, and conduct of business.

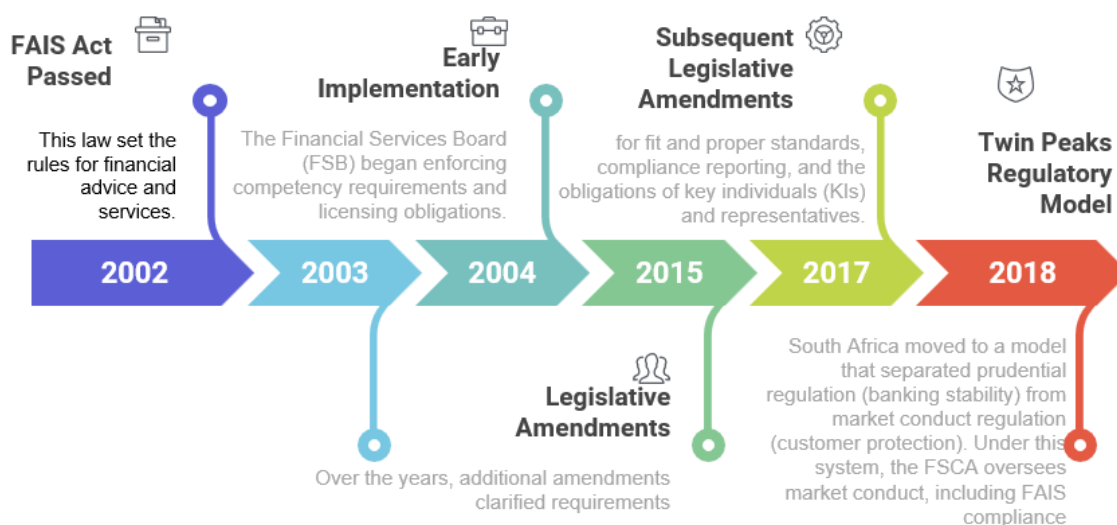
2. **Board Notices:** The Financial Sector

Conduct Authority (FSCA) issues board notices to provide guidance on specific aspects of the FAIS Act and its regulations.

3. **Codes of Conduct:** The FSCA has issued codes of conduct for FSPs and Representatives, outlining minimum standards for their behavior and conduct.

These subordinate legislations support the FAIS Act by providing further details and guidance on how to comply with the Act's requirements. They help to flesh out the principles and objectives of the FAIS Act, making it easier for FSPs to understand their obligations and responsibilities.

IMPORTANT LEGISLATIVE EVENTS



TRANSITION FROM THE FINANCIAL SERVICES BOARD TO THE FINANCIAL SECTOR CONDUCT AUTHORITY

The establishment of the Financial Services Board (FSB) marked a significant milestone in South Africa's financial landscape, as it aimed to enhance consumer protection and promote fair treatment within the financial services sector. Initially, the FSB focused on regulating insurance companies, pension funds, and investment schemes, ensuring that these entities adhered to the necessary standards and practices. This proactive approach not only fostered trust among consumers but also contributed to the overall stability of the financial system, laying the groundwork for future regulatory developments.

The FSB was formed in 1990 to serve as an independent authority overseeing South Africa's non-banking financial services industry. Its main purpose was to protect the public interest by supervising and regulating FSPs outside the banking sector. Over time, the FSB's

responsibilities expanded, and in line with newer reforms, it has transitioned into the Financial Sector Conduct Authority (FSCA) as of 1 April 2018. This change is part of the implementation of the Twin Peaks Model of financial sector regulation, which aims to regulate both the banking and non-banking financial services sectors under a single framework. Twin Peaks came about as a result of the enactment of the Financial Sector Regulation Act (FSR Act).

THE RELATIONSHIP BETWEEN THE FAIS ACT AND FSR ACT (TWIN PEAKS)

The FAIS Act and the FSR Act are important laws for financial services in South Africa. The FAIS Act focuses on how financial service providers operate. It aims to protect consumers by making sure they get good advice and services. Representatives must be registered and follow certain rules, which helps consumers trust them more.

On the other hand, the FSRA sets up a bigger framework for different financial areas, like

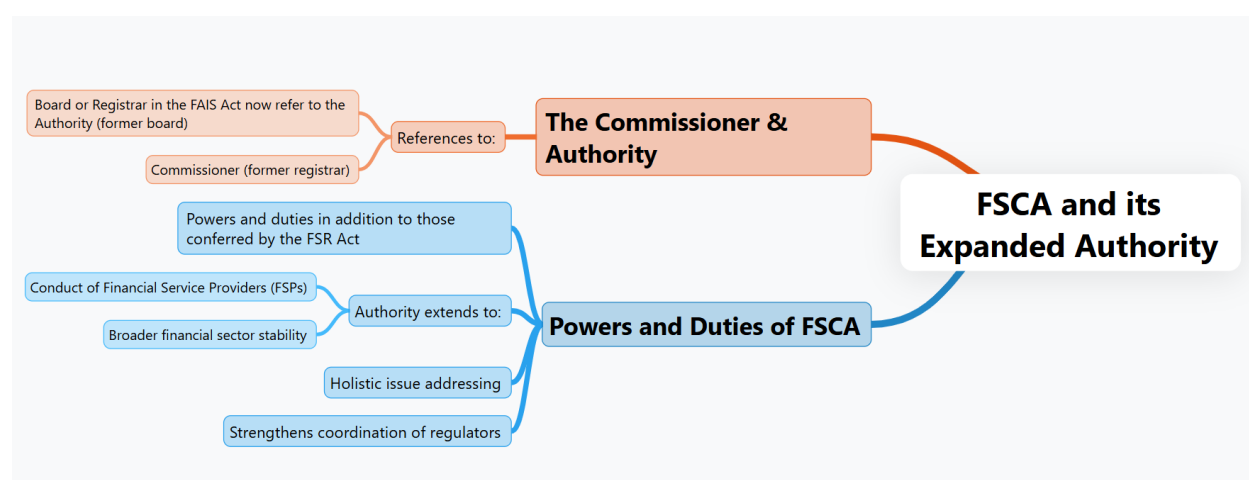
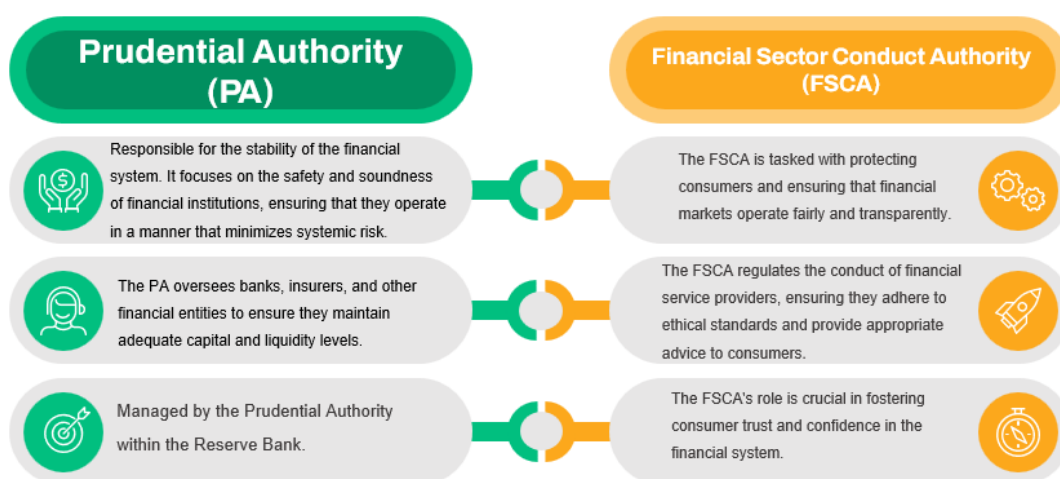
banking, insurance, and investments. It works to create a unified set of rules for these sectors.

This act looks not just at how providers behave but also at risks in the financial system.

Together, the FAIS and the FSRA promote transparency, accountability, and consumer protection while helping to keep the financial system stable. By working together, these laws help South Africa's economy grow and protect the public's interests.

The Twin Peaks model, introduced in South Africa through the Financial Sector Regulation Act (FSRA), aims to enhance the regulation of the financial services industry by establishing two main regulatory authorities: the Prudential Authority (PA) and the Financial Sector Conduct Authority (FSCA).

Let us examine what each of these regulators do:



The FAIS Act remains a cornerstone of South Africa's financial regulation, aiming to protect

both consumers and the integrity of the financial advice industry. It ensures that individuals

offering financial services are qualified, transparent, and accountable for the advice they give. Ultimately, the Act fosters trust in the financial sector and contributes to a stable, consumer-centric environment. By understanding the origins, objectives, and implications of the FAIS Act, FSPs can better navigate the complexities of the industry and contribute to a more transparent, accountable, and consumer-centric financial services sector.

As the regulatory landscape continues to evolve, it is essential that financial services providers remain committed to upholding the principles of

professionalism, integrity, and fairness that underpin the FAIS Act. By doing so, we can promote a culture of trust, stability, and growth in the financial services industry, ultimately benefiting both consumers and the broader economy.

The financial services industry is a complex ecosystem comprising various role players, each with distinct responsibilities and functions. Understanding the roles and responsibilities of these role players is crucial for navigating the industry effectively and ensuring compliance with regulatory requirements.

INTEGRATION OF THE FAIS ACT WITH OTHER LEGISLATION

The FAIS Act is integrated with other financial sector legislation to form a comprehensive regulatory framework aimed at promoting integrity, consumer protection, and financial stability in South Africa's financial services industry. This integration ensures that financial services providers (FSPs), representatives, and key individuals comply with both sector-specific and cross-cutting obligations.

The FAIS Act integrates with other key financial sector legislation in the following ways:

1. Financial Sector Regulation Act (FSR Act), 2017

The FSR Act establishes the Twin Peaks model, under which the FSCA oversees market conduct, while the Prudential Authority regulates financial soundness. FAIS now operates under the FSCA's conduct mandate. Powers of

enforcement, licensing, supervision, and inspections under the FAIS Act are exercised in line with the broader FSR Act.

The FSCA can issue conduct standards that complement or refine FAIS provisions.

2. Financial Intelligence Centre Act (FICA), 2001

All FSPs are designated as accountable institutions under Schedule 1 of FICA. FAIS-compliant FSPs must also comply with anti-money laundering (AML) and counter-terrorist financing (CTF) duties under FICA. Compliance officers and key individuals must oversee both FAIS obligations (e.g., disclosure, advice standards) and FICA duties (e.g., KYC, STR reporting). FAIS enforcement can include breaches of FICA duties if they impact market conduct.

3. Financial Institutions (Protection of Funds) Act, 2001

The Act regulates how FSPs handle client funds, ensuring no misuse or misappropriation. FAIS Code of Conduct refers to proper handling of client money and assets, aligned with this Act.

4. National Credit Act (NCA), 2005

The NCA applies where FSPs also engage in credit provision or intermediation. An FSP offering both advice and credit (e.g., debt counselling, credit life insurance) must comply with both FAIS licensing and NCA registration. The General Code of Conduct under FAIS also requires FSPs to assess affordability and financial needs, which aligns with NCA's affordability assessment obligations.

5. Collective Investment Schemes Control Act (CISCA), 2002

CISCA governs the regulation and operation of collective investment schemes. FSPs who market or advise on CIS products must be

authorized for the relevant product categories under FAIS, while the scheme itself is regulated under CISCA.

6. Insurance Act, 2017

Insurance providers and intermediaries are subject to FAIS for advice and intermediary services, and to the Insurance Act for prudential and operational oversight. FSCA ensures consistency between FAIS conduct requirements and the Policyholder Protection Rules (PPRs) under the Insurance Act.

7. Protection of Personal Information Act (POPIA), 2013

FSPs collect and store client information during the rendering of financial services. Client information must be handled in a way that complies with both the General Code of Conduct under FAIS and POPIA privacy and consent principles

FINANCIAL SECTOR CONDUCT AUTHORITY

The FSCA is South Africa's financial institutions market conduct regulator. It was established to ensure a fair and stable financial market where consumers are informed and protected. The FSCA's main goal is to enhance and support the integrity of the financial system, holding accountable those who jeopardize the financial wellbeing of consumers. The FSCA is headed up by a Commissioner and Deputy Commissioner (previously the officer and executive officer under the FSB). FAIS is one of the ways in which market conduct and integrity is regulated.

MISSION AND VISION OF THE FSCA

The FSCA's core mission and vision focus on protecting clients and ensuring fair treatment in the financial services sector. Its specific goals are:



Roles and Responsibilities

The FSCA's mandate is broad, overseeing a wide range of financial services providers. This includes:

Area of Oversight	Details
Retirement Funds	Ensuring proper oversight and regulation of retirement savings schemes.
Short-Term & Long-Term Insurance	Regulating both short-term and long-term insurance providers to ensure compliance and fairness.
Funeral Insurance	Regulating funeral insurance products to protect consumers.
Collective Investment Schemes	Overseeing unit trusts and stock market investments to ensure investor protection.
Financial Advisors and Brokers	Ensuring that financial advisors and brokers are properly registered and meet the necessary compliance standards.

FSCA DEPARTMENTS

The FSCA operates with a variety of specialized departments to manage the different areas of financial services regulation:

Below is an explanation of what each of these departments does:

FSCA Department	Purpose/Function
Actuarial	Overseeing actuarial services, ensuring that actuarial standards are met within the industry.
Capital Markets	Regulating activities within capital markets, ensuring compliance with market conduct rules.
Collective Investment Schemes	Regulating unit trusts, mutual funds, and other collective investment schemes.
Consumer Education	Educating the public on financial literacy and consumer rights within the financial sector.
Credit Ratings	Supervising credit rating agencies and ensuring their adherence to regulations.
FAIS	Administering the Financial Advisory and Intermediary Services Act (FAIS), which governs financial advisors and intermediaries.
Information Centre	Providing information and resources to the public and industry stakeholders.
Insurance	Regulating both short-term and long-term insurance sectors.
International and Local Affairs	Managing international relationships and ensuring that local regulatory frameworks are in alignment with global standards.
Legal and Policy	Developing legal and policy frameworks to guide financial sector regulation.
Market Abuse	Overseeing market abuse and ensuring the integrity of financial markets is maintained.
Market Conduct Strategy Unit	Managing strategies related to market conduct, ensuring that financial services are delivered fairly and transparently.
Retirement Funds	Regulating the retirement funds industry to ensure long-term security for contributors.

FAIS DEPARTMENT

The FAIS department is a department of the FSCA. The FSCA Commissioner and deputy Commissioner are responsible for all FAIS matters. The FAIS department within the FSCA is specifically dedicated to administering the FAIS Act. This department's goal is to protect investors and ensure the professionalism of the financial services industry. The FSCA is responsible for regulating conduct within the whole financial services industry. Financial Services Providers and their activities are regulated through the Commissioner and FAIS department within the FSCA. There are four (4) divisions within the FAIS Department. These are listed next:

Registration	Supervision	Compliance	Enforcement
New licences applications	Implementation – risk based approach to supervision of FSPs	Complaints that fall outside of the jurisdiction of the FAIS Ombud	Interaction between FAIS division and the Enforcement Committee
Profile changes	Analysis of FSP financial statements and compliance reports (in the future financial statements and liquidity reports will be submitted to the PA)	Investigation into the affairs of FSPs	Preparation on matters to refer for possible administrative sanction
Updating of the central representative register	Conducting onsite visits to FSPs and compliance officers	Regulatory action: suspension and withdrawal of licences	Processing of debarments
Approval of investment mandates & application forms (FSP II and III)	Changes in subordinate legislation, e.g. Board Notices	Updating of debarments and reinstatements on the central register	
Lapsing of licences			
Queries on licence status			
Liaison with the FSCA finance department			
Collection of levies			

COMMUNICATION WITH THE FSCA AND THE COMMISSIONER

When requesting a service under the FAIS Act, you must:

1. Make a written application to the Commissioner.
2. Use the required form and follow the specified process.

3. Pay the applicable fee.
4. Provide any necessary information or documents requested by the Commissioner.

The FSP must liaise with the relevant department depending on the particular matter. Most interactions are now electronic (sent via email or uploaded). Usually there are standard forms and/or prescribed processes to follow, and a fee also often applies

KEEPING ABREAST OF LEGISLATIVE CHANGES

To remain updated with published changes to legislation that may affect the FSP, the following processes must be implemented:

Monitoring Regulatory Sources	Regularly monitor relevant regulatory bodies such as FSCA, National Treasury, FIC, NCR, and Government Gazette for amendments and new developments.
Compliance Officer Responsibility	Designate a compliance officer to track legal updates and assess the impact of legislative changes on the FSP.
Legislative Update Register	Maintain a register logging all regulatory changes, including publication date, applicable law, affected area, and required action.
Internal Communication	Communicate changes in legislation to all affected staff, especially where it impacts their duties or responsibilities.
Policy and Procedure Updates	Review and update internal policies, procedures, and controls in line with legislative changes to ensure compliance.
Training and Awareness	Update and conduct training programs to ensure employees understand and apply new legislative requirements.

DOING BUSINESS WITH ENTITIES: FINANCIAL SERVICES ARRANGEMENTS

When it comes to financial services arrangements, an authorized financial services provider or representative can only partner with another person or entity providing financial services if:

1. That person or entity has a valid license to provide those financial services, and
2. The license allows them to provide those specific financial services.

This requirement only applies to arrangements related to financial services and does not apply to any other type of arrangement.

Section 7(3) FAIS Act

An authorised financial services provider or representative may only conduct financial services related business with a person rendering financial services if that person has, where lawfully required, been issued with a license for the rendering of such financial services and the conditions and restrictions of that license authorizes the rendering of those financial services, or is a representative as contemplated in this Act.

John, the owner of an authorized Financial Services Provider, wants to contract with Sarah, a direct marketer, to sell his FSP's financial products to her clients. To comply with the regulation, John must ensure that Sarah's company holds a valid license to render financial services.

Michael, a licensed financial advisor, wants to partner with Emily, a catering company, to provide food and beverages for a client seminar. In this case, the regulation does not apply because the arrangement is not related to financial services. Michael does not need to verify Emily's licenses or qualifications related to financial services.

Before proceeding to the next module, please ensure that you meet the below task criteria as set out by the FSCA.

Task	Qualifying Criteria	Knowledge (K) or Skill (S)	Legislation Reference / Motivation
Demonstrate understanding of the FAIS Act as a regulatory framework.	Describe the FAIS Act and subordinate legislation.	K The task requires knowledge of a specific section of the legislation or regulation	FAIS Act <ul style="list-style-type: none"> • Preamble • Definitions • Sec 18 FSR Act Chapter 1, Part 1 Sec (1)

			Code of Conduct Administrative FSPs Definition of Administrative and Discretionary FSP
	Explain how the FAIS Act is integrated with other Financial Sector legislation.	K	
	Describe the requirements when interaction between FSPs takes place.	K	FAIS Act Sec 7(3) & 8(3) GCOC Sec 12 FSR Act Chapter 1, Part 1 Sec (1)
	Explain in general which departments of the Financial Sector Conduct Authority office deal with which FSP matters.	K	FAIS Act Sec 8 Licensin g Conditio ns FSR Act – Chapter 1, Part 1 Sec (1)
	Interact with the Authority when and where required.	S The task requires practical ability to perform tasks or apply knowledge in real scenarios	Licensin g Conditio ns FAIS Act - Sec 8 FSP Licensing Forms
	Explain what the correct format of communication with the Authority is.	K	FAIS Act - Sec 4(4) Licensing Conditions FAIS Act - Sec 8
	Explain what processes are required to remain updated with regards to published changes to legislation that will affect the FSP.	K	FAIS Act - Sec 17(1)

MODULE 2: FINANCIAL PRODUCTS AND FINANCIAL SERVICES

Learning outcomes

Upon completing this module, learners will be able to:

1. Describe the importance of understanding product categories and subcategories within the FAIS Act for regulatory compliance and correct licensing.
2. Differentiate between financial product categories and subcategories and explain the implications for both Financial Services Providers and their Representatives.
3. Identify the different categories of FSPs (Category I to IV) and describe their permitted activities and applicable subcategories.
4. List and explain the 27 subcategories under Category I FSPs, including real-world examples and their purposes.
5. Compare the subcategories applicable to Category II, IIA, III, and IV FSPs, and recognize the limitations and authorizations applicable to each.
6. Define a financial product as contemplated under the FAIS Act and articulate the licensing requirements necessary to render financial services in relation to such products.
7. Explain the legal implication of rendering services without appropriate licensing, including the meaning of Section 7(2) of the FAIS Act regarding the enforceability of contracts.
8. Identify and describe the nine Classes of Business as per Board Notice 194 of 2017, including their associated subclasses.
9. Distinguish between Tier 1 and Tier 2 products, understanding their complexity, risk level, training requirements, and their implications for advice and intermediary services.
10. Differentiate between 'Advice' and 'Intermediary Services' under the FAIS Act and explain the legal and operational consequences of each.
11. Recognize services that are explicitly excluded from the definition of intermediary services, such as conduit services or exempted services.
12. Explain how automated or robo-advice fits within the regulatory framework of the FAIS Act and assess its implications for compliance and client protection.
13. Apply knowledge of financial product categories, Tier classifications, and service types to determine whether a financial service is compliant with FAIS requirements.
14. Demonstrate awareness of the training obligations for representatives in relation to Classes of Business and Tier 1/Tier 2 product distinctions.

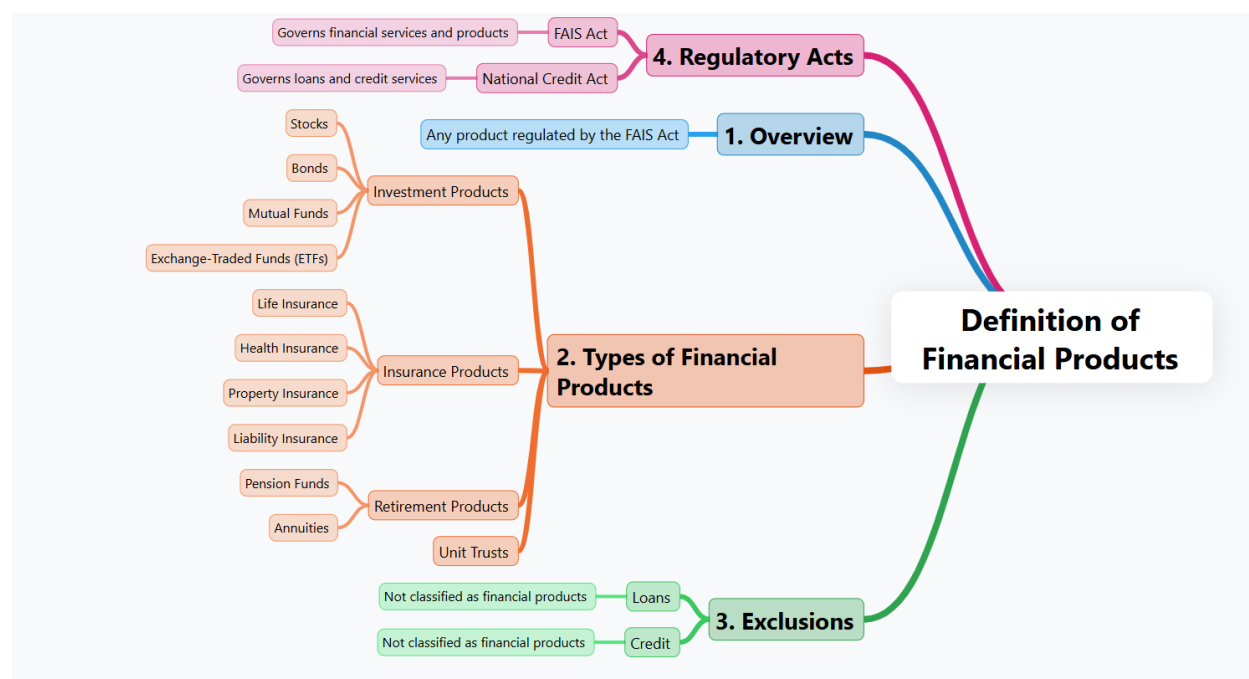
It is important for learners to know the different product categories and subcategories in the FAIS Act. This knowledge helps financial services professionals to follow licensing rules and meet the regulatory requirements. Each FSP must be licensed in a specific category or categories. An FSP can have licenses in more than one category and can sell different financial products in those categories. These financial products are called sub-categories, and they give more details about the types of financial products in each main category.

The FSP must be suitably licensed for the relevant category and product subcategory or categories. They can only deal with products for which they are authorised. The license will also specify if the FSP is authorised to give advice or render intermediary services, or both. Likewise, representatives can only render financial services in financial products (or subcategories) for which they are authorised.

If an FSP is not authorised for the correct category of license or subcategories and enters into a transaction with a client, that contract is still valid, despite the fact that the FSP or even the representative was not licensed correctly.

“A transaction concluded between a product supplier and any client by virtue of any financial service rendered to the client by a person not authorised as a financial services provider, or by any other person acting on behalf of such unauthorized person, is not unenforceable between the product supplier and the client merely by reason of such lack of authorisation.” Section 7(2) FAIS Act

DEFINING A FINANCIAL PRODUCT



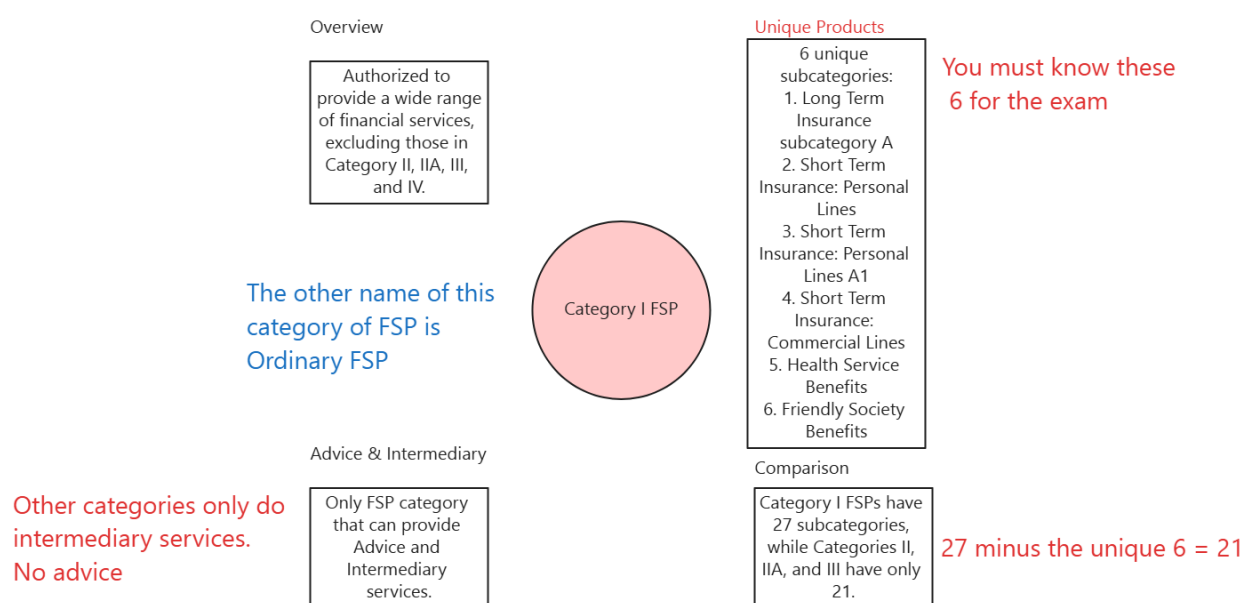
To conduct business, FSPs and their representatives must:

- Meet the requirements for their main license category and subcategories.
- Only deal with approved product categories listed on their FSP license.

In short, FSPs must follow the rules and only offer products they are authorized to offer.

There are four categories or types of FSPs. Let us go through each, starting from Category I FSPs and moving to Category IV FSPs.

CATEGORY I FSPs



Below are the 27 subcategories that fall into a Category I FSP:

SUBCATEGORIES FOR A CATEGORY I FSP

Subcategory		Explanation	Important to note
1.1	Long-term Insurance subcategory A	These are funeral policies that provide a lump sum payout to cover the costs of funeral expenses, such as caskets, transportation, and ceremony-related expenses.	Available in Category I and IV only

		<p>Example: A client buys a funeral policy for R200 per month, and upon their death, the policy pays out R30,000 to cover funeral expenses.</p> <p>Purpose: To ease the financial burden on families after a loved one passes away, ensuring funeral costs are covered</p>	
1.2	Short-term Insurance Personal Lines	<p>This subcategory covers insurance for personal property and possessions, such as household insurance.</p> <p>Example: Homeowners Insurance: Covering the risks of damage or loss to an individual's home due to fire, theft, or natural disasters.</p>	Available in Category I FSP only
1.3	Long-term Insurance subcategory B1	<p>These policies cover specific risks, such as death, disability, and critical illness, without any investment or savings component.</p> <p>Example: A life insurance policy that pays a lump sum if the policyholder dies or becomes permanently disabled.</p> <p>Purpose: To provide financial support to the policyholder's dependents in case of death or disability, or to cover medical bills in case of illness.</p>	
1.4	Long-term Insurance subcategory C	<p>These are life insurance policies or investment-linked insurance products that may include a savings or investment element.</p> <p>Example: Endowment policies or life and dread disease insurance, where the policyholder is covered for specific events, and there may be a payout at the end of the term.</p> <p>Purpose: To protect policyholders against specific risks while also building an investment component.</p>	

1.5	Retail Pension Benefits	<p>This includes individual pension or provident fund policies, designed to provide income for people during retirement.</p> <p>Example: An individual opens a retirement annuity (RA) where they contribute money monthly to build a retirement fund.</p> <p>Purpose: To save for retirement, providing financial security when the individual is no longer working.</p>	
1.6	Short-term Insurance Commercial Lines	<p>Insurance that covers business assets, such as commercial property, equipment, vehicles, and liability.</p> <p>Example: A restaurant takes out insurance to cover fire damage to its property, theft of equipment, and liability for injuries caused to customers.</p> <p>Purpose: To protect businesses from financial loss due to unforeseen events like damage to property, lawsuits, or business interruption.</p>	Available in Category I FSP only
1.7	Pension Fund Benefits	<p>These are group pension schemes that provide retirement benefits to a group of people, typically employees of a company.</p> <p>Example: A company offers a pension fund for its employees, where both the employer and employees contribute towards a retirement fund that is paid out upon retirement.</p> <p>Purpose: To provide employees with retirement income after they stop working.</p>	
1.8	Shares	<p>Shares represent ownership in a company. When a person buys shares, they own a part of that company and may receive dividends or benefit from price increases.</p> <p>Example: An investor buys shares in a company listed on the Johannesburg Stock Exchange (JSE) and</p>	

		<p>receives a share of the company's profits in the form of dividends.</p> <p>Purpose: To invest in companies, with the potential for earning dividends and capital gains as the company grows and performs well.</p>	
1.9	Money market instruments	<p>These are short-term debt instruments issued by banks or corporations that provide a safe investment option, typically with a guaranteed interest rate.</p> <p>Example: A person buys a money market fund from a bank that invests in short-term government bonds, offering relatively low but safe returns.</p> <p>Purpose: To earn interest in a relatively low-risk investment that provides liquidity and safety of principal.</p>	
1.10	Debentures and securitized debt	<p>Debentures are long-term loans issued by a company or government that are not backed by any collateral. Securitized debt refers to loans bundled into tradable securities.</p> <p>Example: A company issuing debentures to raise funds for expansion. Investors who buy the debentures are paid interest at regular intervals.</p> <p>Purpose: To raise capital for businesses or governments, with investors receiving regular interest payments.</p>	
1.11	Warrants, certificates, or other instruments	<p>A warrant gives the holder the right to purchase shares or commodities at a set price at a future date, and it can be sold to others before the expiry date.</p> <p>Example: A person buys a warrant that allows them to purchase shares in a tech company at a fixed price within the next two years.</p>	

		Purpose: To offer investors a chance to buy an asset at a future date for a predetermined price.	
1.12	Bonds	<p>A bond is a loan made to a company or government in exchange for regular interest payments and the return of the principal at the maturity date.</p> <p>Example: A government issues a bond to raise funds for a public infrastructure project, offering investors a fixed interest rate over 10 years.</p> <p>Purpose: To raise funds from investors with the promise of paying interest and returning the principal later</p>	
1.13	Derivative instruments	<p>Derivative instruments are contracts whose value is derived from the performance of an underlying asset, index, or interest rate. These instruments are used for hedging, speculation, or arbitrage.</p> <p>Example: Futures contracts or options on stocks, commodities, or indices.</p> <p>Purpose: To manage risk, speculate on price movements, or gain exposure to underlying assets without owning them directly.</p>	
1.14	Participatory interests in a collective investment scheme	<p>These are shares or units in a collective investment scheme (CIS) where investors pool their money to invest in a portfolio of assets such as stocks, bonds, and other securities.</p> <p>Example: Investing in a unit trust fund or an exchange-traded fund (ETF).</p> <p>Purpose: To diversify investments and gain professional management of pooled resources.</p>	
1.15	Forex Investment	Forex investment involves buying and selling foreign currencies to make a profit based on fluctuations in exchange rates.	

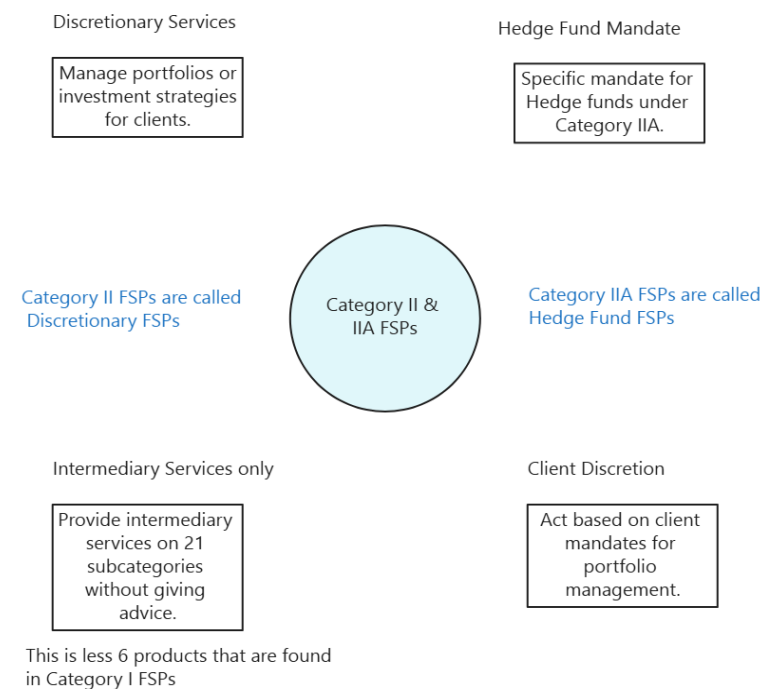
		<p>Example: Forex trading accounts where investors trade currency pairs like USD/EUR or GBP/USD.</p> <p>Purpose: To profit from currency movements and to hedge against currency risk.</p>	
1.16	Health Service Benefits	<p>These are products that provide coverage for medical expenses, often through health insurance or medical aid schemes.</p> <p>Example: A medical aid plan that covers hospitalization, doctor visits, and prescription medications.</p> <p>Purpose: To assist individuals in managing the financial burden of healthcare costs.</p>	Available in Category I FSP only
1.17	Long-term Deposits	<p>A long-term deposit is a financial product where funds are deposited with a financial institution for a period of 12 or more months, typically offering higher interest rates than short-term deposits.</p> <p>Example: Fixed-term deposit accounts with a bank offering returns over 1 year or more.</p> <p>Purpose: To earn interest over the long term while keeping the funds safe.</p>	
1.18	Short-term Deposits	<p>Short-term deposits are funds placed in a bank or financial institution for less than one year, often with lower interest rates than long-term deposits.</p> <p>Example: Call deposits or money market funds.</p> <p>Purpose: To earn a safe and stable return on funds over a short period.</p>	
1.19	Friendly Society Benefits	<p>These are benefits offered by mutual organizations or societies, typically aimed at providing financial assistance or services to members.</p>	Available in Category I FSP only

		<p>Example: Funeral cover or member assistance schemes provided by a friendly society.</p> <p>Purpose: To provide members with benefits like funeral assistance, insurance, or other social services.</p>	
1.20	Long-term Insurance subcategory B2	<p>This refers to long-term insurance products providing benefits related to disability or critical illness, where a lump sum or annuity is paid out.</p> <p>Example: Disability insurance or critical illness insurance.</p> <p>Purpose: To protect policyholders from the financial impact of severe illness or disability.</p>	
1.21	Long-term Insurance subcategory B2-A	<p>This category refers to long-term insurance covering similar risks to Subcategory B2 but often with a focus on more specialized coverage, such as specific illnesses or disabilities.</p> <p>Example: Trauma or cancer insurance, which provides payouts for specific critical health conditions like cancer.</p> <p>Purpose: To provide financial protection against specific types of health issues, helping the insured to cope with high medical expenses.</p>	The premium is invested in a specific investment portfolio with no option to change or amend the portfolio selection
1.22	Long-term Insurance subcategory B1-A	<p>This includes long-term insurance products like life insurance that provide a lump sum or regular payments upon the death of the insured or after a certain time period.</p> <p>Example: Whole life insurance or endowment policies.</p> <p>Purpose: To provide financial security to beneficiaries or to the policyholder themselves in case of death or after a fixed period.</p>	Requires No or limited underwriting. The client must make a health declaration with the insurer asking no more than eight questions, and only an

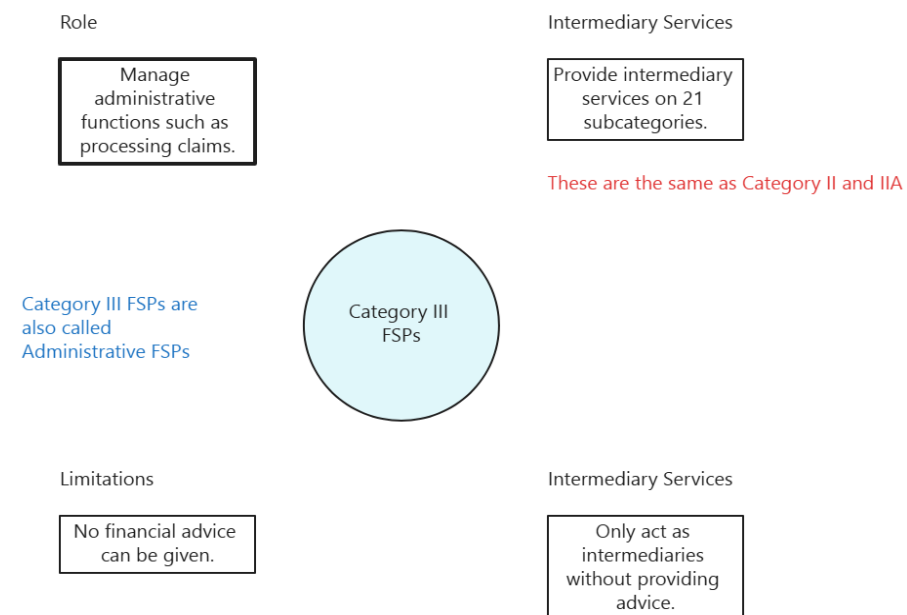
			HIV test is required.
1.23	Short-term Insurance Personal Lines A1	<p>This refers to personal short-term insurance products covering individual property or personal risks such as auto, home, or personal liability insurance.</p> <p>Example: Car insurance or homeowner's insurance.</p> <p>Purpose: To protect individuals from financial loss due to accidents, theft, or property damage.</p>	<p>Available in Category I FSP only</p> <p>Requires No or limited underwriting. These policies must have a term of 24 months or less, cannot be subject to the principles of the average (a process where the claim value is reduced if the client is under insured)</p>
1.24	Structured Deposits	<p>Structured deposits are hybrid financial products that combine elements of deposits and derivatives. They typically offer a fixed return but are linked to the performance of an underlying asset or index.</p> <p>Example: A structured deposit linked to the performance of the stock market or commodities like gold.</p> <p>Purpose: To provide higher returns than traditional deposits, while also offering some form of capital protection.</p>	
1.25	Securities and instruments	<p>Securities and instruments include financial assets like stocks, bonds, and other tradable financial products that represent ownership or creditor interests in a company or government entity.</p> <p>Example: Shares, corporate bonds, or government securities.</p>	

		<p>Purpose: To raise capital for companies or governments, and to provide investors with opportunities to earn returns through capital appreciation or interest payments.</p>	
1.26	Participatory interest in a hedge fund	<p>Hedge funds pool capital from investors to invest in a variety of assets using strategies like short selling, leverage, and derivatives to generate returns.</p> <p>Example: Hedge fund investments that use long and short equity strategies, currency trading, and arbitrage.</p> <p>Purpose: To generate high returns through alternative investment strategies, typically aimed at high-net-worth individuals.</p>	
1.27	Crypto Assets	<p>Crypto assets refer to digital assets, typically using blockchain technology, which represent value. These assets include cryptocurrencies and tokens.</p> <p>Example: Bitcoin, Ethereum, or stablecoins.</p> <p>Purpose: To provide decentralized, digital forms of currency or assets, which can be used for investment, trading, or as a store of value, often in alternative financial markets.</p>	

CATEGORY II AND II A FSPs



Category III FSPs



SUBCATEGORIES FOR A CATEGORY II, IIA AND III FSP

Subcategory for Cat II, IIA and III	Note: Only Intermediary services can be rendered here
Long-term Insurance subcategory B1	<p>These policies cover specific risks, such as death, disability, and critical illness, without any investment or savings component.</p> <p>Example: A life insurance policy that pays a lump sum if the policyholder dies or becomes permanently disabled.</p> <p>Purpose: To provide financial support to the policyholder's dependents in case of death or disability, or to cover medical bills in case of illness.</p>
Long-term Insurance subcategory C	<p>These are life insurance policies or investment-linked insurance products that may include a savings or investment element.</p> <p>Example: Endowment policies or life and dread disease insurance, where the policyholder is covered for specific events, and there may be a payout at the end of the term.</p> <p>Purpose: To protect policyholders against specific risks while also building an investment component.</p>
Retail Pension Benefits	<p>This includes individual pension or provident fund policies, designed to provide income for people during retirement.</p> <p>Example: An individual opens a retirement annuity (RA) where they contribute money monthly to build a retirement fund.</p> <p>Purpose: To save for retirement, providing financial security when the individual is no longer working.</p>
Pension Fund Benefits	<p>These are group pension schemes that provide retirement benefits to a group of people, typically employees of a company.</p> <p>Example: A company offers a pension fund for its employees, where both the employer and employees contribute towards a retirement fund that is paid out upon retirement.</p> <p>Purpose: To provide employees with retirement income after they stop working.</p>

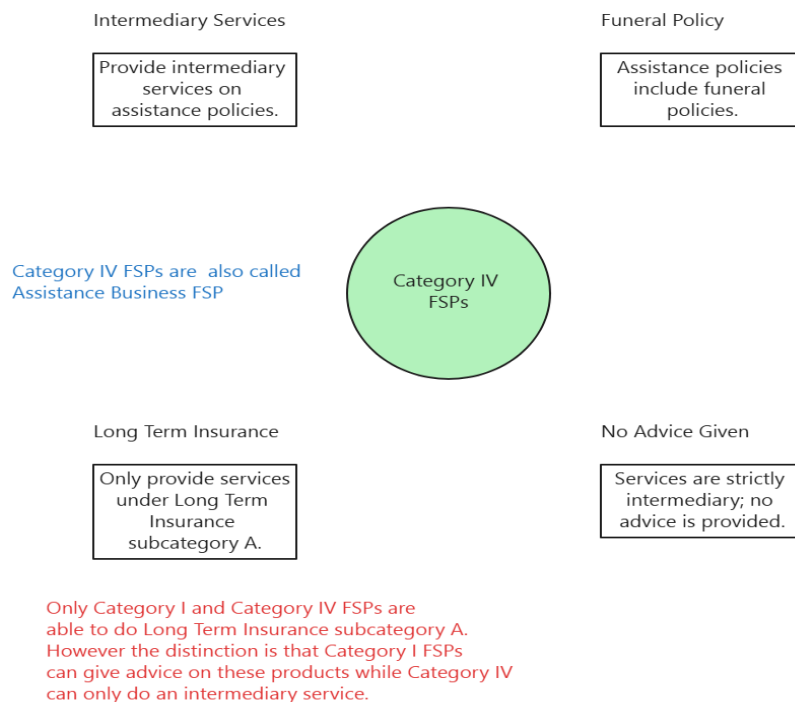
Shares	<p>Shares represent ownership in a company. When a person buys shares, they own a part of that company and may receive dividends or benefit from price increases.</p> <p>Example: An investor buys shares in a company listed on the Johannesburg Stock Exchange (JSE) and receives a share of the company's profits in the form of dividends.</p> <p>Purpose: To invest in companies, with the potential for earning dividends and capital gains as the company grows and performs well.</p>
Money market instruments	<p>These are short-term debt instruments issued by banks or corporations that provide a safe investment option, typically with a guaranteed interest rate.</p> <p>Example: A person buys a money market fund from a bank that invests in short-term government bonds, offering relatively low but safe returns.</p> <p>Purpose: To earn interest in a relatively low-risk investment that provides liquidity and safety of principal.</p>
Debentures and securitized debt	<p>Debentures are long-term loans issued by a company or government that are not backed by any collateral. Securitized debt refers to loans bundled into tradable securities.</p> <p>Example: A company issues debentures to raise funds for expansion. Investors who buy the debentures are paid interest at regular intervals.</p> <p>Purpose: To raise capital for businesses or governments, with investors receiving regular interest payments.</p>
Warrants, certificates, or other instruments	<p>A warrant gives the holder the right to purchase shares or commodities at a set price at a future date, and it can be sold to others before the expiry date.</p> <p>Example: A person buys a warrant that allows them to purchase shares in a tech company at a fixed price within the next two years.</p> <p>Purpose: To offer investors a chance to buy an asset at a future date for a predetermined price.</p>
Bonds	<p>A bond is a loan made to a company or government in exchange for regular interest payments and the return of the principal at the maturity date.</p> <p>Example: A government issues a bond to raise funds for a public infrastructure project, offering investors a fixed interest rate over 10 years.</p>

	<p>Purpose: To raise funds from investors with the promise of paying interest and returning the principal later</p>
Derivative instruments	<p>Derivative instruments are contracts whose value is derived from the performance of an underlying asset, index, or interest rate. These instruments are used for hedging, speculation, or arbitrage.</p> <p>Example: Futures contracts or options on stocks, commodities, or indices.</p> <p>Purpose: To manage risk, speculate on price movements, or gain exposure to underlying assets without owning them directly.</p>
Participatory interests in a collective investment scheme	<p>These are shares or units in a collective investment scheme (CIS) where investors pool their money to invest in a portfolio of assets such as stocks, bonds, and other securities.</p> <p>Example: Investing in a unit trust fund or an exchange-traded fund (ETF).</p> <p>Purpose: To diversify investments and gain professional management of pooled resources.</p>
Forex Investment	<p>Forex investment involves buying and selling foreign currencies to make a profit based on fluctuations in exchange rates.</p> <p>Example: Forex trading accounts where investors trade currency pairs like USD/EUR or GBP/USD.</p> <p>Purpose: To profit from currency movements and to hedge against currency risk.</p>
Long-term Deposits	<p>A long-term deposit is a financial product where funds are deposited with a financial institution for a period of 12 or more months, typically offering higher interest rates than short-term deposits.</p> <p>Example: Fixed-term deposit accounts with a bank offering returns over 1 year or more.</p> <p>Purpose: To earn interest over the long term while keeping the funds safe.</p>
Short-term Deposits	<p>Short-term deposits are funds placed in a bank or financial institution for less than one year, often with lower interest rates than long-term deposits.</p> <p>Example: Call deposits or money market funds.</p> <p>Purpose: To earn a safe and stable return on funds over a short period.</p>

Long-term Insurance subcategory B2	<p>This refers to long-term insurance products providing benefits related to disability or critical illness, where a lump sum or annuity is paid out.</p> <p>Example: Disability insurance or critical illness insurance.</p> <p>Purpose: To protect policyholders from the financial impact of severe illness or disability.</p>
Long-term Insurance subcategory B2-A	<p>This category refers to long-term insurance covering similar risks to Subcategory B2 but often with a focus on more specialized coverage, such as specific illnesses or disabilities.</p> <p>Example: Trauma or cancer insurance, which provides payouts for specific critical health conditions like cancer.</p> <p>Purpose: To provide financial protection against specific types of health issues, helping the insured to cope with high medical expenses.</p>
Long-term Insurance subcategory B1-A	<p>This includes long-term insurance products like life insurance that provide a lump sum or regular payments upon the death of the insured or after a certain time period.</p> <p>Example: Whole life insurance or endowment policies.</p> <p>Purpose: To provide financial security to beneficiaries or to the policyholder themselves in case of death or after a fixed period.</p>
Structured Deposits	<p>Structured deposits are hybrid financial products that combine elements of deposits and derivatives. They typically offer a fixed return but are linked to the performance of an underlying asset or index.</p> <p>Example: A structured deposit linked to the performance of the stock market or commodities like gold.</p> <p>Purpose: To provide higher returns than traditional deposits, while also offering some form of capital protection.</p>
Securities and instruments	<p>Securities and instruments include financial assets like stocks, bonds, and other tradable financial products that represent ownership or creditor interests in a company or government entity.</p> <p>Example: Shares, corporate bonds, or government securities.</p>

	<p>Purpose: To raise capital for companies or governments, and to provide investors with opportunities to earn returns through capital appreciation or interest payments.</p>
Participatory interest in a hedge fund	<p>Hedge funds pool capital from investors to invest in a variety of assets using strategies like short selling, leverage, and derivatives to generate returns.</p> <p>Example: Hedge fund investments that use long and short equity strategies, currency trading, and arbitrage.</p> <p>Purpose: To generate high returns through alternative investment strategies, typically aimed at high-net-worth individuals.</p>
Crypto Assets	<p>Crypto assets refer to digital assets, typically using blockchain technology, which represent value. These assets include cryptocurrencies and tokens.</p> <p>Example: Bitcoin, Ethereum, or stablecoins.</p> <p>Purpose: To provide decentralized, digital forms of currency or assets, which can be used for investment, trading, or as a store of value, often in alternative financial markets.</p>

CATEGORY IV FSPs



Subcategory	Explanation	Important to note
Long-term Insurance subcategory A	<p>These are funeral policies that provide a lump sum payout to cover the costs of funeral expenses, such as caskets, transportation, and ceremony-related expenses.</p> <p>Example: A client buys a funeral policy for R200 per month, and upon their death, the policy pays out R30,000 to cover funeral expenses.</p> <p>Purpose: To ease the financial burden on families after a loved one passes away, ensuring funeral costs are covered</p>	Only intermediary services can be rendered

CLASSES OF BUSINESS

Products are grouped into categories (Classes of Business) as per Board Notice 194 of 2017. There are nine (9) classes of business. Representatives must complete training on the specific Class of Business related to the products they sell. Each class is a separate group of financial products, and the FSP must be registered to provide services in one or more of these classes. The nine classes of business under the FAIS Act are listed below:

CLASSES OF BUSINESS	
1.	SHORT TERM INSURANCE: PERSONAL LINES
SUB CLASSES: The different types of policies in a class of business	
1.1	Personal Lines: Accident and Health Policy
1.2	Personal Lines: Liability Policy
1.3	Personal Lines: Miscellaneous Policy
1.4	Personal Lines: Motor Policy
1.5	Personal Lines: Property Policy
1.6	Personal Lines: Transportation Policy
1.7	Personal Lines: Short Term Reinsurance Policy
2.	SHORT TERM INSURANCE: COMMERCIAL LINES
SUB CLASSES: The different types of policies in a class of business	
2.1	Commercial Lines: Accident and Health Policy
2.2	Commercial Lines: Engineering Policy
2.3	Commercial Lines: Guarantee Policy
2.4	Commercial Lines: Liability Policy
2.5	Commercial Lines: Miscellaneous Policy
2.6	Commercial Lines: Motor Policy
2.7	Commercial Lines: Property Policy
2.8	Commercial Lines: Transportation Policy
2.9	Commercial Lines: Short Term Reinsurance Policy
3.	LONG TERM INSURANCE
SUB CLASSES: The different types of policies in a class of business	
3.1	Assistance Policy

3.2	Life Risk Policy
3.3	Life Investment Policy
3.4	Fund Policy
3.5	Sinking Fund Policy
3.6	Long Term Reinsurance Policy
4.	PENSION FUND BENEFITS
5.	SHORT- AND LONG-TERM DEPOSITS
6.	STRUCTURED DEPOSITS
7.	INVESTMENTS
SUB CLASSES: The different types of policies in a class of business	
7.1	Shares
7.2	Money Market Instruments
7.3	Debentures and securitized debt
7.4	Bonds
7.5	Derivative instruments, warrants, certificates or other investments
7.6	Securities and instruments
7.7	Participatory Interests in Collective Investment Schemes
7.8	Participatory Interests in Collective Investment Schemes Hedge Fund
7.9	Retail Pension Benefits
8.	FOREX
9.	HEALTH SERVICE BENEFITS

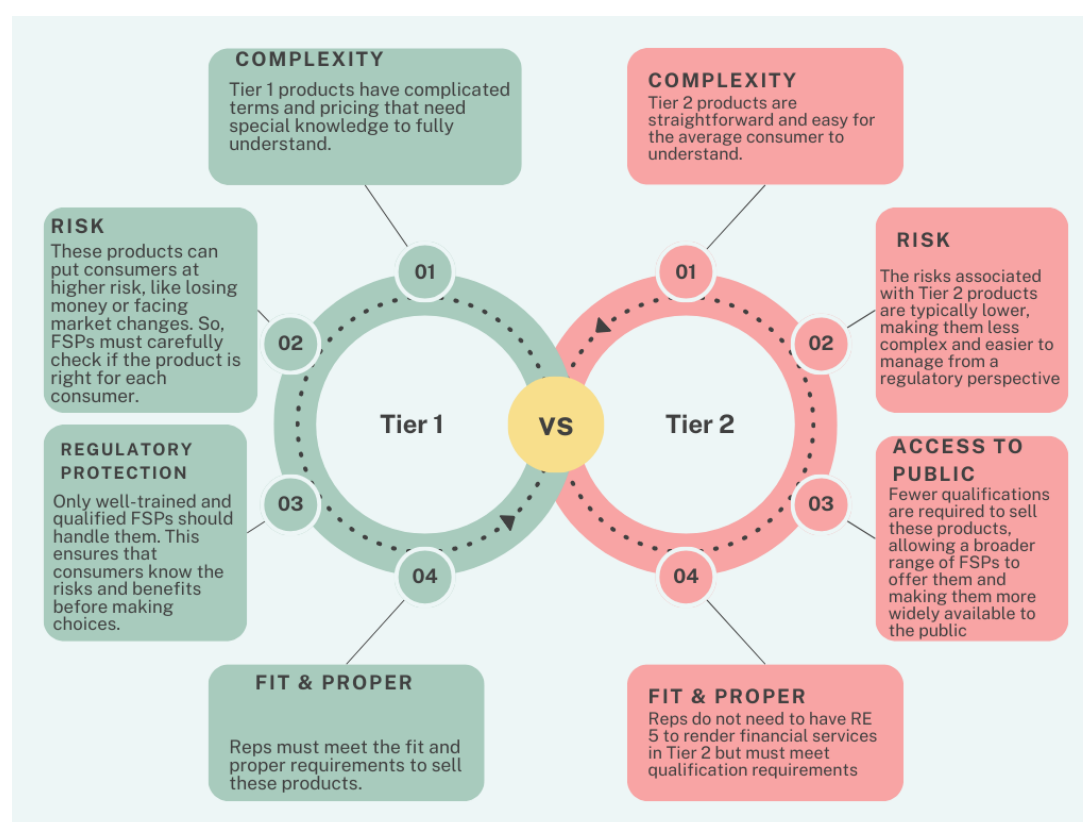
TIER 1 AND TIER 2 PRODUCTS

The FAIS Act divides subcategories into Tier 1 and Tier 2. This helps to set the rules for how qualified FSPs give advice or sell these products. It aims to protect customers and ensure they get the right help based on how complex and risky the products are.

Tier 1 products are complicated and risky financial products. They need special knowledge and training to sell or advise on. These products often have detailed terms and potential risks that can lead to big financial losses if not understood well. Because of this, FSPs must have higher qualifications and more training to work with Tier 1 products.

Tier 2 products are simple and low risk. They usually do not need special skills or high-level qualifications to sell or advise on. These products are easier to understand, and the risks for investors are lower. FSPs with basic qualifications can sell or give advice on these products. Tier 2 products are generally those that require limited underwriting or options, and advice is also typically limited as affordability is often the key factor in the sale.

Underwriting is a process through which an insurer gathers information from a client in order to conduct an evaluation of the risk of a claim which is then used to set the correct premium level.



Below are the products that fall into Tier 1 and Tier 2:

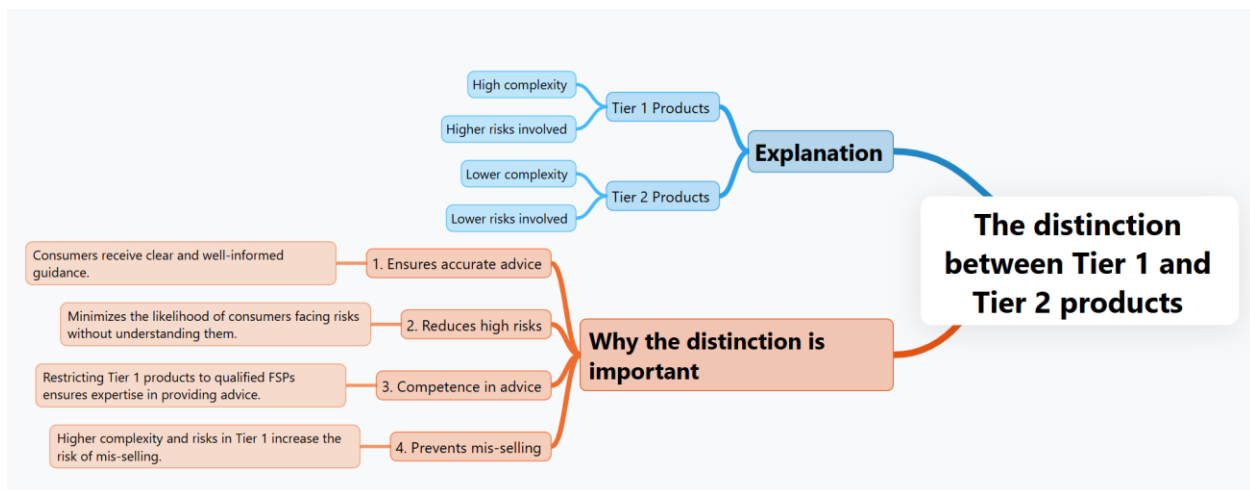
TIER 1	Tier 2
Short Term Personal Lines	Short Term Personal Lines A1

Short Term Commercial Lines	Long Term Insurance subcategory A
Long Term Insurance subcategory B1	Long Term Insurance subcategory B1-A
Long Term Insurance subcategory B2	Long Term Insurance subcategory B2-A
Long Term Insurance subcategory C	Friendly Society Benefits
Retail Pension Benefits	Long Term Deposits
Pension Fund Benefits	Short Term Deposits
Participatory Interests in Collective Investment Schemes	
Participatory Interests in Collective Investment Schemes Hedge Fund	
Forex	
Health Service Benefits	
Shares	
Money Market Instruments	
Debentures and securitized debt	
Bonds	
Derivative instruments, warrants, certificates or other investments	
Securities and instruments	

Study Tip: You must learn the 7 Tier 2 products. Anything that does not fall under Tier 2 will generally be a Tier 1 product. However, you must have a general overview of Tier 1 products.

THE DISTINCTION BETWEEN TIER 1 AND TIER 2

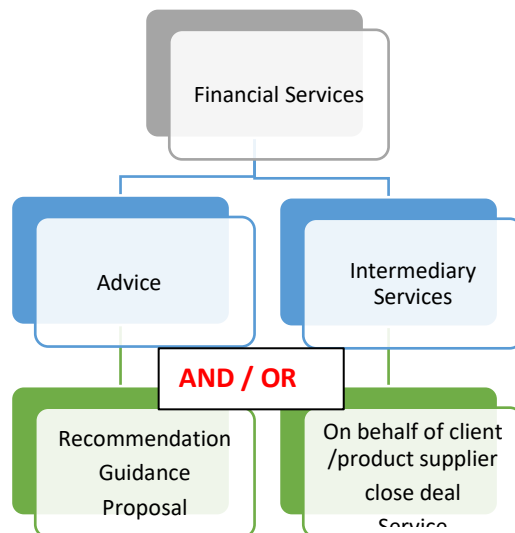
The FAIS Act divides products into Tier 1 and Tier 2 to help consumers get the right advice. This is based on how complex and risky the products are. The Act aims to protect consumers from being misled or harmed by products they do not understand.

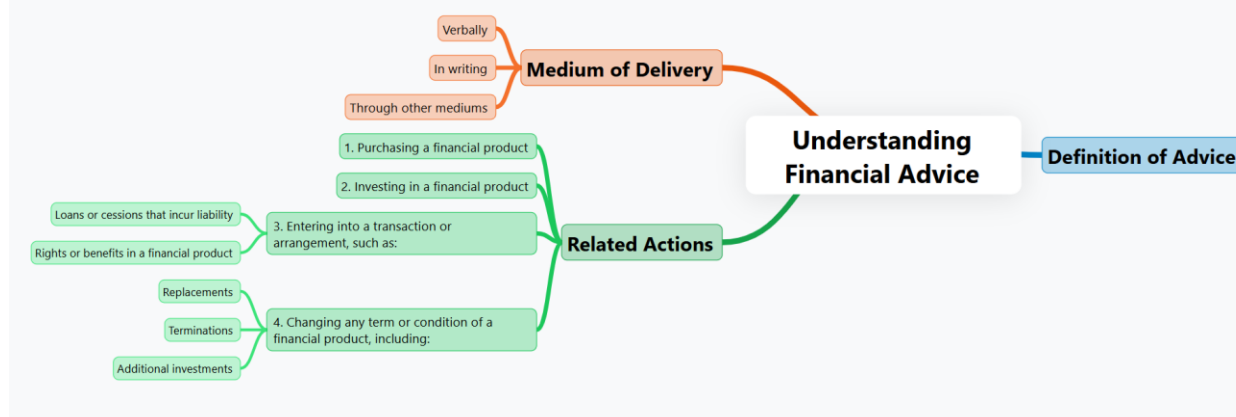


DEFINING FINANCIAL SERVICES

In the context of the FAIS Act, financial services generally involve two main components:

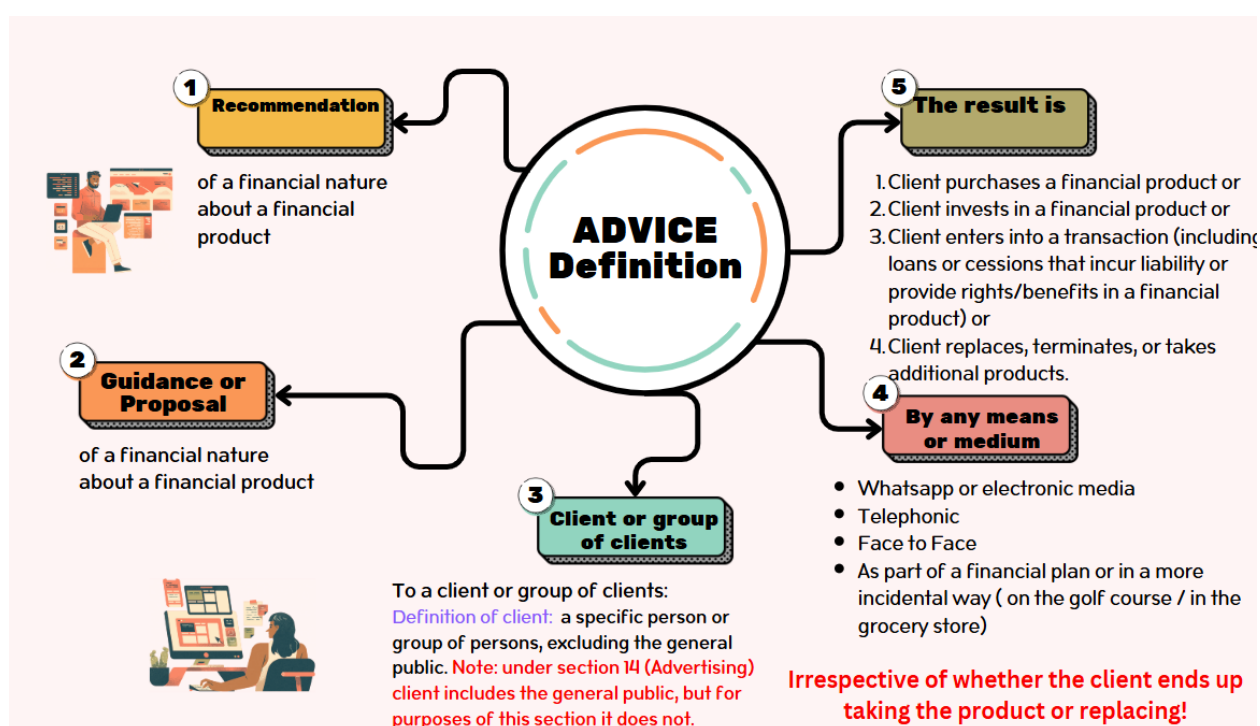
- Advice
- Intermediary Services

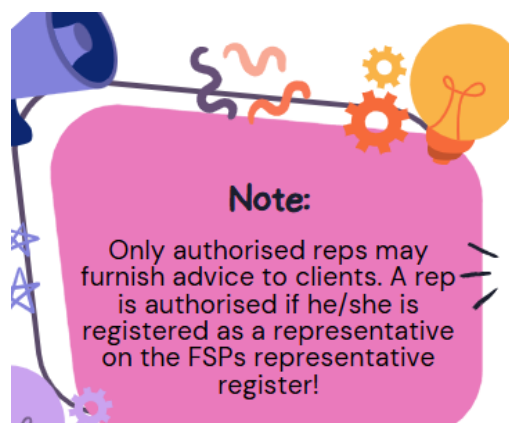




It is important to note that:

- Advice may be provided as part of a financial plan or in a more incidental way.
- The client might or might not go on to purchase, invest in, alter, replace, or end a financial product following the advice.





Lerato visits a financial advisor, Sipho, to talk about her retirement plan. Sipho analyzes Lerato's financial situation, her age, savings, and risk profile—and **recommends that she invest in a particular retirement annuity product**. He explains why it is suitable for her goals, detailing the associated fees, benefits, and potential risks.

Why is this Advice? Sipho has offered a tailored recommendation on a retirement policy, based on Lerato's personal circumstances, specifically suggesting a product that meets her needs.

Anita has an existing life insurance policy but is concerned about its high premiums. She meets with an advisor, who examines her existing coverage and **recommends canceling her current policy** in favor of a new product with lower premiums (**replacement**) and an added critical illness benefit. The advisor gives a personalized recommendation to terminate or replace an existing product with a new one.

Why is this Important? Product replacements can be complex, so any suggestion to replace a policy is classified as advice under FAIS (and must follow specific replacement disclosures).

A financial institution sends out a **mass email** saying, "We are offering a new **12-month fixed deposit** with a **5% interest rate**. Visit our website to learn more."

The email is an **advertisement** providing general information. There is no direct recommendation for any **individual** to purchase the product.

Why This is Not Advice: The message **does not** analyze anyone's needs or offer a specific product recommendation. It is purely promotional.

UNDERSTANDING AUTOMATED ADVICE

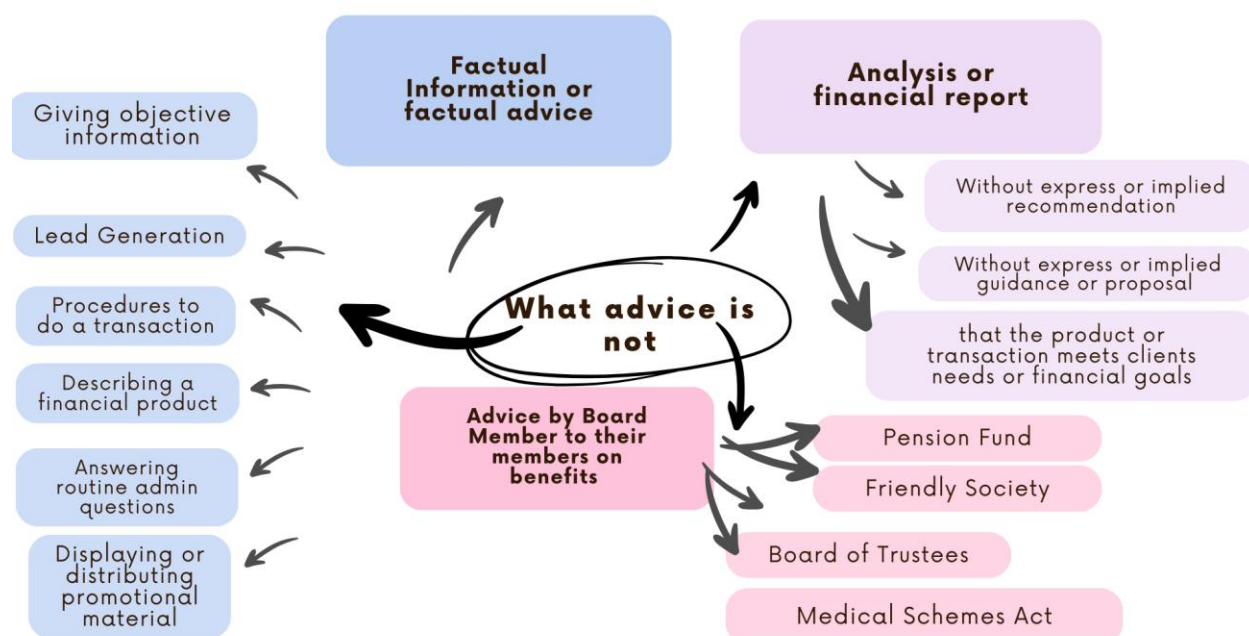
Automated advice is delivered electronically using algorithms or other technology, **without direct human involvement**. This approach is commonly seen on digital platforms or robo-advisors, which gather client information and then provide tailored financial recommendations.

A website asks Thabo a series of questions about his age, risk tolerance, investment goals, and available capital. Based on his answers, the platform uses an **algorithm** to suggest that Thabo allocate 60% of his funds to equities, 30% to bonds, and 10% to cash. This is **tailored** advice generated electronically—no human advisor is directly involved. **This is Considered Advice:** The platform makes a **specific recommendation** for Thabo's unique situation, which qualifies as advice even though it is provided by a computer program.

These examples are meant to highlight how various activities fall within—or outside—the definition of advice under the FAIS Act. They also illustrate how modern technology (like robo-advice) fits into regulatory definitions of advice.

WHAT ADVICE IS NOT

Understanding what does **not** qualify as advice is crucial to avoid confusion. For instance, purely factual or administrative information—such as providing details about a product's fees without any recommendation—does not constitute advice.

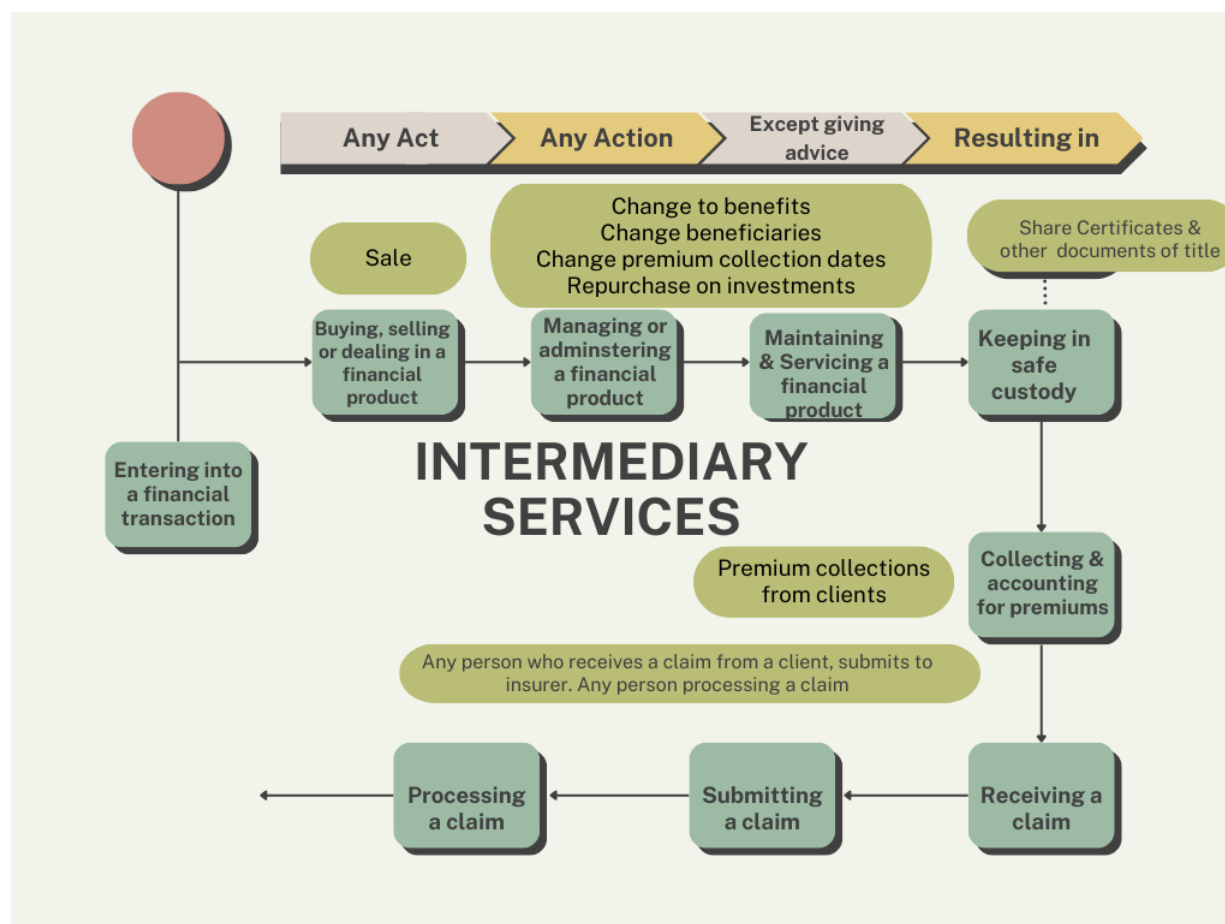


Lindiwe walks into a bank and asks the teller about the range of savings accounts. The teller hands Lindiwe a brochure listing account types, fees, and interest rates, but does not suggest which account Lindiwe should choose. **Not Advice:** The teller only provides factual, general information about available products. No specific recommendation or guidance is given.

DEFINING INTERMEDIARY SERVICES

Under the FAIS Act, intermediary services involve any action that helps a client or product supplier conduct transactions related to a financial product—other than providing advice. Essentially, if you perform certain tasks on behalf of either the client or the product supplier, and those actions lead (or offer to lead) the client to buy, sell, or administer a financial product, you are performing an intermediary service.

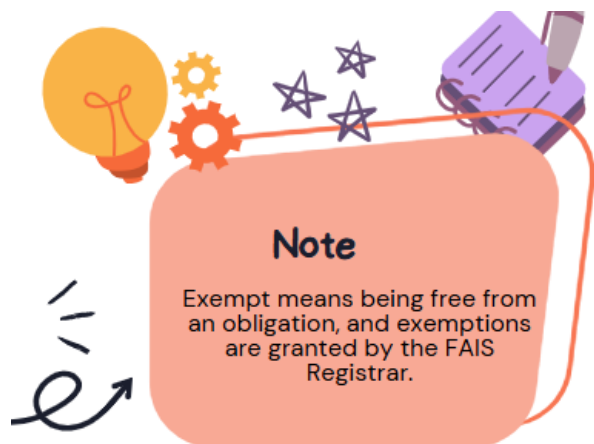




EXCLUDED SERVICES

Certain services are **NOT** considered intermediary services and are therefore excluded:

- Conduit services: When a bank or institution acts as a mere conduit for a client, e.g., processing debit orders for insurance premiums.
- Authorized product suppliers: When product suppliers are authorized and regulated under another law, e.g., micro lenders.
- Exempted services: Any services that have been officially exempted by the Commissioner.



Let us look at some questions:

Q & A

QUESTION:

A consultant examines your financial goals, risk profile, and current portfolio, then recommends a particular retirement annuity.

ANSWER:

Advice (personalized recommendation)

Q & A

QUESTION:

A website algorithm (robo-advisor) asks you questions about your finances, then suggests an investment mix (e.g., 60% equities, 40% bonds).

ANSWER:

Advice (automated, but still personalized to your situation)

Q & A

QUESTION:

A broker processes paperwork to buy an investment product you already chose yourself without discussing alternatives.

ANSWER:

Non-Advice / Intermediary Service (no new advice given)

Q & A

QUESTION:

A bank teller provides a brochure listing different savings accounts, but does not say which account is best.

ANSWER:

Non-Advice (purely factual, no tailored guidance)

By understanding the distinction between advice and non-advice, financial services professionals can ensure they meet FAIS Act requirements, offer suitable guidance to clients, and avoid inadvertently providing unauthorized or unqualified recommendations.

PRACTICAL EXAMPLES: ADVICE, INTERMEDIARY SERVICE AND AUTOMATED ADVICE

Nhlanhla sits down with a licensed advisor to discuss life insurance. The Advisor reviews Nhlanhla's dependents, current liabilities (like a home loan), and monthly budget. The Advisor recommends a new life insurance policy with a specific coverage amount that suits Nhlanhla's family's needs. The Advisor explains why the recommended product is appropriate, detailing costs, benefits, and any exclusions.

Why This is Advice: The Advisor gives a recommendation of a financial nature about a financial product that is tailored to Nhlanhla's personal situation, meeting the definition of advice under FAIS.

Zahra wants to retire in 20 years and is unsure how to invest. The Advisor analyzes Zahra's current savings, risk profile, and goals. The Advisor suggests a specific combination of retirement annuities and investment portfolios that match her time horizon and discusses potential tax benefits and how contributions will affect her future retirement income.

Why This is Advice: The advisor offers customized guidance of a financial nature about a financial product (on which retirement products to purchase or invest in).

Leon decides to claim from his short-term insurance policy after his car is damaged in a minor accident. The broker collects all necessary documents (incident reports, repair quotes) from Leon. Submits the claim to the insurance company on his behalf. Follow up with the insurer to ensure the claim is processed efficiently.

Why This is an Intermediary Service: The broker is facilitating or managing the administrative tasks connected to an existing financial product, rather than giving new advice. The submission of a claim is an intermediary service.

Sandra has already chosen a particular unit trust she wants to invest in. The administrator helps Sandra fill out the relevant application forms, submits these forms to the product provider, ensures the transaction is completed and funds are allocated correctly.

Why This is an Intermediary Service: The intermediary simply executes the transaction on Sandra's behalf without making product recommendations.

Tshepo logs onto a robo-advisor platform, creating a profile by entering his financial goals, time horizon, and risk tolerance. The platform's algorithm analyzes Tshepo's data. Recommends a specific asset allocation (e.g., 70% equities, 20% bonds, 10% cash) that aligns with his goals and risk profile.

Why This is Automated Advice: The system is making a tailored recommendation (of a financial nature about a financial product) based on Tshepo's unique inputs, but with no direct human involvement.

A smartphone app asks Nandi questions about her age, marital status, number of dependents, and monthly expenses. The Algorithms recommendation suggests that Nandi take out a specific amount of life cover. Explains the premium range she might expect, based on her income and lifestyle data.

Why This is Automated Advice: The app uses technology-driven analysis to propose a life insurance product (financial product) for Nandi, fulfilling the definition of advice under FAIS despite being purely electronic

Task	Qualifying Criteria	Knowledge (K) or Skill (S)	Legislation Reference / Motivation
Deal with complaints that have been submitted to the Ombud for FSPs.	Explain the role and authority of the Ombud for FSPs.	K The task requires knowledge of a specific section of the legislation or regulation	FAIS Act - Sec 1 Definition of Complaint FAIS Act - Sec 27 FAIS Act - Sec 27(1) FAIS Act - Sec 27(2) FAIS Act - Sec 27(3) FAIS Act - Sec 27(4) FAIS Act - Sec 28 FAIS Act - Sec 28(1) FAIS Act - Sec 28(4)(a) Ombud Council Rules for the Ombud for Financial Services Providers, 2024
	Discuss the obligations of the FSP in respect of an investigation conducted by the Ombud for FSPs.	K	FAIS Act - Sec 1 Definition of Complaint FAIS Act - Sec 13(1) FAIS Act - Sec 20(3) FAIS Act - Sec 27 & 28 FAIS Act – Sec 27(3)(a)(ii) FAIS Act - Sec 31 Ombud Council Rules for the Ombud for Financial Services Providers, 2024 GCOC - Sec 18
	Check that there are processes in place to ensure that the FSP cooperates in the case of an investigation by the Ombud.	S The task requires practical ability to perform tasks or apply knowledge in real scenarios	FAIS Act - Sec 27(5) FAIS Act - Sec 27(6) FAIS Act - Sec 31 Ombud Council Rules for the Ombud for Financial Services Providers, 2024 GCOC - Sec 18

Before proceeding to the next module, please ensure that you meet the below task criteria as set out by the FSCA.

Task	Qualifying Criteria	Knowledge (K) or Skill (S)	Legislation Reference / Motivation
Define financial products and financial services.	Provide an overview of the financial services and different types of financial products a FSP can deal with.	K The task requires knowledge of a specific section of the legislation or regulation	FAIS Act - Sec 1 Definition of Financial Product FAIS Act - Sec 1 Definition of Intermediary Services
	Apply knowledge of the financial products within the financial services environment.	S The task requires practical ability to perform tasks or apply knowledge in real scenarios	FAIS Act - Sec 1 Definition of Financial Product FSCA FAIS Notice 86 of 2018 – Exemption of Services under Supervision BN 194 of 2017 – Annexure Three Table 1
	Explain the different financial products with examples of products in each category.	K	FAIS Act - Sec 1 Definition of Financial Product BN 194 of 2017 – Sec 1 Definition of Retail Pension Benefits BN 194 of 2017 – Sec 1 Definition of Assistance Policy

MODULE 3: LICENSING AND MAINTAINING A LICENSE

Learning outcomes

By the end of this module, you should be able to:

- 1.Explain the licensing requirements for Financial Services Providers (FSPs).
- 2.Identify the licensing process and conditions imposed by the Financial Sector Conduct Authority
- 3.Describe the standard and specific conditions applicable to FSP licenses.
- 4.Explain the license display and disclosure requirements.
- 5.Identify the changes that must be reported to the FSCA within 15 days.
- 6.Understand the relationship between the Medical Schemes Act and the FAIS Act.
7. Explain the regulatory framework governing the suspension, withdrawal, and lapsing of an FSP license.
8. Identify the reasons and processes for suspension and withdrawal of an FSP license under FAIS.
9. Differentiate between suspension, withdrawal, and lapsing of an FSP license.
10. Apply knowledge of FAIS provisions to real-world scenarios related to FSP compliance.
11. Analyze the implications of business rescue proceedings, liquidation, and undesirable practices on an FSP license.

LICENSING REQUIREMENTS

An applicant applying for an FSP license, must demonstrate to the Commissioner that it complies with several requirements to be granted a license. These include:

Financial Soundness	The applicant must show financial stability and demonstrate its ability to meet the financial soundness requirements.
Operational Ability	The applicant must have adequate resources, infrastructure, and operational capacity to carry out its business. This includes a business bank account, fixed address, communication facilities, and physical assets.
Honesty & Integrity	The applicant must ensure that its directors and key individuals possess honesty and integrity. Criminal checks are conducted by the Commissioner.
Competence	The applicant must ensure that its nominated Key Individuals and representatives are competent, with adequate qualifications and experience.
Key Individual Competence	Nominated Key Individuals must meet all competence requirements for the category of FSP and subcategories that the applicant is applying for.

FSP LICENSE APPLICATION PROCESS

Step 1: Submission of Application	Submit an application to the Commissioner in the prescribed form and manner. The application must be accompanied by information to satisfy the Commissioner that the applicant complies with the fit and proper requirements.
Step 2: Commissioner's Evaluation	The Commissioner MAY require the applicant to furnish additional information or verify existing information. The Commissioner MAY also consider other information regarding the applicant or proposed key individual.
Step 3: Granting or Refusing the Application	The Commissioner MUST grant the application if satisfied that the applicant and its key individual(s) comply with the requirements of the FAIS Act. The Commissioner MUST refuse the application if not satisfied.
Step 4: Imposing Conditions	If granted, the Commissioner MAY impose conditions and restrictions on the license. These MUST be included in the license.
Step 5: Issuance of License	If granted, the Commissioner MUST issue a license in the prescribed form, including any conditions, restrictions, and exemptions imposed.
Step 6: Display of License	The licensee MUST display the license in all premises where financial services are rendered.
Step 7: Notification of Refusal	If refused, the Commissioner MUST notify the applicant in writing and provide reasons for the refusal.
Step 8: Amendment or Withdrawal	The Commissioner MAY withdraw or amend any condition or restriction, impose new conditions, or revoke any exemption granted.

LICENSING CONDITIONS

Standard Conditions

Standard conditions are a set of requirements that apply to all FSPs. These conditions are imposed by the Commissioner to ensure that FSPs operate in a fair, transparent, and accountable manner. Standard conditions apply to all FSPs, regardless of their specific license category or subcategory.

The standard conditions are printed on page three of the FSP license and include the following:

- **Notification of profile changes:** The FSP must notify the authority of profile changes in the required process and format **within 15 days** of the change.
- **Retention of key individual services:** The FSP must retain the services of an active key individual at all times or notify the authority of changes **within 15 days** in the required process and format.
- **Changes to key individuals:** A change of a key individual could result in changes to the specific conditions of a license unless the replacement key individual has the same or greater levels of qualifications and experience or there are other active key individuals who fulfill the requirements for the license category and subcategories.

- **Updates to representative information:** Changes to representative information must be recorded and updated in the representative register and submitted to the authority **within 15 days**.
- **Changes to business name:** If there are changes to the business name of an FSP that is a juristic entity, the FSP must first amend the name with the Companies and Intellectual Property Commission (CIPC) and then submit an application to change the name to the Commissioner.
- **Dealing with licensed or authorised providers:** The FSP may only deal with other licensed or authorised financial services providers in respect of financial services.
- **Compliance processes:** The key individual must ensure that processes are in place to comply with each of the provisions.

Specific Conditions

General Conditions	General conditions apply to all Financial Service Providers (FSPs) and are designed to ensure compliance with regulatory standards and protect consumers.
Specific Conditions	Specific conditions are tailored to individual FSPs to mitigate specific risks. These may include licensing categories, service restrictions, qualification requirements, and marketing limitations.
License Category	FSPs may be authorized to provide specific financial services, such as investment advice or intermediary services, based on their license category.
Service Restrictions	Certain FSPs may face restrictions on providing specific services, such as pension fund administration, to ensure compliance with regulatory standards.
Training Requirements	Key individuals within an FSP may be required to complete specific industry qualifications or training programs within a designated timeframe.
Marketing Restrictions	FSPs may be restricted from certain marketing practices, such as cold-calling or spamming, to protect consumers and maintain ethical standards.

FSPs must comply with all license conditions, including both standard and specific conditions. Failure to comply with license conditions may result in disciplinary action, including fines, suspension, or revocation of the FSP's license.

Amendment or Withdrawal of Conditions

Amendment or Withdrawal of Conditions	
Change in Key Individuals	FSCA may amend or withdraw conditions based on new key individual's fit and proper status.
Change in Directors	FSCA may amend or withdraw conditions based on new directors' fit and proper status.
Change in Business Structure	FSCA may amend or withdraw conditions based on changes in business structure.
Non-compliance with Conditions	FSCA may amend or withdraw conditions if FSP fails to comply with license conditions.

The key individual plays a critical role in ensuring that the FSP complies with all license conditions. The key individual is responsible for:

- **Establishing and maintaining adequate systems and processes:** The key individual must ensure that the FSP has adequate systems and processes in place to comply with all license conditions.
- **Monitoring and reporting compliance:** The key individual must monitor the FSP's compliance with license conditions and report any breaches or concerns to the Commissioner.
- **Providing training and guidance:** The key individual must provide training and guidance to representatives and other staff members to ensure that they understand and comply with all license conditions.

By ensuring that the FSP complies with all license conditions, the key individual plays a critical role in maintaining the integrity and reputation of the FSP.

Verifying that an FSP renders financial services only in its authorised financial products

To verify that an FSP renders financial services only within the authorised categories and subcategories, the following internal controls and procedures must be in place:

Licence Verification	Keep a copy of the FSCA license available, reflecting all authorised financial product categories and subcategories.
Role-Based Access	Assign representatives only to roles and product categories for which they are authorised and fit and proper.
Representative Register	Maintain an up-to-date register reflecting categories for which each representative is approved.
Pre-Activity Checks	Conduct checks before offering new products to ensure authorisation for that category.
Training & Monitoring	Ensure representatives are trained and competent in their authorised categories, including product-specific training.
Compliance Oversight	Monitor business activities regularly to ensure no services are rendered in unauthorised categories.
Controls in Advice Process	Guide representatives to operate within licensed categories through advice record templates and CRM systems.

When a Key Individual leaves the employ of a Financial Services Provider

When a key individual leaves the FSPs employment, the following implications arise:

Loss of Oversight

The FSP may lack proper management and oversight, breaching the FAIS Act.

Notification to the FSCA

FSP must notify the FSCA of the KI's departure within 15 days.

Impact on License Validity

Without an approved KI, the FSCA may suspend or withdraw the FSP license.

Appointment of Replacement KI

FSP must nominate a replacement KI who meets fit and proper requirements.

Continuity and Compliance Risk

Operational disruption and compliance risk may arise if not managed promptly.

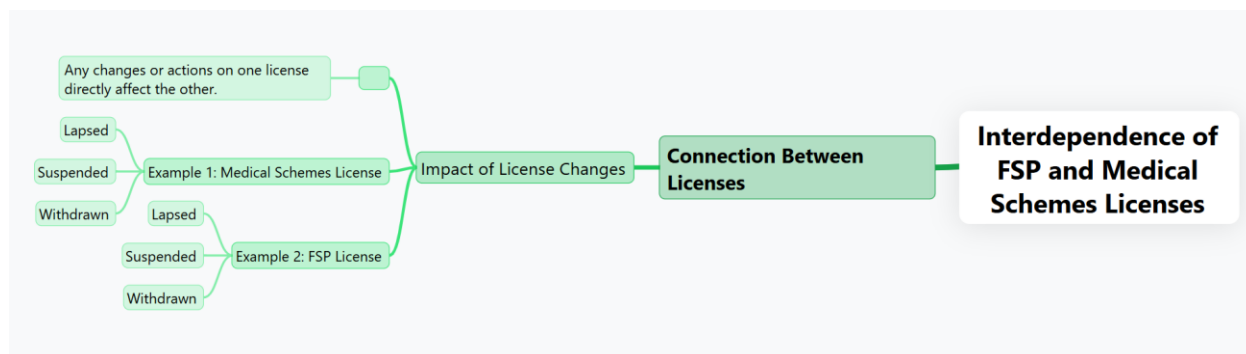
REQUIREMENTS FOR REMAINING LICENSED

To remain licensed, an FSP must continue to comply with the requirements of the FAIS Act and the Code of Conduct. This includes meeting the ongoing compliance requirements, training, and competence requirements for the product license categories and subcategories for which they are licensed. Additionally, FSPs must pay annual levies, submit annual financial statements within four months of the end of their financial year, and comply with any

directives issued by the FSCA. The key individual bears overall responsibility for ensuring that the FSP meets these requirements and is responsible for implementing and maintaining effective compliance measures. This includes ensuring that compliance reports and financial statements are submitted timeously and accurately. The key individual's role is critical in upholding the standard and specific licensing conditions imposed on the FSP's license, and in maintaining the FSP's financial soundness and operational ability.

MEDICAL SCHEMES ACT AND THE FAIS ACT

FSPs that are licensed in terms of the Medical Schemes Act must also be issued an FSP license in terms of the FAIS Act. This means that the Commissioner must grant an FSP license to these entities, authorizing them to act as authorized FSPs. It is essential to note that the two licenses are intertwined, and any changes or actions taken on one license will have a direct impact on the other. For instance, if a medical schemes license is lapsed, suspended, or withdrawn, it will automatically affect the FSP license, and vice versa. Similarly, if an FSP license is suspended or revoked, it will also impact the medical schemes license. This interdependence highlights the importance of maintaining compliance with both regulatory frameworks to ensure that FSPs can continue to operate legally and effectively in both spheres.



LICENSE DISPLAY AND DISCLOSURE REQUIREMENTS

An integral part of achieving the goals of the FAIS Act is the requirement that any licensed FSP clearly displays its licensing information.

LICENSE DISPLAY AND DISCLOSURE REQUIREMENTS



The FSP cannot use the license if it is suspended, withdrawn, or lapsed

- **Certified:**

The license must be an authentic, certified copy issued or verified by the FSCA. This means it is not merely an internal or informal statement of licensing status but an official document that confirms the entity's authorization to provide financial services.

Board Notice 40 of 2004

Upon granting of an FSP license, the Commissioner of the FSCA issues a certified copy of the FSP license. This certified copy must be displayed in every business premises of the FSP. However, for FSPs with multiple premises, Notice 40 of 2004 provides an exemption. Instead of obtaining multiple certified copies from the FSCA, which would incur additional costs, FSPs can display a copy of their original certified FSP license in additional premises, certified by a Commissioner of Oaths. This exemption simplifies the process and reduces costs for FSPs with multiple business premises.

- **Entire license on display**

The entire three-page FSP license must be displayed, not just the first page.

- **Displayed in a Durable Manner:**

The term “durable manner” requires that the license be reproduced on a medium that is not transient. For printed materials, this means the license should be printed or affixed on paper or other enduring material that remains intact over time. The license must be displayed in a durable manner to protect it from damage. While it is not a regulatory requirement, it has become standard practice to display the license in a frame to keep it durable and protected.

- **Shown in a Prominent Place:**

The requirement for prominence means that wherever the license is displayed, it must be positioned so that it is immediately noticeable and accessible. It should not be relegated to a footnote or hidden in a section that is difficult for the consumer to locate. The license must be displayed in a prominent place, such as a reception area or foyer, where it can be easily seen by clients and visitors.

- **The FSP must disclose its licensed status in all business documents:**

Business documents include letterheads, email signatures, promotional materials, and adverts. The disclosure must indicate that the FSP is an authorized financial services provider. Note that there is no requirement to disclose the FSP number.

- **Availability of license copy:**

The FSP must be able to provide a copy of its FSP license to anyone who requests proof of their license status within a reasonable time.

- **Restrictions on use of license:**

The FSP cannot use its license if it is suspended, withdrawn, or lapsed.

CHANGES TO REPORT TO THE FSCA

FSPs are required to report any significant changes to the FSCA **within 15 days**.

Reporting Changes	The FSCA requires reporting of changes to the Commissioner within 15 days, including alterations to directors, key individuals, and business information.	These must be reported within 15 days to the Commissioner
KI, Director, Compliance Officer, Rep and Auditor Changes	Changes to directors, key individuals, compliance officers, representatives and auditor's such as resignations or appointments, must be reported promptly to ensure compliance.	
Business Information	Changes to contact details, and banking information must be reported. Changes to name of the FSP must be reported within 15 days, provided that the CIPC process has been completed.	
Financial Year-End	Changes to the FSP's financial year-end require prior approval from the Commissioner and must be reported accordingly, must be reported within 15 days, provided that the CIPC process to amend the financial year end has been completed.	
Compliance Requirements	The FSP must ensure that all directors and members meet honesty and integrity requirements. The key individual must ensure the reporting any changes within the stipulated timeframe.	

Obtaining an FSP license is not a one-time thing; FSPs must keep meeting rules and standards over time, in order to maintain their license. They need to follow the FAIS Act, General Code of Conduct for Authorised Financial Services and Representatives and other related laws. If an FSP breaks any rules, the Commissioner can take several actions. This may include declaring that a business practice is not acceptable, suspending or withdrawing the license, or allowing the license to expire in some cases.

Section 8A FAIS Act: An authorised financial services provider, key individual, representative of the provider and key individual of the representative must

- (a) continue to comply with the fit and proper requirements; and
- (b) comply with the fit and proper requirements relating to continuous professional development.

UNDESIRABLE BUSINESS PRACTICE

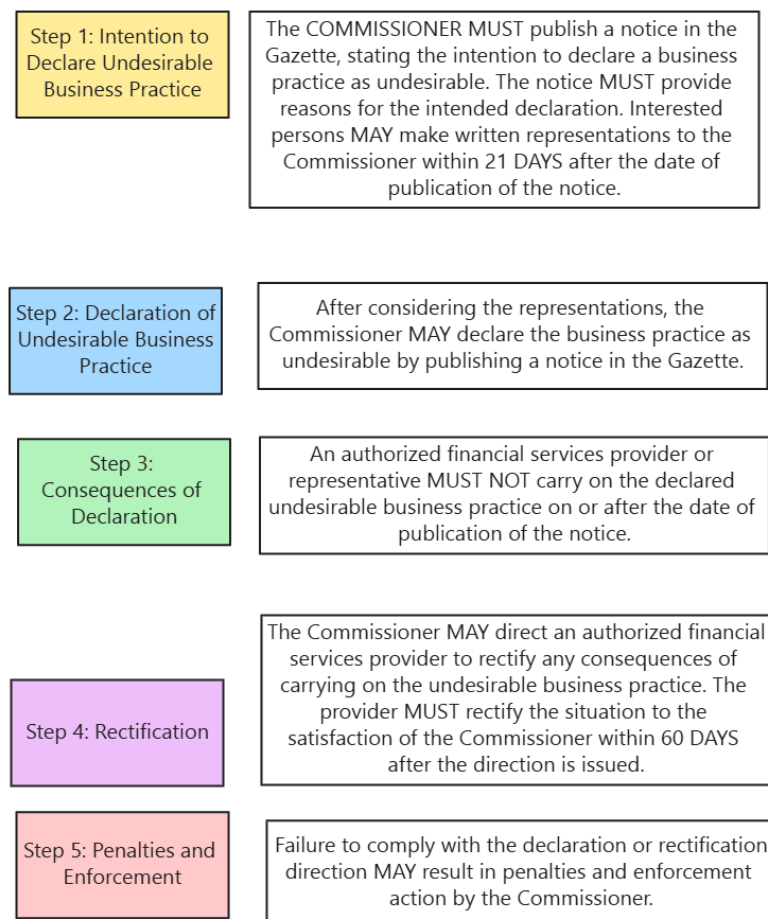
Undesirable business practices refer to actions taken by the Commissioner against FSPs that violate laws, regulations, or ethical standards, such as the FAIS Act. These practices can harm clients, competitors, or the general public. Such actions undermine trust in the financial sector and can lead to regulatory sanctions or legal consequences for the offending parties.



Example of Undesirable Business Practice:

Imagine an FSP misleading its clients by advertising an investment product as "low risk" when in fact it carries substantial risk. Clients are drawn in by the false advertising, only to suffer financial losses. The **FSCA** could declare this misleading advertising an **undesirable business practice** and order the FSP to cease promoting the product.

Below is the process that is followed in terms of section 36 of the FAIS Act, when the Commissioner handles undesirable practices:



Verifying Undesirable Business Practices

To ensure compliance with regulatory requirements, it is essential to establish processes for verifying undesirable business practices as declared by the Commissioner.

- **Process for Checking FSCA Notices**

To verify whether the FSCA has published notices regarding undesirable business practices:

1. **Regularly visit the FSCA website:** Check the FSCA's official website for any published notices or updates on undesirable business practices.
2. **Subscribe to FSCA newsletters and alerts:** Register for the FSCA's newsletters and alerts to receive timely updates on regulatory changes and declarations of undesirable business practices.
3. **Monitor industry publications and news:** Stay informed about industry developments and regulatory updates through reputable publications and news sources.
4. **Establish a compliance monitoring system:** Implement a system to track and monitor regulatory changes, including declarations of undesirable business practices.

Ensuring Awareness and Ceasing Undesirable Practices

To ensure that the FSP is aware of declared undesirable business practices and ceases any such practices:

- Conduct regular compliance audits: The Key Individual and Compliance Officer must perform regular audits to identify and address any potential undesirable business practices.
- Provide training and awareness programs: The Key Individual must ensure that employees of the FSP are trained to ensure they understand the implications of undesirable business practices and their role in preventing them.
- Establish a reporting mechanism: The Key Individual can also create a reporting mechanism for employees to report any suspected undesirable business practices, ensuring prompt action is taken to address them.

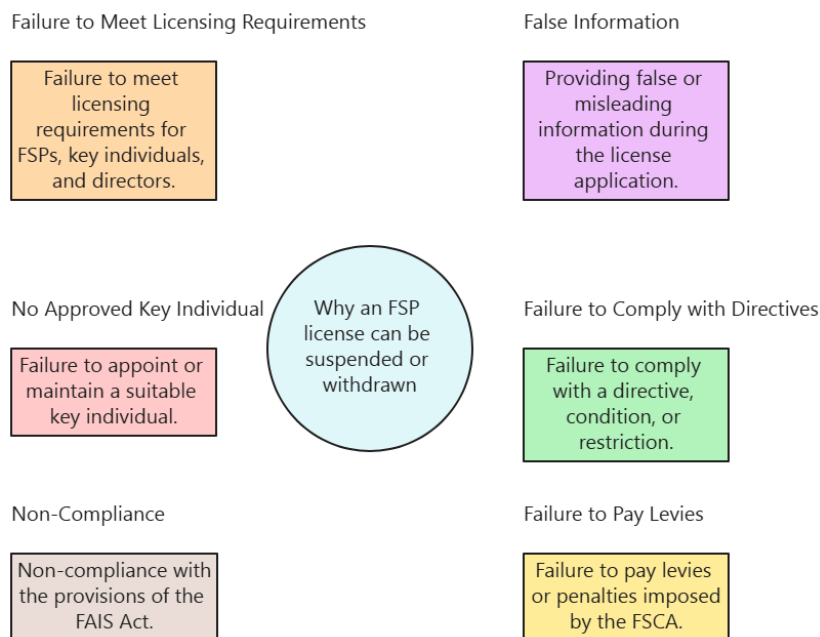
SUSPENSION AND WITHDRAWAL OF LICENSE

The FAIS regulatory framework allows for two significant actions: suspension and withdrawal of licenses. Both actions are serious and indicate non-compliance with the Act and the conditions imposed on a financial services provider. Suspension and withdrawal of an FSP license is initiated by the Commissioner, due to non-compliance or wrongdoing by the FSP.

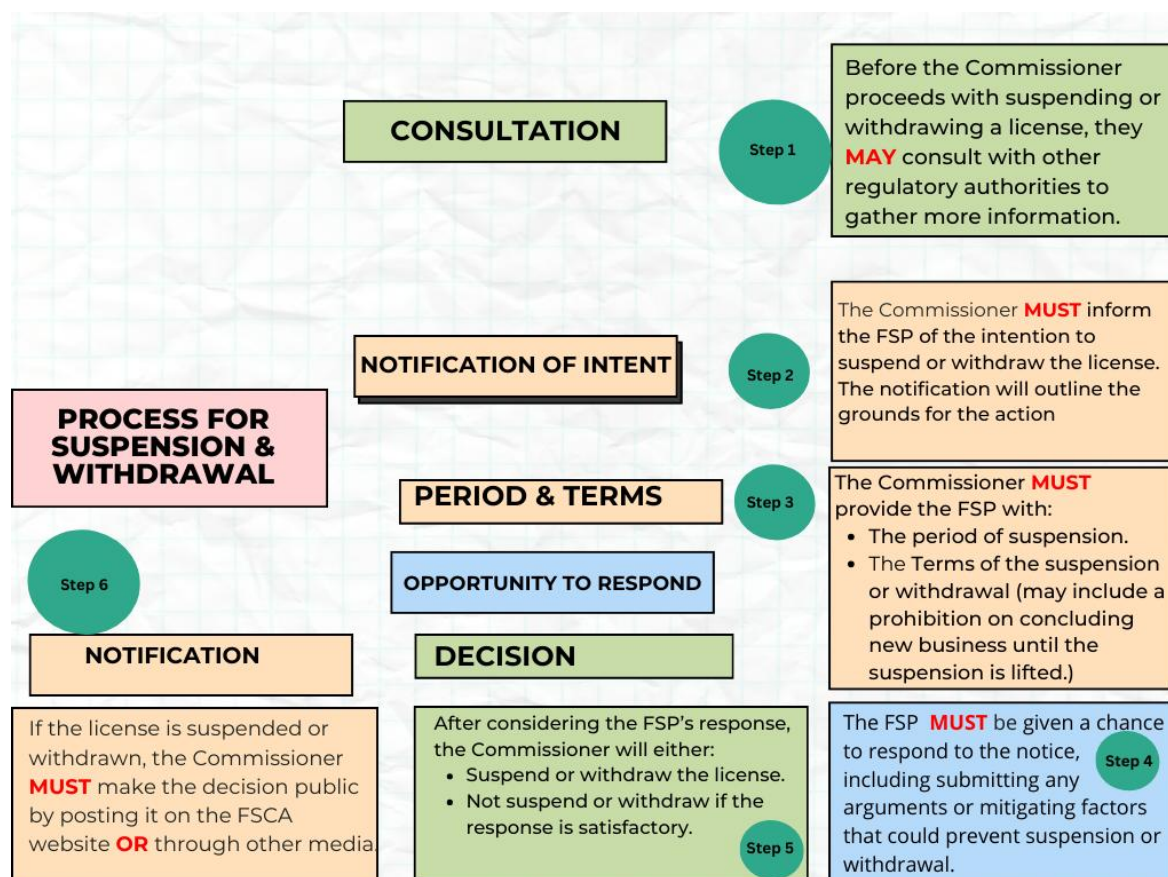
Suspension vs. Withdrawal

Suspension: is a temporary measure where an FSP's license is taken away to investigate or correct non-compliance issues. During this period, the FSP is not authorized to render financial services.

Withdrawal: is a more severe action where the FSP's license is permanently revoked due to serious non-compliance issues, effectively forcing the business to close.



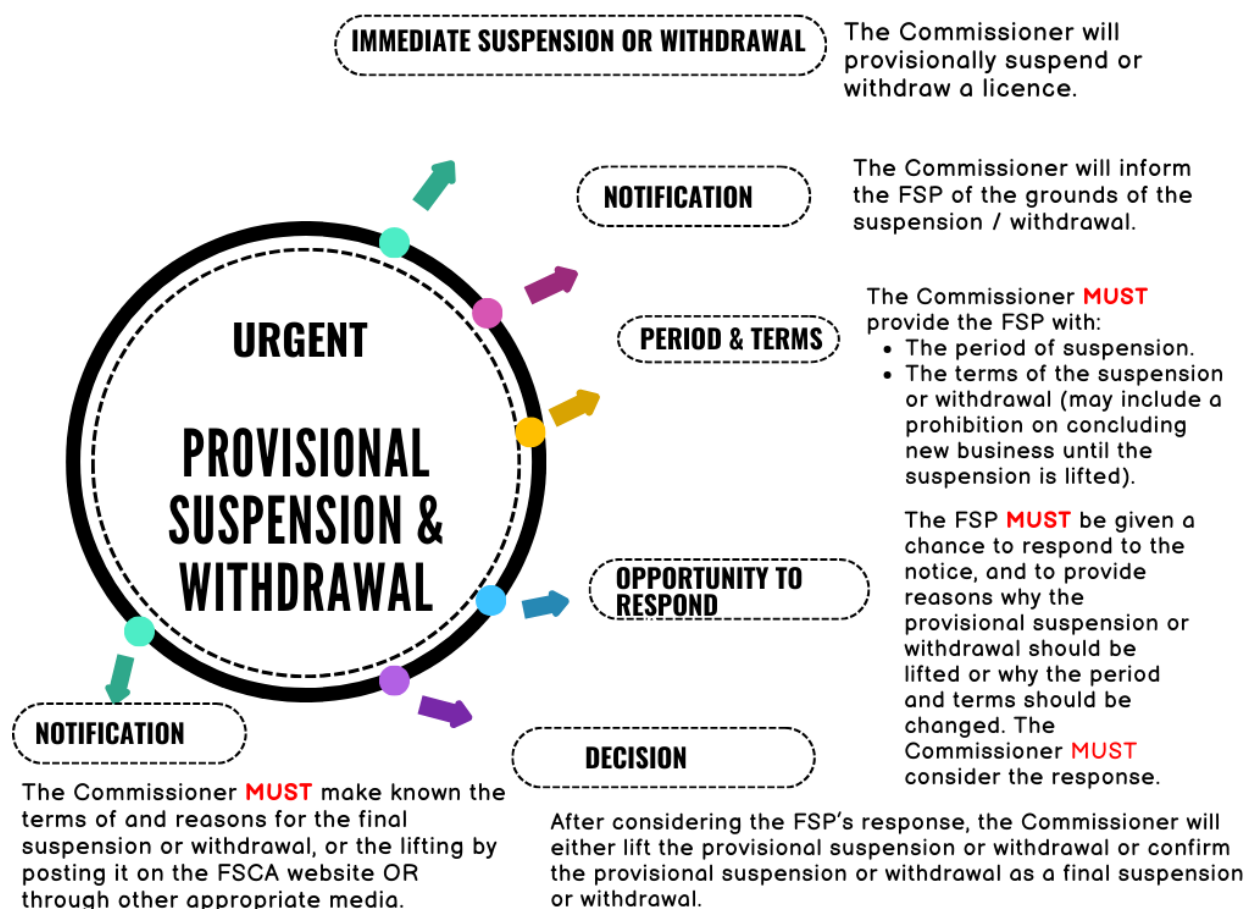
Below is the process that is followed by the Commissioner in suspending or withdrawing of an FSP license:



PROVISIONAL SUSPENSION AND WITHDRAWAL

In urgent cases, the Commissioner has the authority to temporarily suspend or revoke a license if there is a justifiable belief that it could pose harm to clients or the public. This allows the Commissioner to bypass the standard process we mentioned earlier for suspensions and withdrawals, due to the urgent need and potential risk to clients or the public. Consequently, the Commissioner first suspends or revokes the license immediately and then communicates with the licensee about the action.

Below, we will explore the procedure that the Commissioner follows.



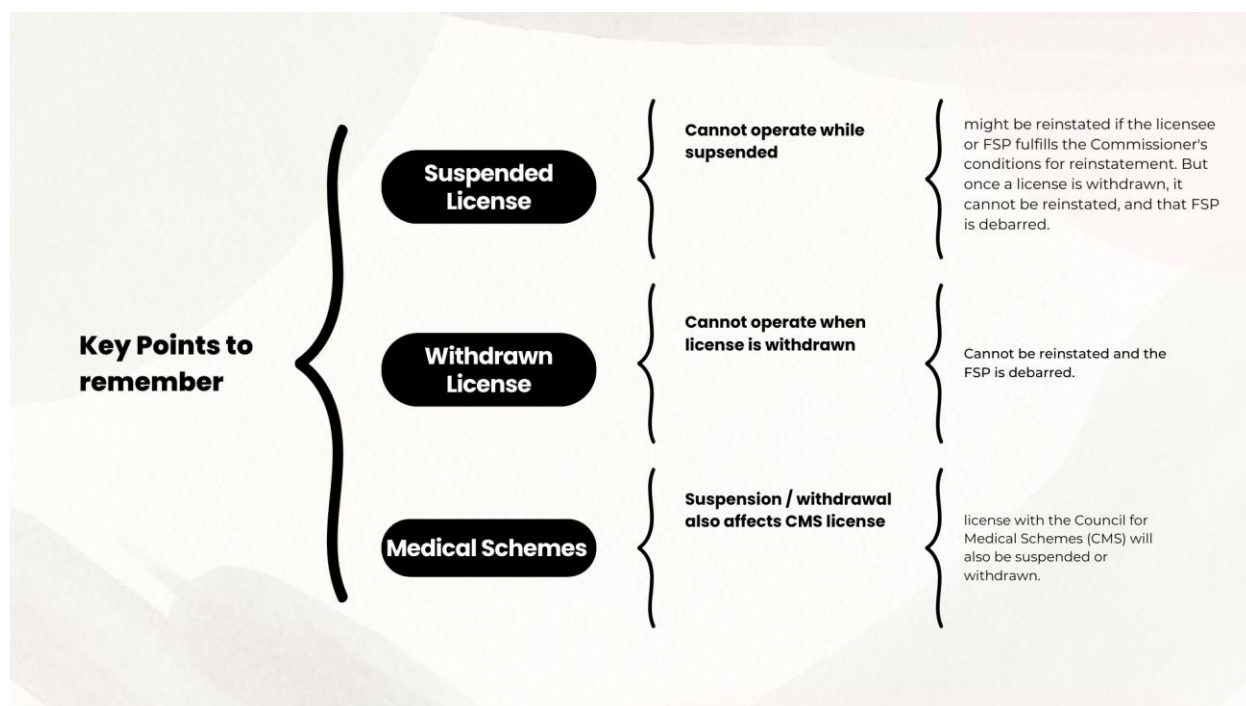
REINSTATEMENT OF A SUSPENDED LICENSE

Reinstatement of an FSP license is a process that involves several important steps. First, it is crucial that all conditions attached to the license have been fully satisfied. This means that any requirements set forth by the Commissioner must be completed before proceeding with the reinstatement.

Additionally, it is necessary to demonstrate that the applicant is "Fit and Proper." This assessment includes proving that the FSP or the relevant individual/s within the FSP possesses the necessary qualifications, experience, and integrity to operate as an FSP.

Furthermore, if there have been any instances of non-disclosure or the provision of false or misleading information in the application, it will be essential to provide acceptable reasons for these occurrences. Transparency and honesty are critical in this step to gaining the trust of regulatory authorities.

Lastly, it is important to ensure that all outstanding amounts, including levies, penalties, and any administrative sanctions, have been paid in full. Settling these financial obligations is vital for a successful reinstatement of the license.

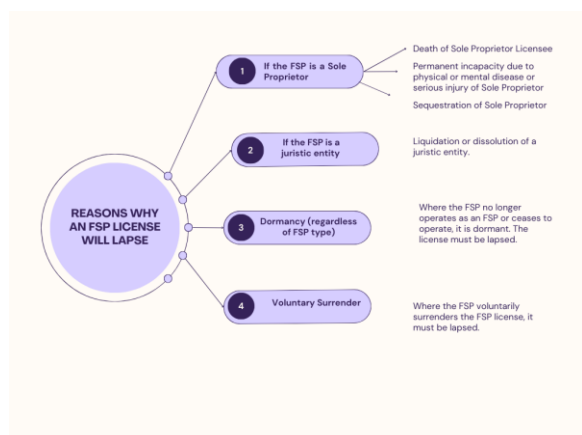


LAPSING OF AN FSP LICENSE

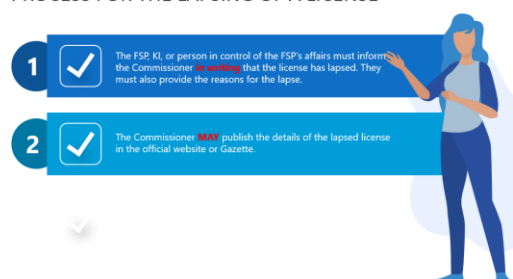
The lapsing of an FSP license under the FAIS Act can occur for several reasons, including the voluntary withdrawal of the license by the provider. When a license lapses, the FSP is no longer authorized to conduct any financial services. The lapsing of an FSP's license occurs when the FSP no longer operates, is unable to continue business, or voluntarily surrenders the license.

Example of Lapsing a License:

If the owner of a sole proprietor FSP is sequestered, the FSP's license will lapse. The Commissioner must be informed of this event. Once the license has lapsed, the FSP will no longer be allowed to provide financial services.



PROCESS FOR THE LAPSING OF A LICENSE



DIFFERENCE BETWEEN SUSPENSION, WITHDRAWAL AND LAPSING OF LICENSE

	Suspension / Withdrawal	Lapsing
Who initiates	Initiated by the Commissioner, following actions (wrong doing) or omissions by the FSP.	Initiated by the FSP, following an event that has taken place.
Why is it initiated?	The FSP has done something wrong or the FSP was supposed to do something, but did not do it.	The FSP has NOT done anything wrong. Circumstances exist that warrant that the FSP license must be lapsed.
Can license be reinstated?	Provisionally suspended, suspended or provisionally withdrawn licences can be reinstated. Withdrawn licence cannot be reinstated.	A lapsed licence cannot be reinstated.
Consequence once successful	The FSP will be debarred. They cannot apply for a new FSP license. This is slightly different to debarment, as applicable to honesty and integrity.	There is no debarment, since the FSP has not done anything wrong.
What about CMS?	Medical accreditation is linked and will automatically be suspended or withdrawn and vice versa.	Medical accreditation is linked and will automatically lapse.

VOLUNTARY SEQUESTRATION AND WINDING UP

Voluntary sequestration, as per Section 38 of the FAIS Act, applies to FSPs or their representatives. This section deals with the process of voluntary sequestration, winding-up, or closure of an FSP. To clarify, sequestration is relevant to sole proprietor FSPs, who are natural persons, and would be subject to sequestration in the event of insolvency, whereas winding up is relevant to FSPs that are juristic entities.

What is Sequestration?

Sequestration refers to the process of surrendering one's estate, which includes all assets and liabilities, to a trustee or curator. This is typically done when an FSP (sole proprietor FSP) is insolvent and unable to pay its debts.

What is liquidation or winding up?

On the other hand, liquidation, or winding-up involves the dissolution of a company or juristic person, and the distribution of its assets to creditors. This happens when an FSP is also unable to pay its debts.

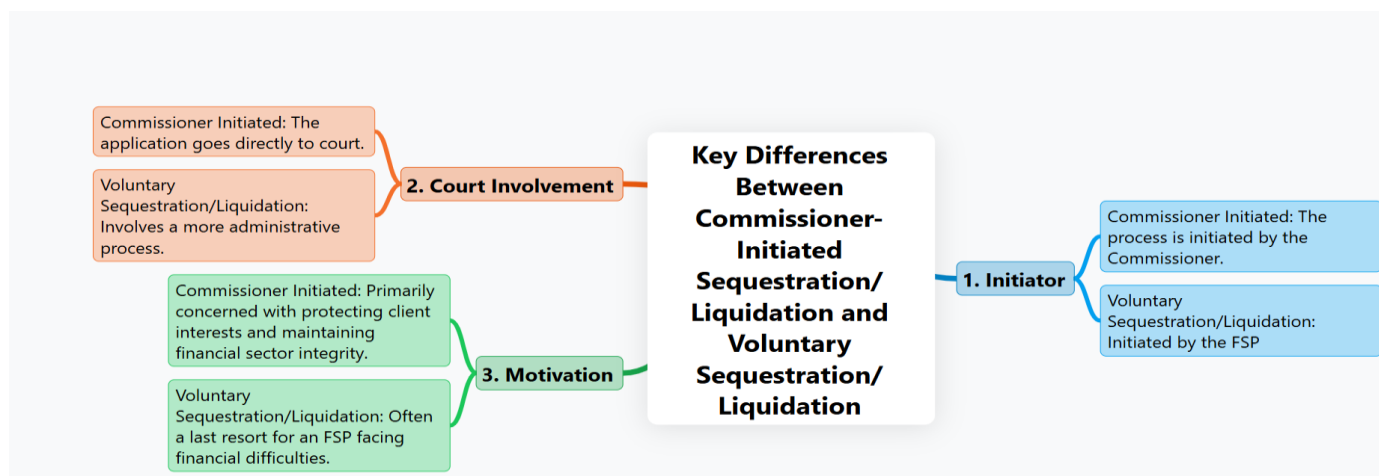
Voluntary Sequestration or Winding-up	The FSP initiates the process of voluntary sequestration (for natural persons) or winding-up (for juristic entities).
Special Resolution or Written Resolution	A special resolution is passed for companies, or a written resolution for close corporations, registered with relevant authorities.
Notification to the Commissioner	The FSP must lodge a copy or notice of the resolution with the Commissioner.
Assessment by the Commissioner	The Commissioner assesses the notification to ensure satisfactory arrangements for liabilities.
Approval or Rejection	The Commissioner either approves the arrangements or declares them unsatisfactory, preventing the process.

Voluntary sequestration, winding up, or closure of an FSP have significant implications under the FAIS Act. It is essential for FSPs to comply with the relevant requirements and notifications to ensure a smooth transition and protection of client interests.

APPLICATION BY THE COMMISSIONER FOR SEQUESTRATION OR LIQUIDATION

Section 38B of the FAIS Act allows the Commissioner to apply to court for the sequestration (for natural persons) or liquidation (for companies) of an FSP if the Commissioner believes it is necessary to:

1. **Protect client interests:** The Commissioner thinks the FSP's clients are at risk.
2. **Maintain financial sector integrity:** The Commissioner considers sequestration or liquidation necessary for the stability and integrity of the financial sector.



Commissioner's Application	The Commissioner applies to court for sequestration or liquidation.
Court Considerations	The court assesses the application, considering factors like client protection and financial sector integrity.
Trustee or Liquidator Appointment	The court appoints a trustee or liquidator nominated by the Commissioner.
Client Claims	The court may make an order regarding how clients can prove their claims.

BUSINESS RESCUE

What is Business Rescue?

Business rescue is a process aimed at rehabilitating a financially distressed company or provider, with the goal of maximizing the chances of the provider continuing to operate and meeting its financial obligations

Who Does Business Rescue Apply To?

Business rescue applies to authorized FSPs, whether they are companies or not.

In the context of Section 38A of the FAIS Act, the reference to business rescue seems to be more focused on companies. However, the section does mention that Chapter 6 of the Companies Act shall apply, "with the necessary changes," to the business rescue of a provider, "whether or not it is a company."

This phrase "with the necessary changes" implies that the business rescue process might be adapted or modified to accommodate non-company structures, like sole proprietorships.

In practice, if a sole proprietor FSP were to experience financial distress, the Commissioner might work with the FSP to explore alternative solutions, such as:

1. Voluntary surrender: The FSP might voluntarily surrender their license or cease operations.
2. Rehabilitation plans: The Commissioner might work with the FSP to develop a rehabilitation plan to address financial or operational issues.
3. Other regulatory measures: The Commissioner could take other regulatory measures, such as imposing conditions or restrictions on the FSP's license.

While the business rescue process itself might not directly apply to sole proprietors, the Commissioner still has the flexibility to address financial distress or other issues affecting an FSP, regardless of its structural form.

Impact on FSP License

When an FSP undergoes business rescue, its license is not automatically suspended or withdrawn. However, the Commissioner's approval is required for certain actions, such as the appointment of a business rescue practitioner or the adoption of a business rescue plan.

Application for Business Rescue	The Commissioner may make an application for business rescue if it's in the interests of the clients or the financial services industry.
Approval of Business Rescue Acts	The Commissioner must approve acts such as the resolution to begin business rescue proceedings, the appointment of a business rescue practitioner, and the adoption of a business rescue plan.
Notification and Opposition	If an affected person applies to court for an order related to business rescue, they must notify the Commissioner. The Commissioner may oppose the application if it's not in the clients' interests.
Conduct of Business	During business rescue, the business rescue practitioner may not conduct new business unless granted permission by a court.

COMMUNICATION WITH THE REGULATOR

The FSCA mandates that all communications, like notices of suspension, withdrawal, or lapse of a license, be done in writing. These can be sent through fax, electronic communication, or postal mail. This requirement helps make the regulatory process clear and ensures there is a record of all communications.

DIRECTIVES

Section 38C of the FAIS Act empowers the Commissioner to issue directives to ensure compliance with or prevent contraventions of the FAIS Act.

A directive issued by the Commissioner is a formal instruction or order that requires a FSP or a representative to take specific action or to cease from doing something.

Purpose of a Directive

The purpose of a directive is to:

- Enforce compliance with the FAIS Act and its regulations.
- Protect the interests of clients and the public.
- Prevent or remedy any contravention of the FAIS Act.

A directive issued by the Commissioner may:

- Specify the actions that the FSP or representative must take or refrain from doing.
- Set deadlines for compliance.
- Require the FSP or representative to provide information or documentation.
- Impose conditions or restrictions on the FSP's or representative's activities.

General Directives	Apply broadly to all persons or entities subject to the FAIS Act, ensuring compliance and uniformity across the board.
Specific Directives	Targeted at a particular person or category of persons, addressing specific needs and circumstances.
Effective Date	The directive takes effect on the date specified by the Commissioner, ensuring clarity on implementation timelines.
Publication	If issued to protect the public, the Commissioner must publish it on the official website and other media for easy access.
Administrative Justice	If the directive deviates from the Promotion of Administrative Justice Act (PAJA), the Commissioner must state the departure and provide reasons.

Consequences of Non-Compliance

Failure to comply with a directive issued by the Commissioner may result in:

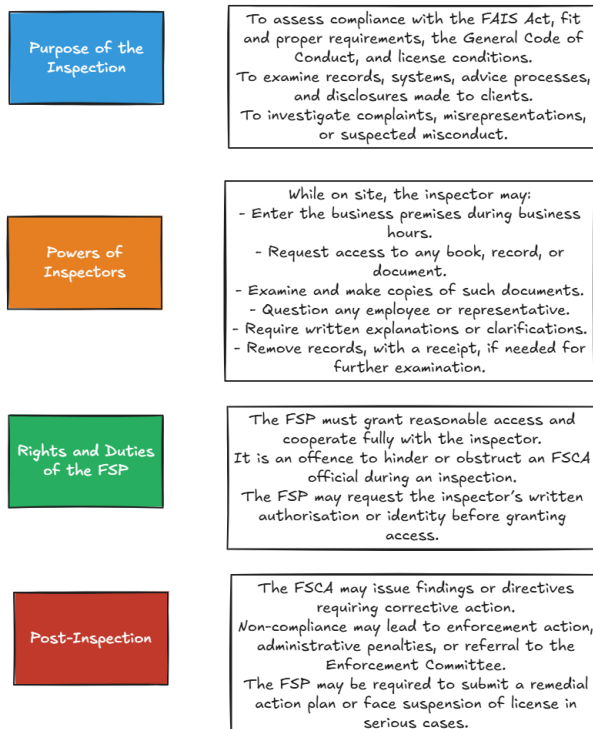
- Enforcement action by the FSCA.
- Imposition of penalties or fines.
- Suspension or withdrawal of the FSP's or representative's license or registration.

ONSITE INSPECTIONS BY THE FSCA

Section 4 of the FAIS Act empowers the FSCA to conduct on-site inspections of authorised Financial Services Providers to ensure compliance with the Act and its subordinate legislation.

Authority to Inspect

The FSCA (or any person authorised by it in writing) may, with or without prior notice, conduct an on-site inspection at any business premises of an FSP or representative.



Organised Records

Maintain organised, accessible records of all advice, disclosures, and compliance manuals.

Cooperation

Cooperate fully with FSCA inspectors during inspections.



Compliance Officer

Designate a compliance officer to respond to FSCA information requests.

Employee Training

Ensure all employees are trained to escalate requests immediately.

LEVIES

Under the Financial Sector and Deposit Insurance Levies Act, 2022 (Act 11 of 2022),

FSPs are required to pay annual levies to the Financial Sector Conduct Authority and the Financial Services Tribunal to fund their supervision and regulatory oversight.

These levies include:

- **FSCA Levy:** Covers the cost of ongoing regulation, supervision, and enforcement by the FSCA.
- **Financial Services Tribunal Levy:** Funds the independent tribunal that reviews decisions made by the FSCA.
- **Ombud Council Levy:** May be charged to FSPs subject to oversight by the Ombud system.

The purpose of FSCA levies is to:

- Fund the FSCA's regulatory activities, including supervision, enforcement, and education

Ombud Levies

Ombud levies are fees payable by FSPs to fund the operations of the various Ombud schemes established in terms of the FAIS Act. These levies are also due on 31 October annually.

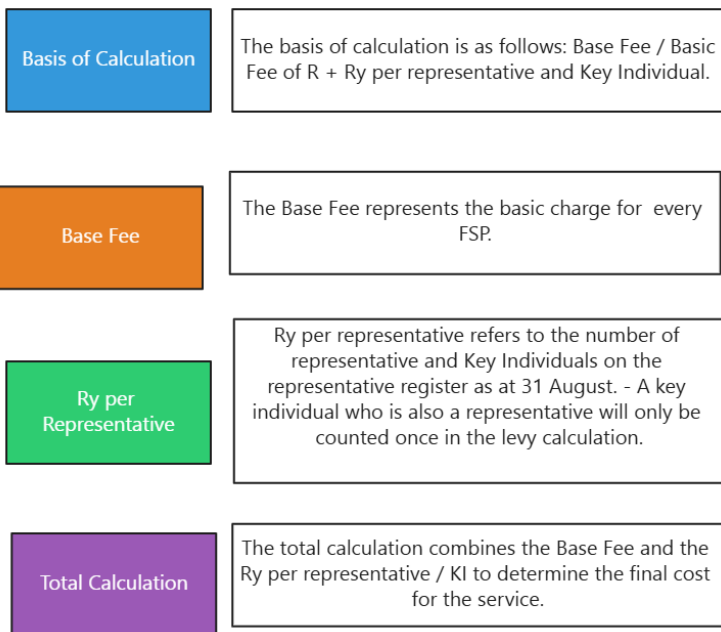
The purpose of Ombud levies is to:

- Fund the operations of the Ombud schemes, including the investigation and resolution of complaints
- Provide a mechanism for consumers to resolve disputes with FSPs in a fair and cost-effective manner.

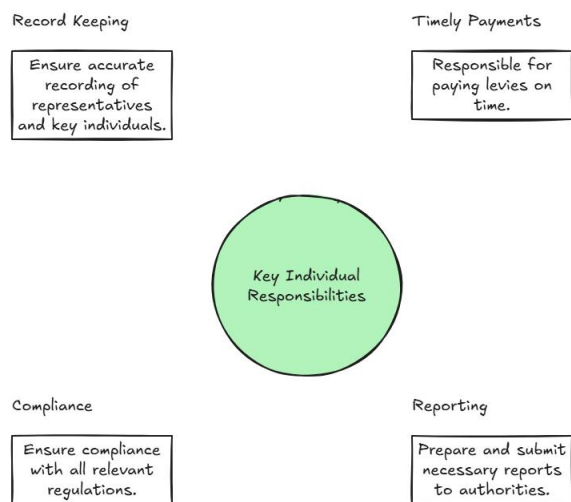
Basis of calculation of levies

The basis of calculation is as follows:

Base Fee / Basic Fee of R + Ry per representative and Key Individual



- A key individual who is also a representative will only be counted once in the levy calculation.
- If a key individual or representative is licensed under multiple FSP licenses within a group, they will only be counted once.
- A business group with multiple subsidiaries will only pay one basic levy amount, not per subsidiary.



Levies Overview	Levies are annual fees payable by the FSP to fund the Commissioner and Ombud offices. They are due by 30 October each year and are calculated based on the number of representatives and key individuals.
Calculation Basis	Levies consist of a basic fee plus an additional fee per representative and key individual. The amounts change annually, and only one invoice is issued for both levies.
Key Individual Rules	A key individual who is also a representative is counted only once. A business group pays one basic amount regardless of the number of subsidiaries.
Payment Responsibility	The key individual must ensure accurate records of representatives and key individuals are maintained and that levies are paid on time to avoid penalties.

OFFENCES UNDER THE FAIS ACT

The FAIS Act outlines specific offences in Section 36 and provides for penalties in Section 41. These sections are aimed at promoting lawful conduct and deterring non-compliance by FSPs, key individuals, and representatives.

Offences under the FAIS Act

The following actions constitute offences under Section 36:

- Rendering financial services without authorisation:
- Acting as an FSP or representative without being licensed or appointed, in contravention of Section 7(1).
- Misleading or false representations: Claiming to be licensed, authorised, or approved when not, or misleading clients about the nature or scope of authorisation.
- Contravention of license conditions:
- Failing to comply with conditions imposed on a license issued by the FSCA.
- Failure to disclose information:
- Withholding or failing to provide material information required under the Act.
- Non-compliance with notices or directives:
- Ignoring notices issued by the FSCA under the Act, such as those requiring corrective action or attendance at hearings.
- Obstruction of officials:
- Hindering or obstructing a person exercising powers under the Act, such as during an on-site inspection.
- Providing false information: Knowingly providing false or misleading information to the FSCA, Ombud, or any other party performing duties under the Act.

- Contravention of Codes or Determinations: Breaching the General Code of Conduct, Specific Codes, or determinations made under the FAIS Act.

Penalties for Offences

Anyone convicted of an offence under Section 36 may be liable to:

- A fine not exceeding R10 million, or Imprisonment for a period not exceeding 10 years, or both.
- In addition to criminal prosecution, the FSCA may also take administrative action, such as suspension or withdrawal of the FSP license, debarment of a representative, or referral to the Enforcement Committee.

FSPs must ensure that all financial services are rendered within the law, all disclosures are truthful, and that all directives from the FSCA are followed to avoid severe consequences.

Key Individual Responsibilities	Ensure services are rendered only within licensed categories and subcategories. Train staff to understand misleading conduct and non-disclosure.
Compliance Measures	Implement a legislative update register and internal compliance reviews. Create a whistleblowing mechanism for internal misconduct.
Internal Controls	Ensure full cooperation during inspections, timely information disclosure, and appointment of fit and proper individuals.
Consequences of Non-Compliance	Failure to implement controls can lead to criminal charges, fines, debarment, or suspension of the FSP license.

ENFORCEMENT PROCESS

The enforcement process under the FAIS Act and related financial legislation refers to the actions that the FSCA may take when an FSP, representative, or key individual fails to comply with regulatory requirements.

1. Detection of Non-Compliance

Enforcement typically begins when the FSCA identifies possible non-compliance through:

- On-site inspections
- Complaints from clients
- Regulatory reporting
- Failure to comply with license conditions or Codes of Conduct

2. Issuing of Directives

The FSCA may issue a directive instructing the FSP to:

- Cease or correct unlawful conduct,
- Take remedial steps within a specified time,
- Submit a report or explanation.

Failure to comply with a directive is a serious offence.

3. Enforcement Actions

If the FSP fails to comply or the matter is serious, the FSCA may proceed with formal enforcement:

a) Referral to the Enforcement Committee:

- The FSCA may refer the matter to the **Enforcement Committee**, which is empowered to impose **administrative penalties**.
- The accused party is given an opportunity to respond or defend themselves.

b) Suspension or Withdrawal of License:

- The FSCA may suspend or withdraw the license or approval of an FSP, representative, or key individual.
- Affected parties must be notified and given an opportunity to make representations.

c) Debarment of Representatives:

- Representatives who are no longer fit and proper may be debarred, preventing them from rendering financial services.

4. Criminal Prosecution

If the offence is criminal in nature (e.g., providing false information, rendering services without a license), the FSCA may:

- Lay charges with the National Prosecuting Authority,
- The offender may be fined up to R10 million or imprisoned for up to 10 years, or both.

5. Reconsideration and Appeal

The FSP has the right to apply for reconsideration of any decision (e.g., suspension, debarment, fine) to the Financial Services Tribunal within 60 days.

The enforcement process ensures accountability and compliance within the financial services industry. It follows a fair procedure, allowing for correction, representation, penalties, and appeals, as provided for under the FAIS Act and related legislation.

Before you proceed to the next module, you need to ensure that you are able to meet the below criteria, as required for the exam:

Task	Qualifying Criteria	Knowledge (K) or Skill (S)	Legislation Reference / Motivation
Maintaining the license of the FSP	Describe the requirement for licensing of a FSP.	K The task requires knowledge of a specific section of the legislation or regulation	FAIS Act – Sec 1 Definition of Intermediary Services FAIS Act – Sec 1 Definition of Advice FAIS Act - Sec 7 FAIS Act - Sec 8 FAIS Act - Sec 8(10) FAIS Act - Sec 8(10)(a)(i)
	Apply for a FSP license.	S The task requires practical ability to perform tasks or apply knowledge in real scenarios	FAIS Act - Sec 7 FAIS Act - Sec 8 FAIS Act - Sec 8(1) BN 194 of 2017 - Table B
	Describe the requirements for changing any aspect of a FSP license.	K	FAIS Act - Sec 7 FAIS Act - Sec 8 FAIS Act - Sec 8(10)(a)(i)
	Explain the impact of licensing conditions on an FSP.	K	FAIS Act - Sec 7 FAIS Act - Sec 7(3) FAIS Act - Sec 8 FAIS Act - Sec 8(4) FAIS Act - Sec 17 BN 123 of 2009
	Manage the licensing conditions.	S	FAIS Act - Sec 8 BN 194 of 2017 - Sec 36 Licensing Conditions
	Describe what changes to the FSP licensing details must be communicated to the Authority.	K	Licensing Conditions Change in FSP1 details FSP Forms

	Confirm that the Authority is informed within the prescribed timeframes of any changes to the FSP licensing details.	S	Licensing Conditions Change in FSP1 details
	Describe the implications for the FSP if any of the licensing conditions are not met.	K	FAIS Act - Sec 9
	Discuss the requirements around the display of licenses.	K	FAIS Act - Sec 8 FAIS Act - Sec 8(8)
	Verify that the FSP has internal controls and procedures in place to ensure that financial services are rendered within the limitations on categories and subcategories for which the license is issued.	S	FAIS Act - Sec 7 FAIS Act - Sec 8 FAIS Act - Sec 8(4) BN 127 of 2010 - Sec 4(3)(f)
	Explain the implications when a Key Individual leaves the employ of the FSP.	K	FAIS Act - Sec 9 & 11 BN 194 of 2017 - Sec 36

MODULE 4: OPERATE AS A KEY INDIVIDUAL

Learning outcomes

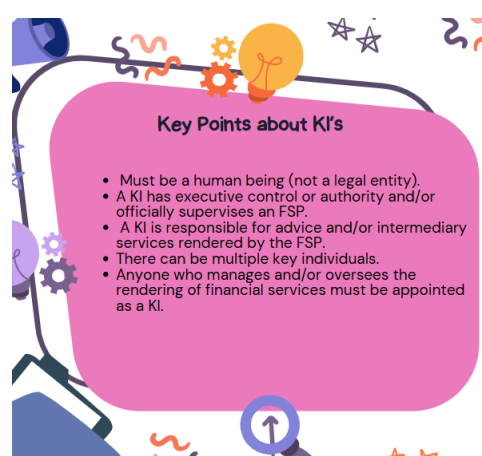
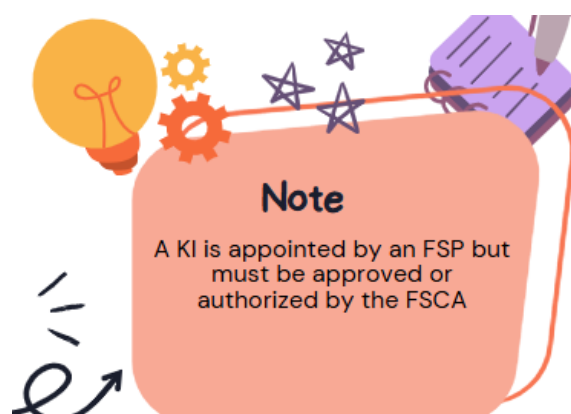
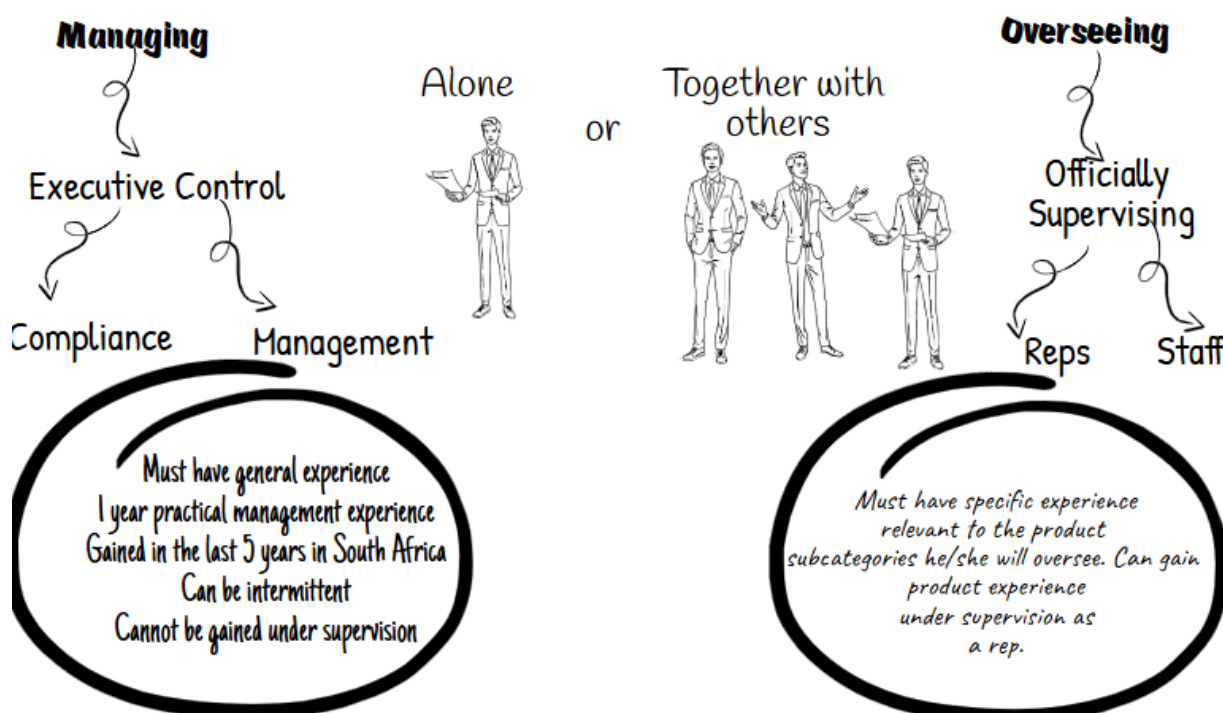
By the end of this module, you should be able to:

1. Define the role of a Key Individual in terms of the FAIS Act, including the responsibilities, legal accountability, and oversight functions associated with the position.
2. Differentiate between the appointment processes of a Key Individual and a Representative and explain the FSCA's approval and notification requirements for each.
3. Explain the Fit and Proper requirements applicable to Key Individuals, including standards of honesty, integrity, competency, CPD, financial soundness, and operational ability.
4. Describe the FSCA notification process for appointing a Key Individual, including the use of FSP Form 4D and timelines for submission.
5. Conduct due diligence assessments to determine a candidate's honesty, integrity, and good standing before appointment, using background checks, declarations, references, and regulatory screening.
6. Recognize red flags and disqualifying conditions that may render a person unfit to act as a Key Individual and outline appropriate preventative actions.
7. List the core regulatory responsibilities of a Key Individual, including oversight of representatives, monitoring of compliance, financial reporting, and ensuring operational soundness.
8. Demonstrate how to establish and maintain a compliance framework, including internal controls, recordkeeping systems, and procedures for risk management and governance.
9. Implement procedures for continuous development and supervision, ensuring that CPD, qualifications, and structured training plans are in place for all representatives.
10. Ensure compliance with FAIS licensing conditions, including category-specific authorizations and restrictions, and reporting any irregularities or breaches to the FSCA.
11. Describe the consequences for a Key Individual who no longer meets fit and proper requirements, including debarment, loss of approval, reputational damage, and potential criminal sanctions.
12. Apply the FSCA's formal reporting and removal process when a KI becomes non-compliant, including suspension, internal investigation, and notification of the Authority.
13. Assess the implications for an FSP when a KI is no longer fit and proper, including potential suspension or withdrawal of the FSP license and impact on operational continuity.
14. Outline the specific control measures that KIs must implement to manage advice-giving, intermediary services, compliance oversight, and conflict of interest within the FSP.

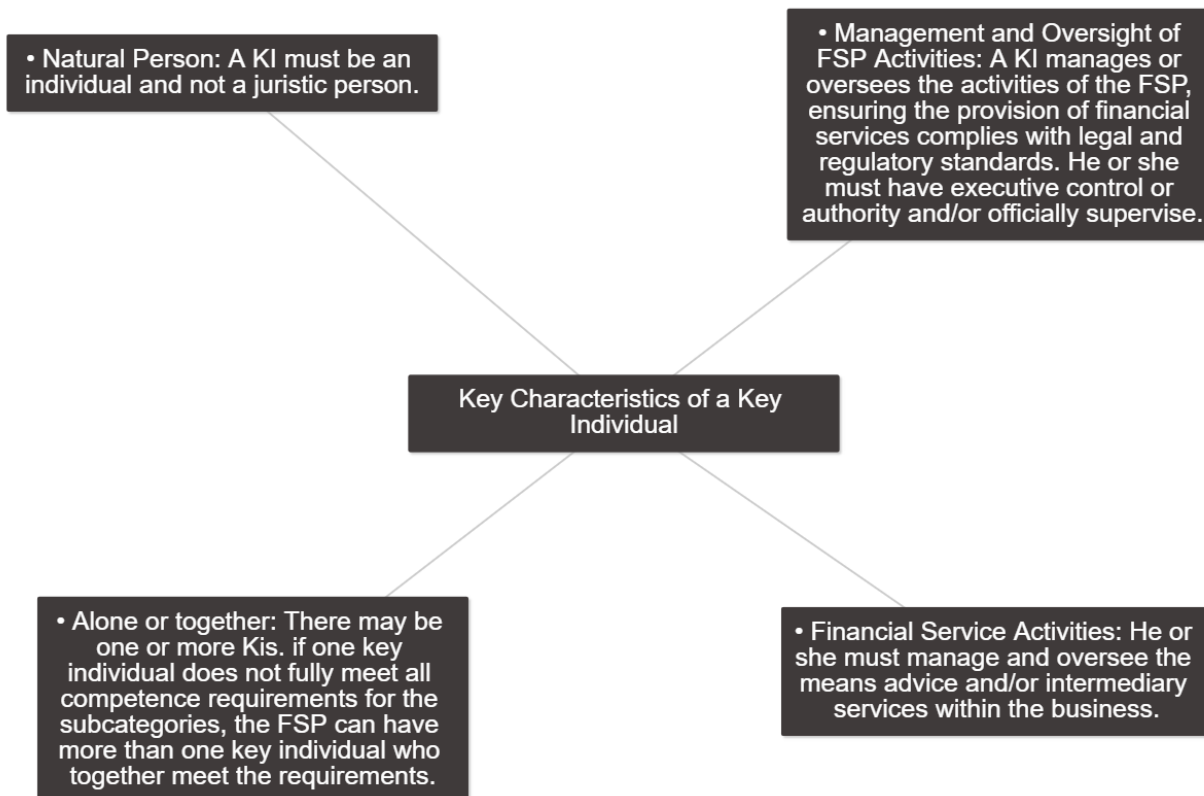
15. Demonstrate how to maintain evidence of compliance, such as minutes, training logs, CPD records, complaint registers, product approvals, and audit responses, to support regulatory inspections.

16. Explain the regulatory expectation that a KI exercises care, skill, and diligence, and must maintain strategic oversight of all financial services rendered under the FSP license.

A Key Individual is a natural person, not a juristic entity, who manages or oversees the activities of an FSP. The KI is responsible for ensuring that the FSP operates in compliance with the requirements set forth by the FAIS Act.



CHARACTERISTICS OF A KEY INDIVIDUAL



Every FSP must have someone fulfilling the role of the key individual. In the case of the sole proprietor he or she will be the FSP as well as acting in the role of key individual.

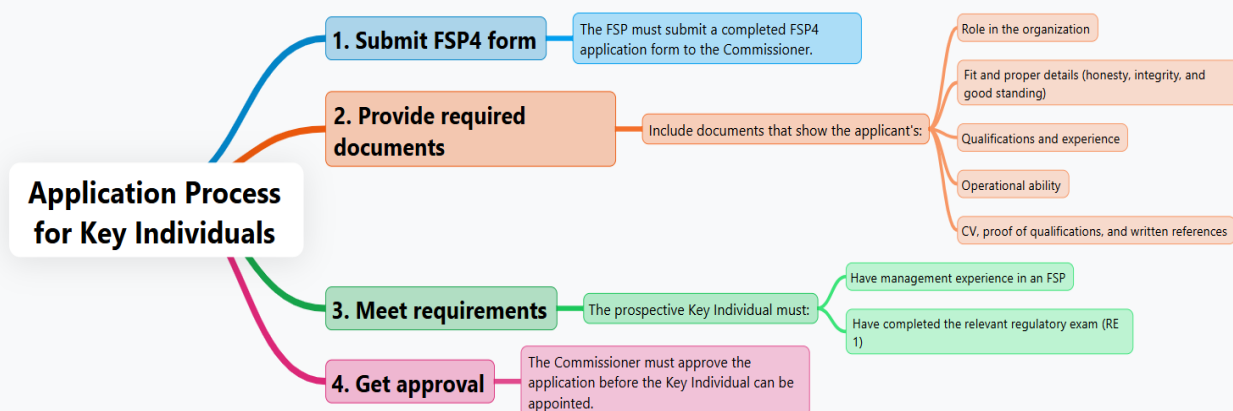
APPOINTMENT OF A KEY INDIVIDUAL VS REPRESENTATIVE

Under the FAIS Act, the processes for appointing Key Individuals and Representatives differ significantly, particularly in terms of the involvement of the FSCA. Both roles are crucial to the operation of a FSP, but the regulatory oversight and approval processes for these roles are distinct.

APPROVAL PROCESS OF A KEY INDIVIDUAL

Key Individuals are appointed by the FSP but must be approved by the FSCA before they can legally perform their duties. The approval process ensures that individuals who manage and oversee within the FSP meet the necessary fit and proper requirements, as defined by the FAIS Act and Board Notice 194 of 2017.

Applying to be a Key Individual	A completed FSP4D application form must be submitted to the Commissioner. The applicant is the FSP seeking approval for the key individual.
Application Requirements	Information required includes the person's role, fit and proper details, operational ability, CV, proof of qualifications, and a signed indemnity.
Approval Criteria	The prospective key individual must have management experience, completed the relevant regulatory exam (RE 1), and at least one key individual must have industry qualifications.
Consequences of Non-Compliance	If the application is under a new FSP and the key individual fails to meet requirements, the license will not be approved.



COMMENCEMENT OF KEY INDIVIDUAL DUTIES

When Can an Individual Commence Acting as a Key Individual?

No person may commence acting as a Key Individual for an FSP unless the FSCA has approved such a person or been notified of the appointment where prior approval is not required.

If the person is being appointed to an existing FSP (i.e., not part of a new license application), the FSP must notify the FSCA of the appointment within 15 days.

1. **Fit and Proper Requirements Must Be Met**

Before a person may act as a Key Individual, they must comply with the Fit and Proper requirements relating to:

- Honesty and integrity
- Competency (including qualifications, regulatory exams, experience,)
- CPD (Continuous professional development)
- Operational ability
- Financial soundness

An individual may only act as a Key Individual if they have met all the Fit and Proper requirements applicable to Key Individuals.

2. **Notification to the FSCA**

The FSP must submit FSP Form 4D to the FSCA **within 15 days** of the appointment of a new Key Individual.

- This form includes confirmation that the individual complies with all fit and proper requirements.
- Failure to notify the FSCA within the stipulated period constitutes non-compliance.

An individual may only commence acting as a Key Individual once:

1. The FSP has submitted notification (and approval is granted).
2. The individual has met all Fit and Proper requirements; and
3. The FSCA has acknowledged or approved the appointment, depending on the scenario.

Premature assumption of KI responsibilities without compliance exposes the FSP to regulatory breach, and the individual may be disqualified or debarred.

Regulated Management and Oversight Responsibilities of a Key Individual

Section 1 defines a Key Individual as:

“A natural person responsible for managing or overseeing, either alone or together with others, the rendering of financial services by a Financial Services Provider (FSP) or its representatives.”

This places the Key Individual in a position of executive accountability and regulatory responsibility.

Core Responsibilities and Obligations

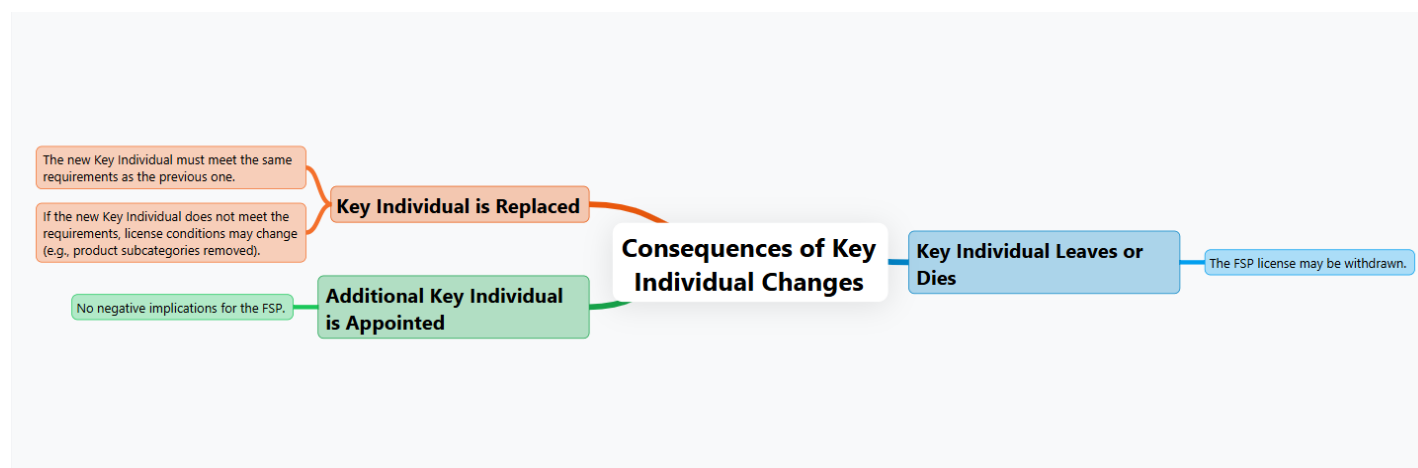
1. Oversight of Representatives	<ul style="list-style-type: none"> • KIs must take corrective steps for non-compliance. • Initiate debarment proceedings where applicable. • Ensure continued competence and appropriate conduct.
2. Monitoring and Compliance Frameworks	<ul style="list-style-type: none"> • Maintain compliance procedures with the FEIS Act. • Report contraventions to FSCA within 15 days. • Ensure effective governance and risk management.
3. Financial and Operational Oversight	<ul style="list-style-type: none"> • Ensure accurate accounting records. • Submit audited financial statements on time. • Monitor financial solvency and liquidity.
4. Fit and Proper Oversight	<ul style="list-style-type: none"> • Ensure compliance with Fit and Proper requirements. • Assess honesty, integrity, and competency. • Avoid overextension of KIs.
5. Continuous Development and Training	<ul style="list-style-type: none"> • Ensure CPD requirements are met. • Supervise representatives with structured development plans.
6. Advertising, Recordkeeping, and Disclosures	<ul style="list-style-type: none"> • Ensure proper record-keeping and disclosures. • Approve advertising materials to ensure clarity and truthfulness.
7. Licensing and Reporting Obligations	<ul style="list-style-type: none"> • Ensure services are rendered within the FSP's license. • Report material irregularities to FSCA without delay.
Accountability and Enforcement	<ul style="list-style-type: none"> • KIs are legally accountable for breaches of legislation.

Financial Records Maintenance	Key Individuals must implement and supervise financial controls, review financial statements, and ensure records are kept for at least five years.
Due Care and Diligence	Key Individuals must manage the FSP with care, oversee compliance, monitor systems, and conduct quarterly checks.
Compliance Frameworks	FSPs must have documented procedures, and Key Individuals must approve a Compliance Framework and RMCP if applicable.
Records and Evidence	Key Individuals must maintain meeting minutes, training records, and ensure availability of all records for FSCA inspection.

Fit and Proper Representatives	An FSP may only authorize a representative to render financial services if they comply with Fit and Proper Requirements and operate under adequate supervision.
Control Measures	KI's must Maintain a Fit and Proper Compliance Matrix that tracks representatives' qualifications, RE status, product training, and CPD. Appoint a designated Key Individual or supervisor.
Supervision Framework	Representatives under supervision must be subject to a structured and documented supervision plan with clear milestones, timelines, and monitoring criteria.
Operational Capacity	The FSP and its Key Individuals must have sufficient operational ability, including systems and resources to manage financial services activities effectively.
Workflows and Standard Operating Procedures	Implement workflows and Standard Operating Procedures for each financial service area. Conduct periodic operational audits and use findings to improve internal controls.

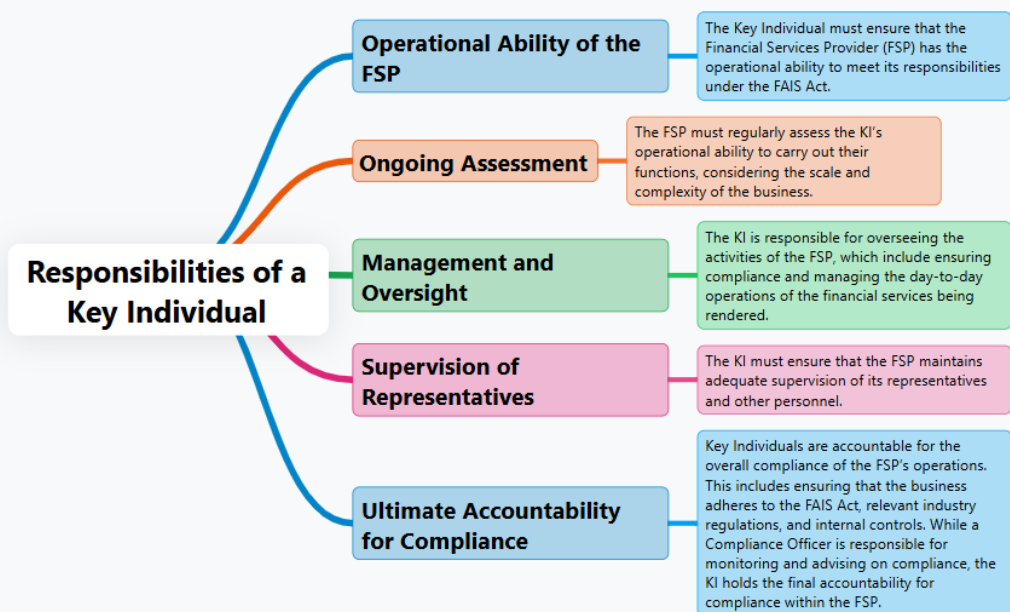
IMPACT OF THE ROLE OF A KI ON LICENSING CONDITIONS

An FSP must have an active Key Individual at all times. A change in the Key Individual's Fit and Proper status may impact the FSP's license.



RESPONSIBILITIES OF A KEY INDIVIDUAL

A Key Individual holds several responsibilities to ensure the FSP's compliance with the FAIS Act:



OUTSOURCING

Definition of Outsourcing

Outsourcing refers to the process where an FSP or a juristic representative appoints a third party to perform a function or activity on its behalf that is integral to the rendering of financial services.

When Does Section 39 Apply?

Section 39 applies when a function or activity that relates to the administration or systems necessary to render financial services is outsourced, whether to a related or unrelated third party.

Requirements When Outsourcing

1. The outsourcing does not materially impair the quality of the FSP's internal control or ability to manage risk.
2. The FSP retains full responsibility for compliance with the FAIS Act.
3. The outsourcing is appropriately structured to meet all FAIS and other legal obligations.

Specific Obligation

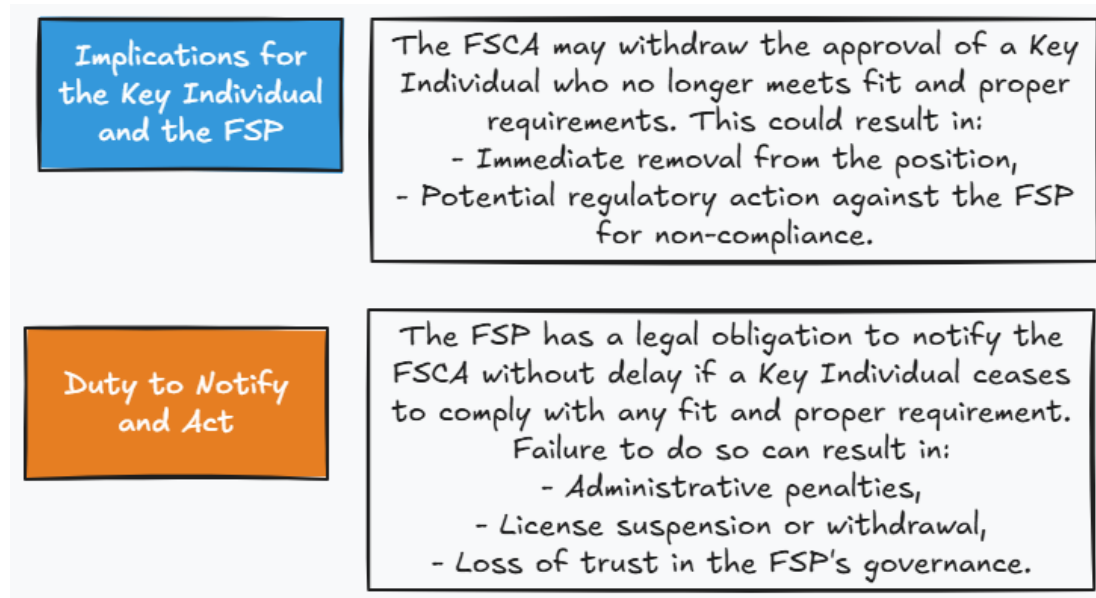
The FSP must ensure that a written service level agreement (SLA) is in place, which clearly outlines:

1. The roles and responsibilities of the service provider.
2. The standards of performance expected.
3. Provisions for monitoring and evaluation.
4. Remedies and termination clauses.

Continuous Oversight

Even after outsourcing, the FSP remains accountable and must ensure ongoing monitoring and control of the outsourced activity.

IMPLICATIONS WHERE A KEY INDIVIDUAL IS DEBARRED OR NO LONGER MEETS THE HONESTY, INTEGRITY, AND GOOD STANDING REQUIREMENTS



Consequences for the Key Individual Personally

Consequence	Explanation
Loss of Approval	FSCA may revoke the individual's status as an approved KI
Debarment	If the individual's conduct justifies it, they may be debarred from acting as a representative or KI in future
Reputational Damage	Regulatory findings are public and may hinder future employment in the financial sector
Criminal Prosecution	If the conduct involves fraud, theft or dishonesty, criminal charges may follow

Preventive and Corrective Measures

1. Identify and Confirm the Non-Compliance

- Investigate any allegation, complaint, or regulatory notice related to the KI's character.
- Collect supporting evidence (e.g., court records, disciplinary rulings, employer feedback).

2. Suspend the Key Individual's Authority

- Immediately suspend the individual's management and oversight authority.
- Restrict their access to clients, systems, and compliance-sensitive functions.

3. Notify the FSCA of Non-Compliance

- Submit formal written notification to the FSCA, detailing the nature of the breach, evidence, actions taken, and request for removal or revocation.

4. Initiate Removal or Replacement

- Submit a KI Removal Notification Form to the FSCA.
- Appoint a replacement KI who meets the fit and proper requirements.

5. Conduct Debarment (if required)

- Ensure the debarment process follows procedural fairness.
- Submit the FAIS Debarment Notification Form to the FSCA.

6. Record and Retain Evidence

- Maintain minutes of internal meetings, evidence of non-compliance, communications with the KI and FSCA, decision logs and outcomes.

Implications for FSPs

When a Key Individual No Longer Meets Honesty, Integrity and Good Standing Requirements.

Compliance Responsibility

The primary responsibility for ensuring compliance rests with the FSP. A breach may risk license suspension.

Immediate Risks

Non-compliance with honesty and integrity requirements leads to contravention of the FAIS Act and regulatory enforcement.

Duty to Notify

FSP must notify the FSCA if a KI ceases to comply. Failure to act may lead to unlawful operation.

Regulatory Sanctions

Misconduct may lead to FSCA investigations, administrative penalties, or license suspension.

Client Trust

Retaining a KI lacking integrity undermines governance and exposes clients to risks.

Operational Continuity

Disqualified KI may halt services in specific categories, necessitating urgent replacement.

Implications for Representatives

A Representative may lose their status as a representative of the FSP.

Immediate Actions

A Representative must immediately cease to conduct business as a representative of the FSP.

Replacement Process

The FSP must replace the debarred KI with a new KI who meets the fit and proper requirements.

Approval Requirement

The new KI must be approved by the FSCA before the FSP can continue to operate.

Before moving on to the next module, ensure that you are able to meet the below criteria:

Task	Qualifying Criteria	Knowledge (K) or Skill (S)	Legislation Reference / Motivation
Operate as a key individual in terms of the FAIS Act.	Describe the roles and responsibilities of key individuals as defined in the FAIS Act.	K The task requires knowledge of a specific section of the legislation or regulation	FAIS Act - Sec 1 Definition of Key Individual FAIS Act - Sec 8(4) FAIS Act - Sec 17(3) FAIS Act - Sec 19 BN 194 of 2017 - Sec 34(1) & (2) BN 194 of 2017 - Sec 37 BN 194 of 2017 - Sec 39
	Explain the requirements for approval of a key individual by the Financial Sector Conduct Authority.	K	FAIS Act - Sec 1 Definition of Key Individual FAIS Act - Sec 8 FAIS Act - Sec 8(1) BN 194 of 2017 BN 194 of 2017 – Definitions BN 194 of 2017 – Sec 8 BN 194 of 2017 – Sec 9 BN 194 of 2017 – Sec 15 BN 194 of 2017 – Sec 15(2) BN 194 of 2017 – Sec 17 BN 194 of 2017 – Sec 26(1) BN 194 of 2017 – Sec 28(3) BN 194 of 2017 – Sec 40 BN 194 of 2017- Sec 42(1) BN 194 of 2017 – Sec 43(b) FSR Act – Chapter 1, Part 1 Sec (1)
	Describe the regulated management and oversight responsibilities of a key individual.	K	FAIS Act - Sec 1 Definition of Key Individual FAIS Act - Sec 14 FAIS Act - Sec 17 FAIS Act - Sec 17(5) FAIS Act - Sec 18 FAIS Act - Sec 19 BN 123 of 2009 BN 194 of 2017 BN 194 of 2017 – Sec 8 BN 194 of 2017 – Sec 12 BN 194 of 2017 – Sec 29 BN 194 of 2017 – Sec 30 BN 194 of 2017 – Sec 32 BN 194 of 2017 – Sec 36 BN 194 of 2017 – Sec 37(2)(g) BN 194 of 2017 – Sec 42 BN 194 of 2017 – Sec 43(b) BN 194 of 2017 – Sec 45 Licensing Conditions
	Perform the regulated management and oversight responsibilities of a key individual.	S The task requires practical ability to perform tasks or apply knowledge in real scenarios	FAIS Act - Sec 1 Definition of Key Individual FAIS Act - Sec 19 FAIS Act - Sec 19(1) BN 194 of 2017 – Sec 42 BN 194 of 2017 – Sec 42(1) BN 194 of 2017 – Sec 46 BN 194 of 2017 – Sec 48

Explain the controls required to ensure sufficient management and oversight of the financial services that are rendered.	K	FAIS Act - Sec 13 FAIS Act - Sec 13(2) GCOC - Sec 3A GCOC - Sec 16 - 19 BN 194 of 2017 – Sec 13(5) BN 194 of 2017 – Sec 37 BN 194 of 2017 – Sec 39
Explain when an individual can commence acting as a key individual.	K	FAS Act - Sec 8 FAIS Act - Sec 8(1A) FAIS Act - Sec 8(4) FAIS Act - Sec 8(4)(b) BN 122 of 2003 - Sec 5 BN 194 of 2017 – Sec 17(2) BN 194 of 2017 – Sec 26(1)
Explain the implications for a key individual should the key individual no longer meet the honesty, integrity and good standing requirements.	K	FAIS Act - Sec 8A FAIS Act - Sec 8(4) FAIS Act - Sec 9 BN 194 of 2017 – Chapter 2 BN 194 of 2017 – Sec 8 BN 194 of 2017 – Sec 9 BN 194 of 2017 – Sec 9(1) & (3) BN 194 of 2017 – Sec 10
Take appropriate action where a current key individual no longer meets the honesty, integrity, and good standing requirements.	S	FAIS Act - Sec 8 FAIS Act - Sec 8(1) FAIS Act - Sec 8(2) FAIS Act - Sec 13(2) FAIS Act - Sec 14 BN 194 of 2017 – Chapter 2 BN 194 of 2017 – Sec 7(2) BN 194 of 2017 – Sec 9 BN 194 of 2017 – Sec 9(1) BN 194 of 2017 – Sec 9(3)
Explain the implications for a FSP should a key individual no longer meet the honesty, integrity, and good standing requirements.	K	FAIS Act - Sec 8 FAIS Act - Sec 8(4) FAIS Act - Sec 9 FAIS Act - Sec 9(1) FAIS Act - Sec 13 FAIS Act - Sec 14 FAIS Act - Sec 19(1) FAIS Act - Sec 19(2) FAIS Act - Sec 19(4) License conditions BN 194 of 2017 – Sec 5 BN 194 of 2017 – Chapter 2 BN 194 of 2017 – Sec 9 BN 194 of 2017 – Sec 9(1) BN 194 of 2017 – Sec 10
Describe the requirements when outsourcing an administration or system function relating to financial services.	K	BN 194 of 2017 – Sec 39 BN 194 of 2017 – Sec 39(2) BN 194 of 2017 – Sec 39(2)(c)
Ensure, where activities are outsourced, that written service level agreements are in place.	S	BN 194 of 2017 - Sec 39

MODULE 5: THE FIT AND PROPER REQUIREMENTS

Learning outcomes:

By the end of this module, the learner should be able to:

1. Demonstrate Knowledge of the Fit and Proper Framework

- Describe the purpose and legislative intent behind the Fit and Proper Requirements under the FAIS Act.
- Identify the persons to whom Fit and Proper Requirements apply, including FSPs, Representatives, Key Individuals, and Compliance Officers.
- Explain the role of the FSCA in enforcing compliance with these requirements.

2. Evaluate Honesty, Integrity, and Good Standing Criteria

- Define the standards of honesty, integrity, and good standing as applied to financial services professionals.
- Identify disqualifying factors and red flags that may affect an individual's good standing.
- Apply due diligence processes, including conducting background checks and verifying declarations.
- Interpret Section 14 of the FAIS Act in relation to debarment procedures.

3. Understand and Apply Competence Requirements

- Distinguish between the competence requirements for Representatives, KIs, Compliance Officers, and FSPs.
- Match experience requirements to the relevant product subcategories and FSP categories.
- Evaluate whether an individual meets the qualification standards required under BN 194 of 2017.
- Explain the execution of sales model and supervision requirements for unqualified representatives.

4. Demonstrate Understanding of Regulatory Examinations

- Identify the required Regulatory Examinations (RE1, RE5, etc.) for each role.
- Explain the purpose of the Regulatory Exams and the timelines for completion from DOFA.
- Differentiate between roles that require regulatory exams and those that are exempt.

5. Apply Class of Business (COB) and Product-Specific Training Requirements

- Describe what constitutes a Class of Business and outline the 9 COB categories under FAIS.
- Distinguish between COB and product-specific training and the roles to which they apply.
- Assess the training timelines and exemptions applicable to different representative scenarios.
- Explain what product-specific training must include, using real product examples.

6. Implement Continuous Professional Development (CPD) Requirements

- Define CPD and explain its importance in maintaining competence.
- Calculate CPD hours required based on classes of business and employment status (including pro rata formulas).
- Demonstrate knowledge of what constitutes CPD activities and recordkeeping standards.
- Create or evaluate a CPD plan for a representative or key individual.

7. Assess Operational Ability Requirements

- Explain the concept of operational ability and to whom it applies.
- Describe the operational infrastructure and systems required for FSPs, including recordkeeping and communication facilities.

- Explain the role of the Key Individual in maintaining the FSP's operational readiness.
- Identify the operational expectations for Compliance Officers and Representatives.

8. Understand Financial Soundness Obligations

- Define financial soundness as it applies to FSPs and identify those to whom it does not apply.
- Interpret the solvency, liquidity, and working capital requirements under Chapter 6 of BN 194 of 2017.
- Explain the purpose and content of an Early Warning Report and the conditions under which it must be submitted.

9. Integrate Fit and Proper Requirements for Compliance and Practice

- Develop a compliance checklist or audit tool to assess Fit and Proper compliance across roles.
- Advise on corrective steps when an individual or entity fails to meet Fit and Proper requirements.
- Maintain a competence register and training record aligned with regulatory obligations.

The Fit and Proper Requirements under the FAIS Act are designed to ensure that FSPs and their representatives possess the necessary skills, knowledge, and integrity to provide professional and ethical financial advice and services. These requirements are fundamental to maintaining trust and ensuring that clients receive advice that is both competent and suitable for their needs.

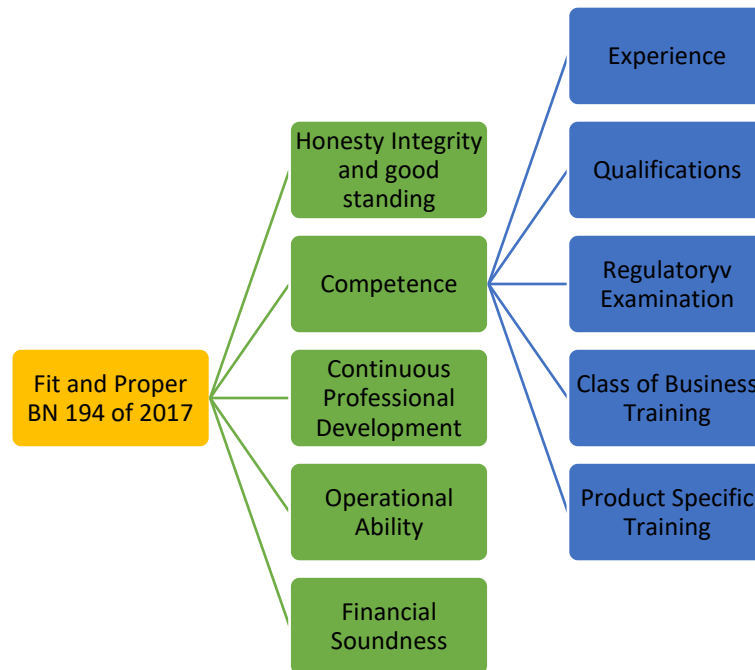
In this module, we will explore the criteria set out under the FAIS Act for individuals and FSPs to be considered fit and proper. This includes the necessary qualifications, experience, honesty, and financial soundness required to operate in the financial services industry. The aim is to provide a framework for ensuring that only qualified and trustworthy individuals can offer financial services, thus protecting consumers and upholding the integrity of the financial sector.

This module breaks down these requirements in detail, providing clear examples and practical tips to help you understand and meet these standards.

The Fit and Proper Requirements under the FAIS Act apply to FSPs, their Representatives, Key Individuals, and Compliance Officers. These requirements are designed to ensure that individuals and entities operating in the financial services sector meet the necessary standards of competence, honesty, financial soundness, and experience to protect consumers and uphold the integrity of the industry. Compliance with these standards is essential for obtaining and maintaining regulatory approval, as well as for ensuring that clients receive advice and services that are in their best interest.

The FAIS Act specifies that FSPs, reps, KIs, and compliance officers must demonstrate their ability to provide suitable financial advice or services through appropriate qualifications, ongoing professional development, ethical conduct, and financial stability. These requirements help ensure that only qualified and trustworthy individuals are involved in delivering financial services.

Below is a representation of the fit and proper requirements:

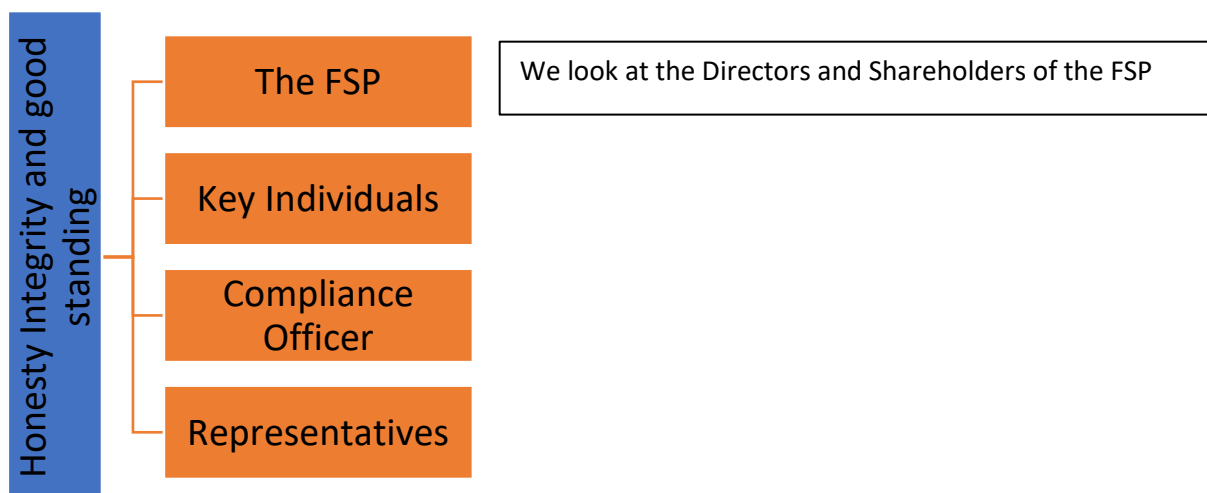


HONESTY, INTEGRITY, AND GOOD STANDING

Under the FAIS Act, honesty, integrity, and good standing are essential principles for FSPs, their representatives, key individuals (KIs), and compliance officers. Honesty requires truthful and transparent communication with clients, while integrity ensures ethical behavior and decisions that prioritize the client's best interests. Good standing means maintaining a clean record with no history of legal violations, financial mismanagement, or unethical conduct. These principles are critical for fostering trust, protecting consumers, and upholding the reputation of the financial services industry.

Application

Honesty Integrity and good standing applies to the following persons:



Requirement	Explanation
Honesty and Integrity	Representatives / KIs and Compliance Officers must always act truthfully, with integrity, and in a manner that fosters trust with clients, regulators, and colleagues.
Good Standing	Representatives / KIs and Compliance Officers must have a clean record regarding their professional conduct. This includes no criminal convictions, civil judgments, or history of dishonesty.

Examples of behavior that could disqualify a person from being considered in good standing include:

- **Criminal convictions:** A representative with a fraud conviction would not be in good standing.

Failure to meet regulatory deadlines: If a representative regularly misses deadlines for regulatory filings, this may indicate a lack of professionalism and good standing.

- **Removal from office for misconduct:** If a representative has been removed from a position of trust (e.g., as a director) due to misconduct like theft or misrepresentation, they would not be considered to be in good standing.



1

Past Judgments

Any previous judgments, including criminal and civil matters, that have not been rescinded can raise concerns about a person's good standing.

2

Regulatory Issues

Lack of compliance with deadlines, frequent regulatory actions, or demonstrating unwillingness to comply with legal requirements can indicate a lack of good standing.



3

Professional Bodies

Refusal or withdrawal of membership from professional bodies, or disciplinary actions taken by these bodies, can reflect negatively on a person's standing.

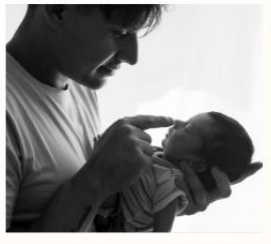


4

Financial Offenses

Offenses related to financial institutions, including fraud, forgery, and theft, are serious indicators of poor standing.





5

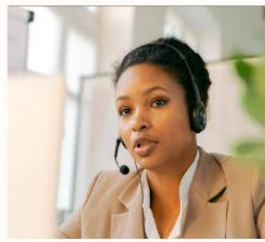
Trust Violations

Being removed from an office of trust due to misconduct or dishonesty can significantly impact a person's good standing.

6

Registration Issues

Being denied or having a registration, approval, authorization, or license suspended, revoked, or terminated by a regulatory authority can indicate a lack of good standing.



7

Professional Disciplinary Action

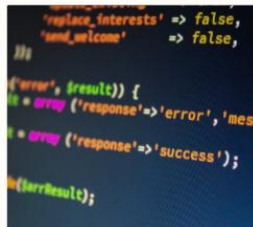
Being disciplined, reprimanded, disqualified, or removed from a professional body or regulatory authority for honesty, integrity, or business conduct issues can negatively impact one's sta...



8

Misleading Information

Knowingly providing false or misleading information to authorities or demonstrating uncooperativeness can significantly damage a person's reputation and good standing.





9

Fitness and Propriety

Being found unfit and proper by authorities and not addressing the underlying reasons can impact a person's good standing.

10

Business Involvement

Being involved in a business that has faced legal issues, liquidation, or business rescue can reflect negatively on a person's standing, especially if they were involved in the management.



11

Disclosure Failure

Failure to disclose required information, particularly related to honesty, integrity, and good standing, can raise serious concerns about a person's reliability and trustworthiness.



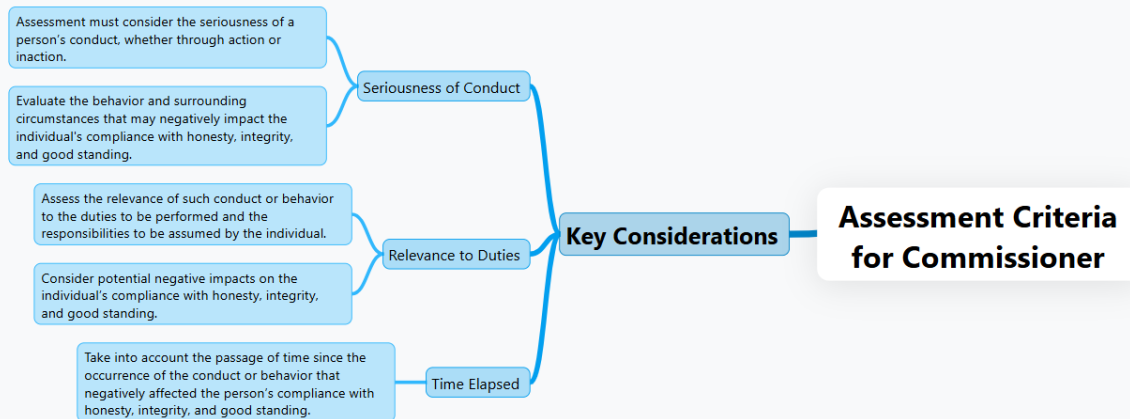
Good Standing

Good standing requires honesty, integrity, and adherence to legal and professional requirements. Various factors are considered to determine if an individual meets these standards.

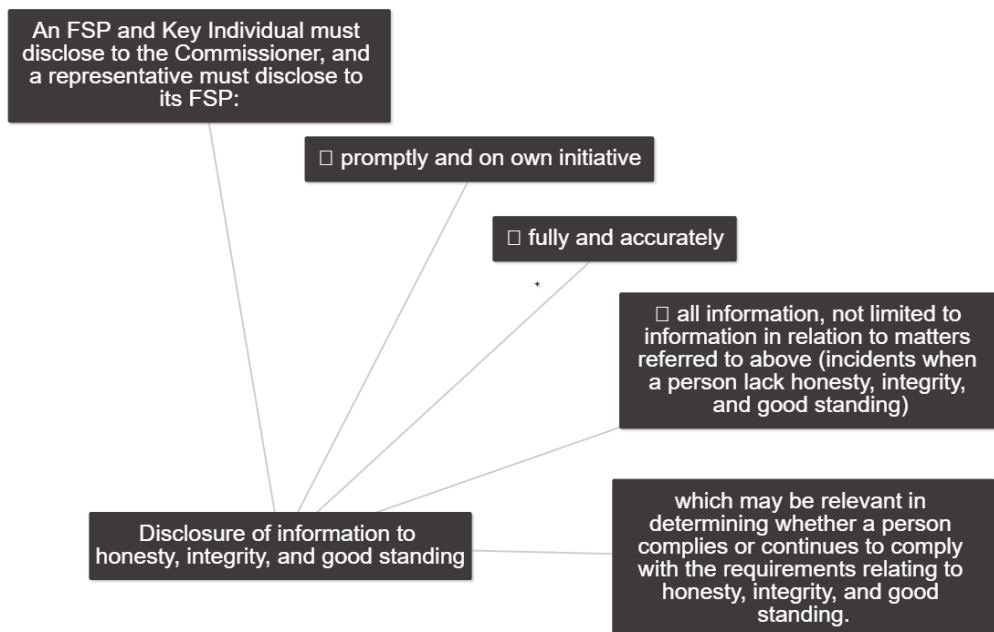


Criteria for assessment

The Commissioner must, in assessing whether a person meet the requirements, have due regard to the following:



Disclosure requirements



Due Diligence Process - Honesty Integrity and good standing

To verify a person's compliance, the FSP must:

Due Diligence Step	Explanation
Criminal Checks	Obtain a recent police clearance certificate or verify via MIE or LexisNexis screening
Declaration Form	Require the candidate to declare any past offences, disciplinary actions, or insolvency
Professional References	Contact former employers or professional bodies for conduct and standing
Regulatory Checks	Verify status on FSCA debarment register, NCR, CIPC, or industry blacklists
Ongoing Monitoring	Include in HR policies that any changes in legal or disciplinary status must be reported immediately

Red Flags Requiring Investigation

- Name appears on FSCA debarment list
- Has been dismissed or suspended from a compliance or fiduciary role
- Conviction for fraud, theft, or dishonesty
- Currently undergoing disciplinary proceedings or investigations
- Business ties to collapsed, mismanaged, or unlawful entities

If the Individual fails, the requirements

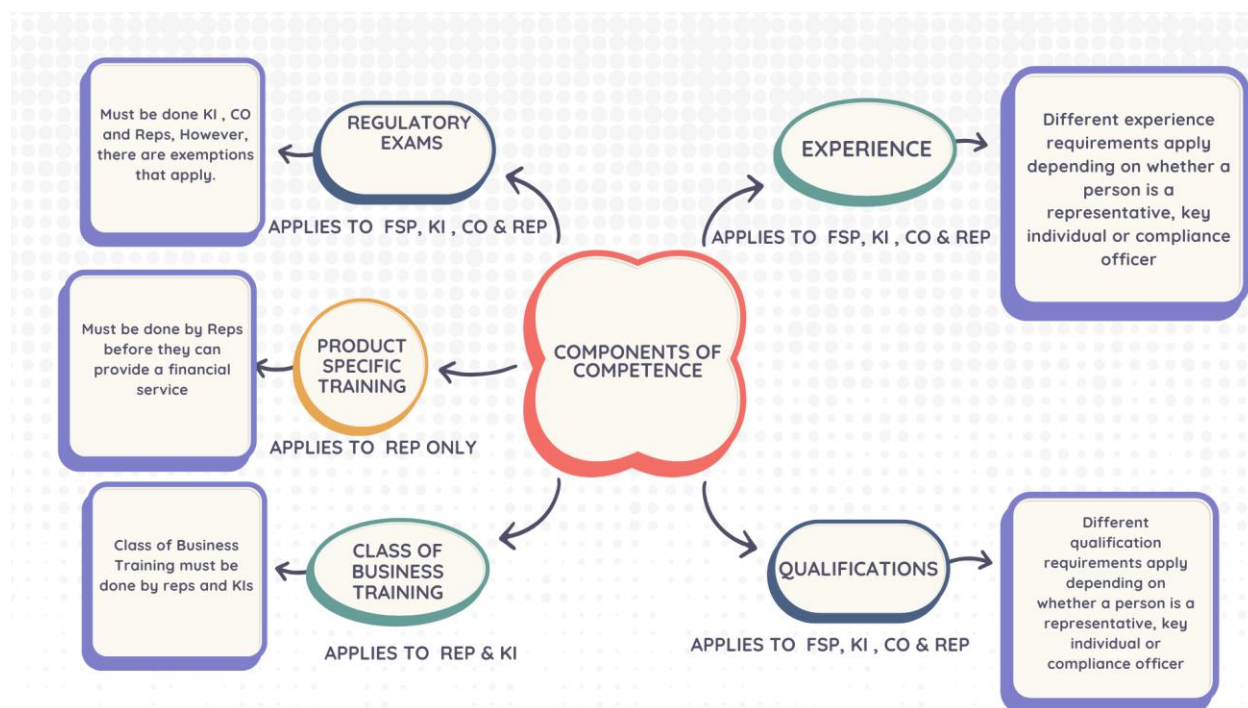
- The individual may not be appointed or may be removed from office.
- The FSP must take immediate steps to inform the FSCA, and if applicable, initiate the debarment process under Section 14 of the FAIS Act.

In line with BN 194 of 2017 , every FSP must thoroughly assess whether a potential or current Key Individual demonstrates consistent honesty, integrity, and good standing. This assessment must be documented, traceable, and ongoing. Failure to perform this check or appointing someone who fails may result in regulatory sanctions, license withdrawal, or reputational harm to the FSP.

COMPETENCE

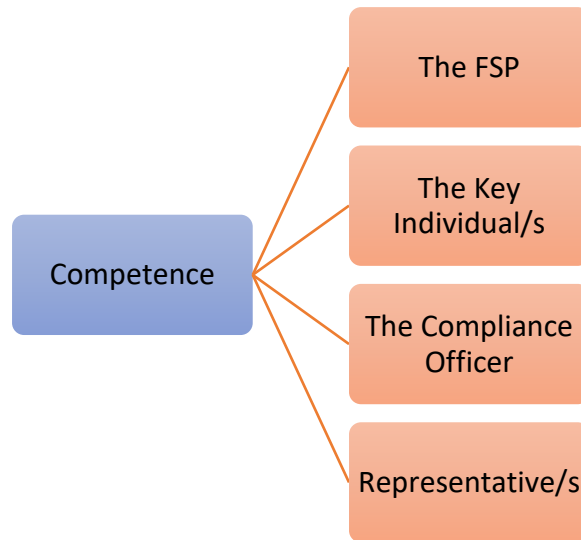
Under the FAIS Act, competence refers to the requirement that FSPs, their representatives, key individuals, and compliance officers must have the necessary skills, knowledge, and qualifications to provide professional financial services. Competence ensures that individuals are capable of understanding and assessing clients' needs, offering suitable advice, and effectively managing financial products. This requirement helps maintain high industry standards and ensures that clients receive appropriate, reliable, and well-informed advice.

Competence refers to the skills, knowledge, and experience required to effectively perform the duties of a Key Individual, Compliance Officer and representative. Competence is demonstrated through experience, qualifications, exams, and training.



Application of competence

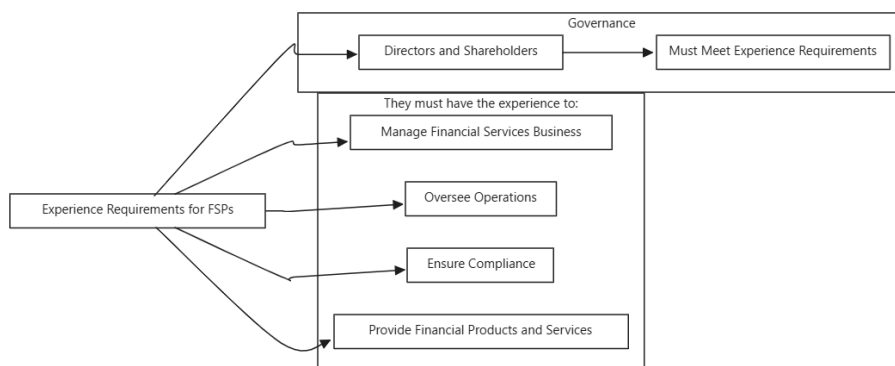
Competence applies to the following persons:



EXPERIENCE AS A COMPONENT OF COMPETENCE

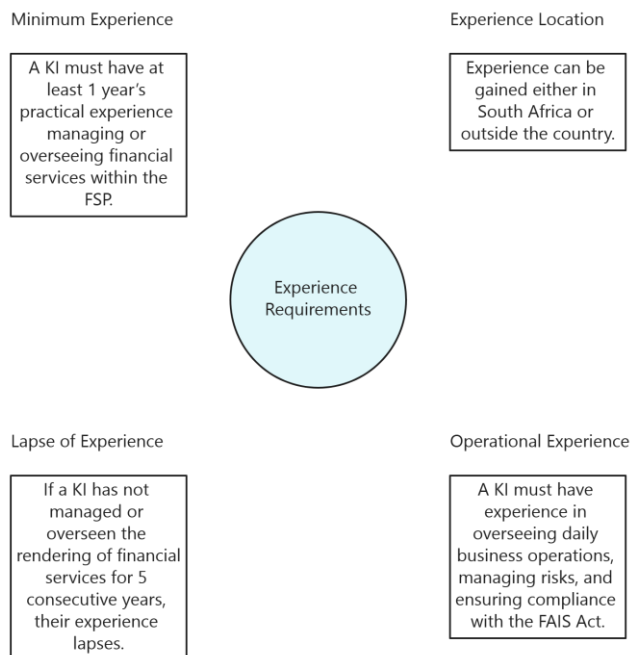
The experience component ensures that individuals in the financial services industry have the practical knowledge and hands-on expertise needed to effectively assess client needs, provide appropriate advice, and manage financial services responsibly.

Specific Requirements for Experience:

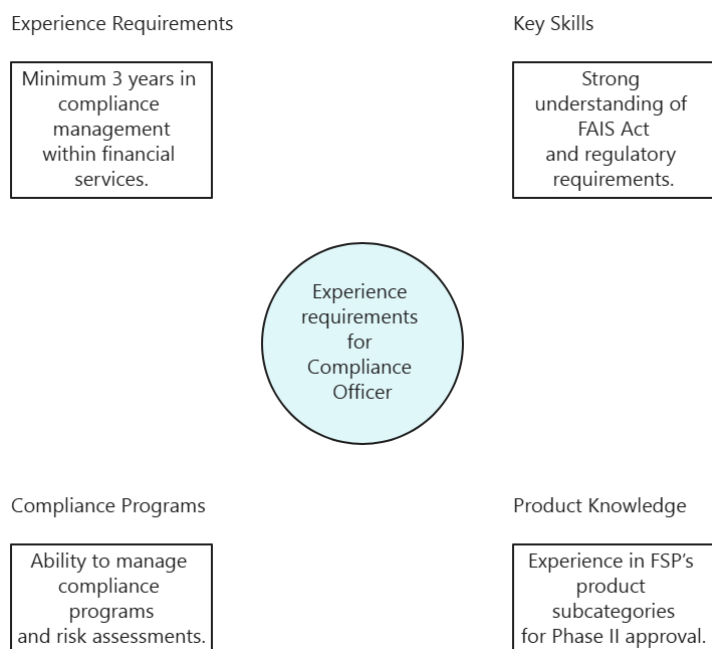


Experience Requirements for Key Individuals

Key Individuals must meet specific experience requirements beyond those of representatives.



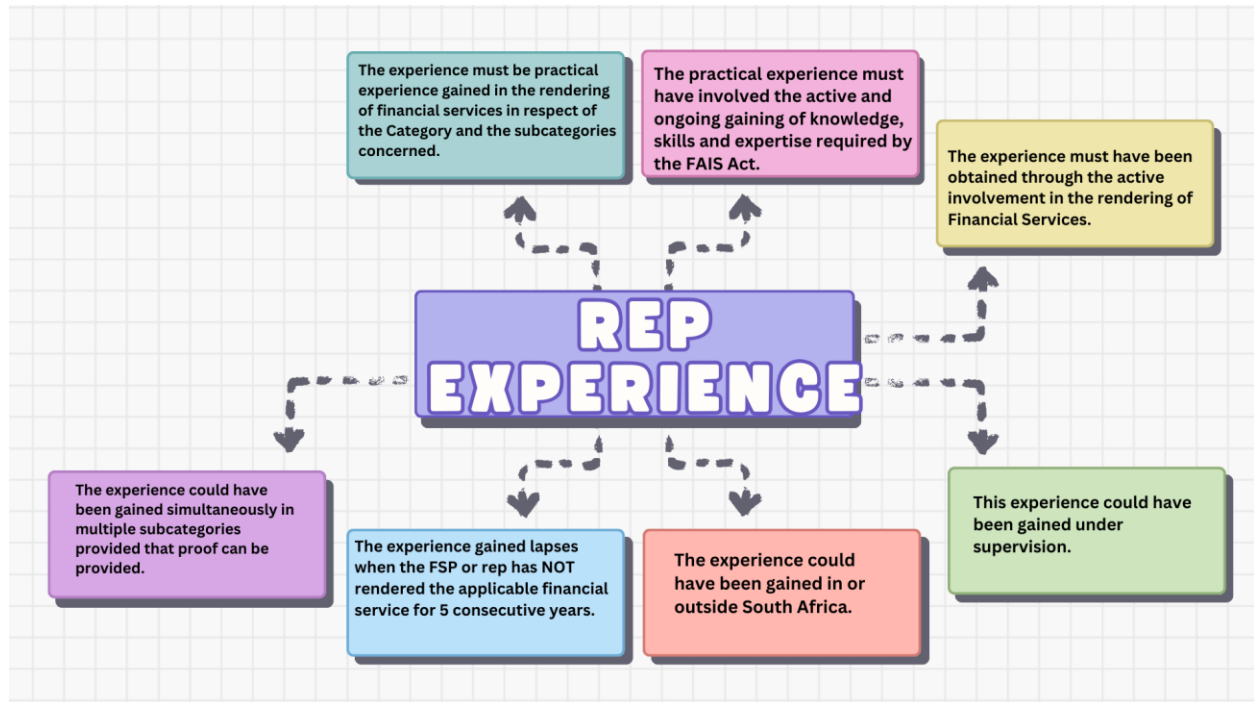
Experience requirements for Compliance Officers



For example, if the FSP deals with insurance products, the CO should have experience in insurance compliance to ensure that all practices are in line with industry standards and regulatory requirements.

Experience Requirements For Representatives

Representatives must have experience that is relevant for the product subcategories in which they will render financial services. Experience must meet specific financial product and particular category requirements.



Below is the table that represents the experience requirements:

Category I FSPs

Long-term Insurance subcategory A	6 months	2 months
Short-term Insurance Personal Lines	1 Year	6 months
Long-term Insurance subcategory B1	1 Year	6 months
Long-term Insurance subcategory C	1 Year	6 months
Retail Pension Benefits	1 Year	6 months
Short-term Insurance Commercial Lines	1 Year	6 months

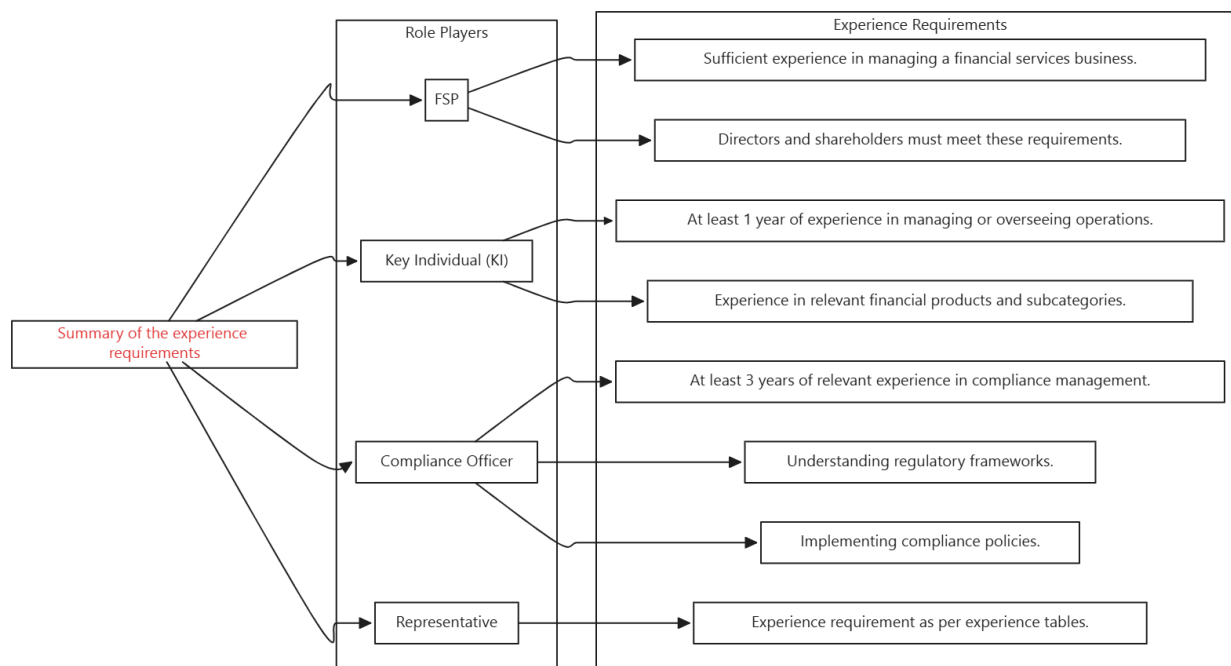
Pension Fund Benefits	1 Year	6 months
Shares	2 Years	1 Year
Money market instruments	2 Years	1 Year
Debentures and securitized debt	2 Years	1 Year
Warrants, certificates, or other instruments	2 Years	1 Year
Bonds	2 Years	1 Year
Derivative instruments	2 Years	1 Year
Participatory interests in a collective investment scheme	1 Year	1 Year
Forex Investment	2 Years	1 Year
Health Service Benefits	2 Years	2 Years
Long-term Deposits	6 Months	3 Months
Short-term Deposits	6 Months	3 Months
Friendly Society Benefits	6 Months	2 Months
Long-term Insurance subcategory B2	1 Year	6 Months
Long-term Insurance subcategory B2-A	1 Year	6 Months
Long-term Insurance subcategory B1-A	1 Year	6 Months
Short-term Insurance Personal Lines A1	1 Year	6 Months
Structured Deposits	2 Years	1 Year

Securities and instruments	2 Years	1 Year
Participatory interest in a hedge fund	2 Years	1 Year
Crypto Assets	2 Years	1 Year

Category II and III FSPs

Long-term Insurance subcategory B1	1 Year	6 months
Long-term Insurance subcategory C	1 Year	6 months
Retail Pension Benefits	1 Year	6 months
Pension Fund Benefits	1 Year	6 months
Shares	2 Years	1 Year
Money market instruments	2 Years	1 Year
Debentures and securitized debt	2 Years	1 Year
Warrants, certificates, or other instruments	2 Years	1 Year
Bonds	2 Years	1 Year
Derivative instruments	2 Years	1 Year
Participatory interests in a collective investment scheme	1 Year	1 Year
Forex Investment	2 Years	1 Year
Long-term Deposits	6 Months	3 Months
Short-term Deposits	6 Months	3 Months

Long-term Insurance subcategory B2	1 Year	6 Months
Long-term Insurance subcategory B2-A	1 Year	6 Months
Long-term Insurance subcategory B1-A	1 Year	6 Months
Structured Deposits	2 Years	1 Year
Securities and instruments	2 Years	1 Year
Participatory interest in a hedge fund	2 Years	1 Year
Crypto Assets	2 Years	1 Year



QUALIFICATIONS AS A COMPONENT OF COMPETENCE

Under the FAIS Act, qualifications are a critical component of the fit and proper requirements for FSPs, representatives, key individuals, and compliance officers. The qualifications ensure that individuals in the

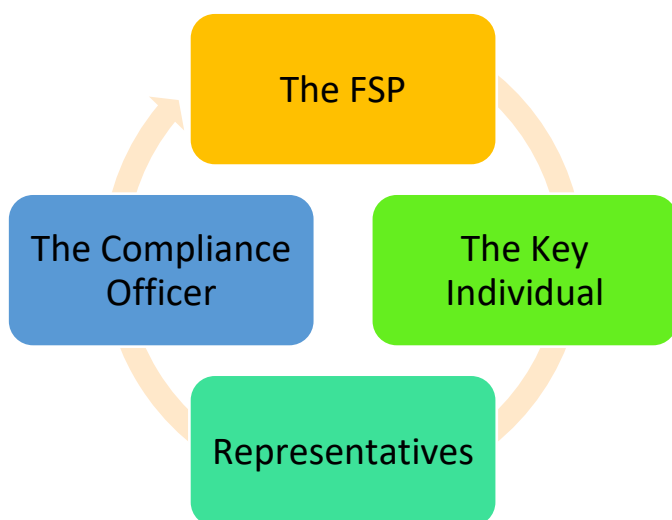
financial services industry have the necessary knowledge, skills, and formal education to provide competent, reliable, and legally compliant advice and services to clients.

The FAIS Act sets specific qualifications standards to ensure that individuals meet the industry's regulatory and professional benchmarks.

These qualifications play a key role in maintaining the credibility and professionalism of the financial services sector, enabling individuals to understand complex financial products, assess client needs accurately, and adhere to regulatory requirements. For reps, KIs, and compliance officers, meeting these qualifications ensures that they are adequately prepared to handle the responsibilities of their roles and maintain industry standards.

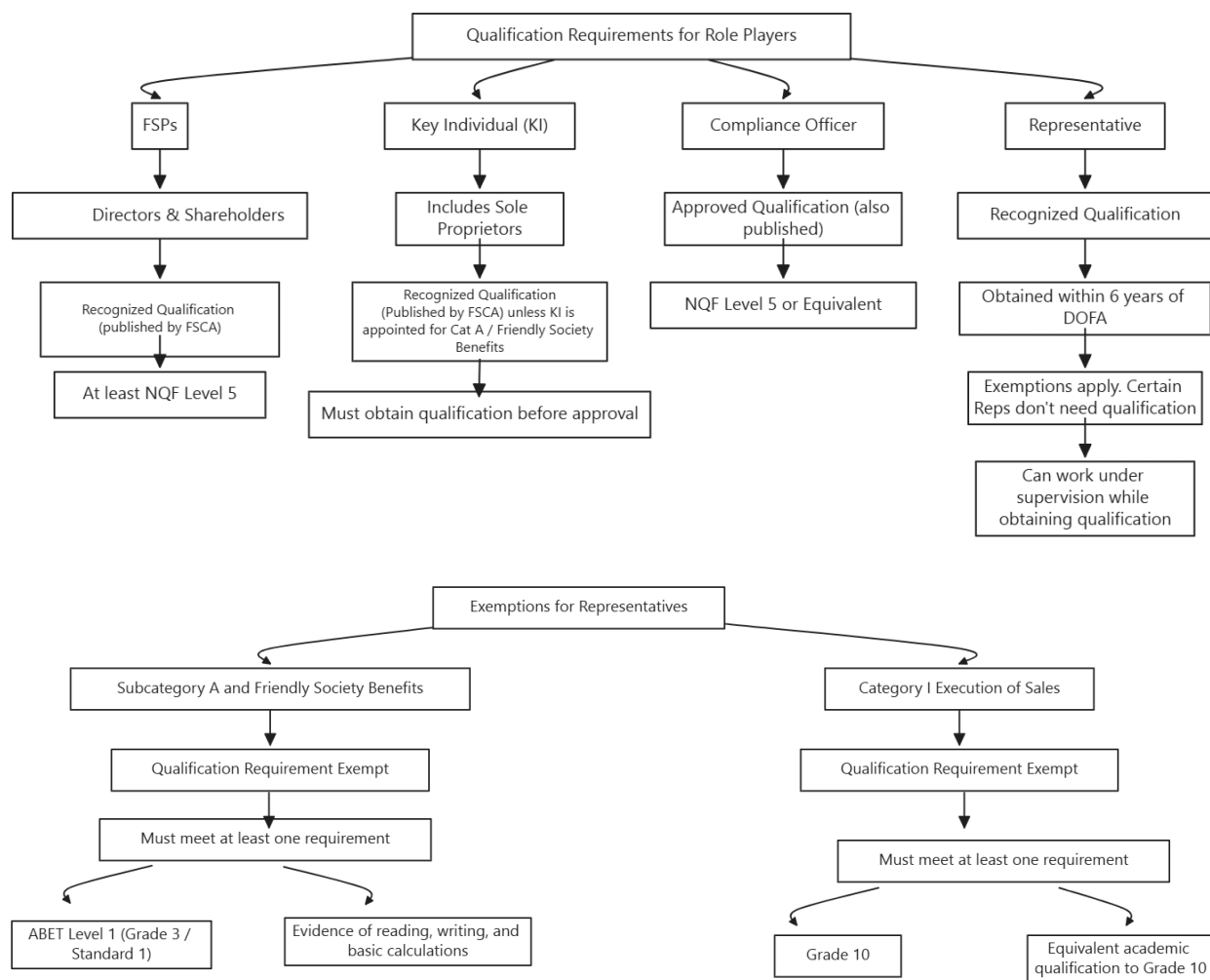
Application

The qualification requirements apply to the following:



Under the FAIS Act, an FSP, key individual, and representative must possess a recognized qualification that is appropriate for their specific role within the financial services industry. The qualification must be relevant to the category of FSP, the type of representative role, or the responsibilities of the key individual within the FSP, as well as applicable to the particular financial services and financial products they handle. The qualification must provide the individual with the necessary abilities, knowledge, and skills to perform their duties effectively. This is achieved through a curriculum framework that outlines a comprehensive body of knowledge and clear learning outcomes. The curriculum must be both

qualitatively and quantitatively relevant, ensuring that it prepares the individual to competently discharge the responsibilities associated with their specific role in the financial services sector.

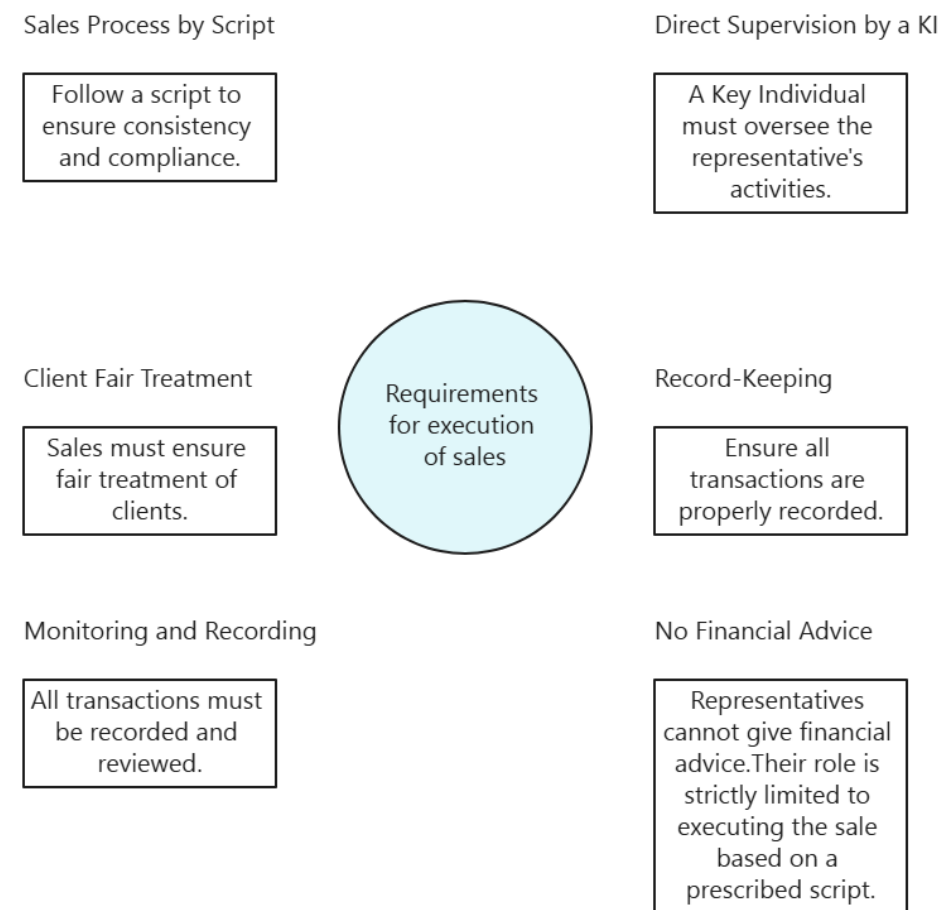


Execution of Sales for Representatives under the FAIS Act

The execution of sales refers to representatives who are involved in the process of selling financial products but are not providing advice or making recommendations. These representatives typically work within structured frameworks where their role is limited to executing transactions based on predetermined scripts, without offering personalized financial advice. This approach is commonly used in some categories of insurance, such as Category I for long-term insurance products and Tier 1 financial products.

The FAIS Act provides specific guidelines for representatives who are involved in execution of sales, including exemptions from the usual qualification requirements. However, there are strict conditions under which these representatives can operate. Below, we break down the specific requirements and exemptions related to the execution of sales.

For representatives working in execution of sales, the following conditions must be met to ensure compliance with the FAIS Act:



Example of Execution of Sales in Practice

Let us take an example to further explain the execution of sales process for a representative in Category I for Long Term Insurance Subcategory A (e.g., life insurance):

Scenario:

Sarah is a representative at an FSP offering life insurance products. Sarah is responsible for contacting potential clients and executing the sale of life insurance policies. Sarah's activities are directly supervised by a Key Individual (KI), John, who holds the necessary qualifications. Sarah follows a scripted process

that includes reading a set of disclosures, explaining the basic terms and conditions of the life insurance policy, and asking the client to sign up if they are interested. All of Sarah's calls are recorded, and John listens to a selection of these calls regularly to ensure that she is only executing the sales and not providing financial advice. If Sarah's client asks for personalized advice about which life insurance policy would best suit their needs, Sarah is instructed to refer the client to John, the Key Individual, who is qualified to provide financial advice.

Where a representative does not yet meet the qualification requirement and he or she still has time to acquire one, that representative may work under supervision, provided that all requirements for supervision have been met.

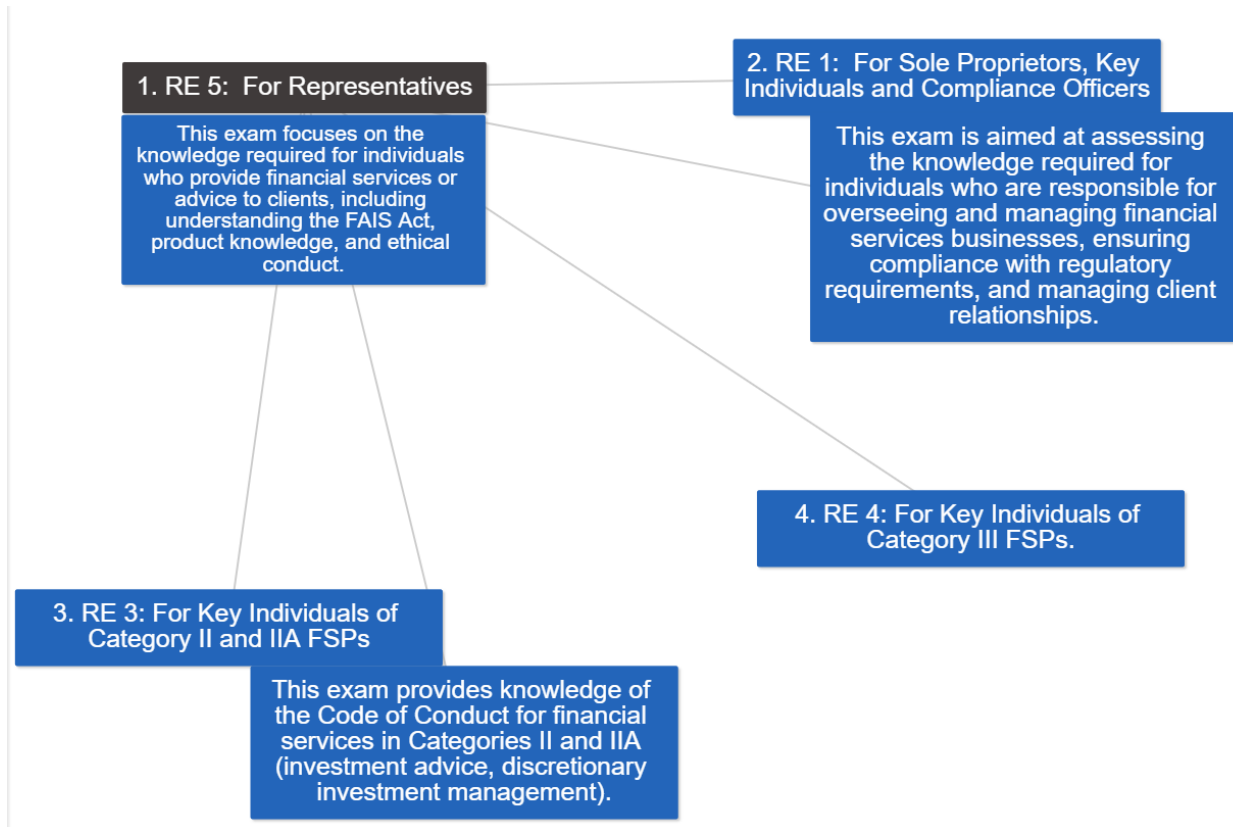
Supervision for Representatives Who Do Not Yet Meet Qualification Requirements

Requirement	Explanation
Supervision	If a representative has not yet acquired the necessary qualification but still has time to do so, they may continue to work under supervision .
Supervision Requirements	The representative must work under a Key Individual (KI) or someone else in a supervisory role who meets the qualification requirements. Supervision ensures that the representative complies with the FAIS Act's standards while they work towards meeting the qualification requirements.
Timeframe for Acquiring Qualification	The representative must meet the qualification requirements within 6 years from DOFA or during the period they are under supervision.

REGULATORY EXAMINATIONS AS PART OF QUALIFICATIONS

The Regulatory Examinations (RE) are a critical component of the competency requirements under the FAIS Act for individuals in the financial services industry. These exams are designed to assess the knowledge and understanding of regulatory requirements, ethical standards, and the relevant financial products and services that FSPs, representatives, key individuals, and compliance officers must adhere to.

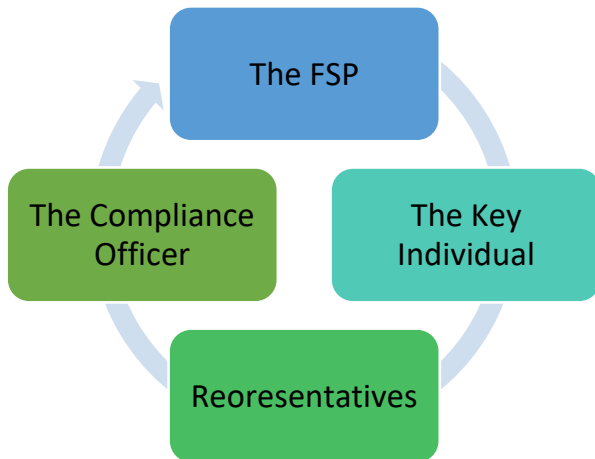
There are two main Regulatory Examinations:



Passing the RE exams is mandatory for individuals in their respective roles to be deemed competent and to meet the fit and proper requirements of the FAIS Act. These exams ensure that individuals possess the necessary knowledge to provide sound advice, adhere to industry regulations, and act in the best interests of clients.

Application

Regulatory Examinations apply to the following:



Exemptions for RE

The following are exempt from the RE requirements

Long Term Insurance Subcategory A	Friendly Society Benefits	Reps working only with
		Execution of Sales for CAT I Tier 1 reps CAT I reps rendering financial services for Tier 2

Representatives must pass Regulatory Exams relevant to their category, typically within **2 years** from their DOFA. Regulatory exams may be set and delivered by the examination bodies. Moonstone is the only examination body that currently administers the RE examinations.

Summary of RE Requirements

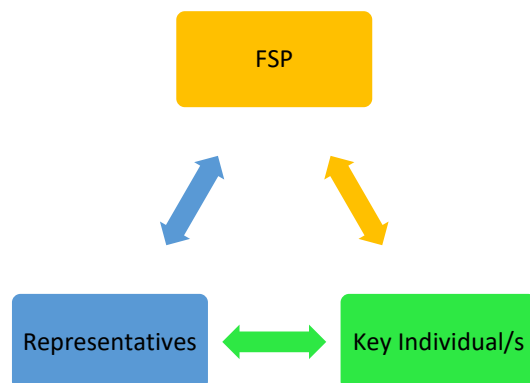
Table A					
	Column A	Column B	Column C	Column D	Column E
	Category I	Category II	Category IIA	Category III	Category IV
FSP	RE 1	RE 1 & RE 3	RE 1 & RE 3	RE 1 & RE 4	RE 1
Key Individual	RE 1	RE 1 & RE 3	RE 1 & RE 3	RE 1 & RE 4	RE 1
Compliance Officer	RE1				
Representative	RE 5	RE 5	RE 5	RE 5	RE 5

CLASS OF BUSINESS TRAINING AS A COMPONENT OF QUALIFICATIONS

Under the FAIS Act, the concept of Class of Business refers to the specific categories of financial services and products that an FSP is licensed to offer. Each Class of Business is associated with particular regulatory requirements and competency standards, ensuring that FSPs, their Representatives and Key Individuals have the necessary knowledge and expertise to provide suitable financial products and services within their authorized areas. Understanding the Class of Business is crucial for ensuring that financial service providers meet the required standards for client suitability, risk management, and compliance with industry regulations. The classification also plays an important role in determining the specific regulatory examinations and qualifications required for professionals in the financial services sector.

Application

Class of Business Training and Product Specific Training applies to the following:



Prior to rendering any financial service, Representatives are required to complete a class of business training and product-specific training relevant to the financial products they are authorized to offer.

This ensures that they possess the necessary knowledge and skills to provide suitable advice and services to clients.

KI's must also complete a class of business training specific to the classes of business they intend to manage or oversee within their financial services firm. However, FSPs, KIs, and representatives who were authorized prior to 1 April 2018 are deemed to have completed the class of business training based on their past experience, unless they add new products to their license, in which case, they must undergo additional training relevant to the new products. This ensures that professionals are equipped with up-to-date knowledge and remain compliant with industry standards.

The Class of Business training requirements, as outlined by the FAIS Act, apply to representatives based on their date of first appointment.

Representative Status	Training Deadline	Details
Reps under supervision as of 1 April 2018	1 August 2019	Complete Class of business training within 12 months of effective date (1 August 2018)
Reps approved after 1 April 2018 but before 1 August 2018	1 August 2019	Complete Class of business training within 12 months of effective date (1 August 2018)
Reps approved after 1 August 2018 (New entrants or Tier 2)	31 January 2019	Complete Class of business training by 31 January 2019
Reps approved after 1 February 2019 (New entrants or Tier 2)	Within 12 months of appointment	Complete Class of business training within 12 months of appointment

Exemptions for Class of Business Training

The following are exempt from Class of Business Training:

Long Term
Insurance
Subcategory A

Friendly Society
Benefits

Reps working
only with

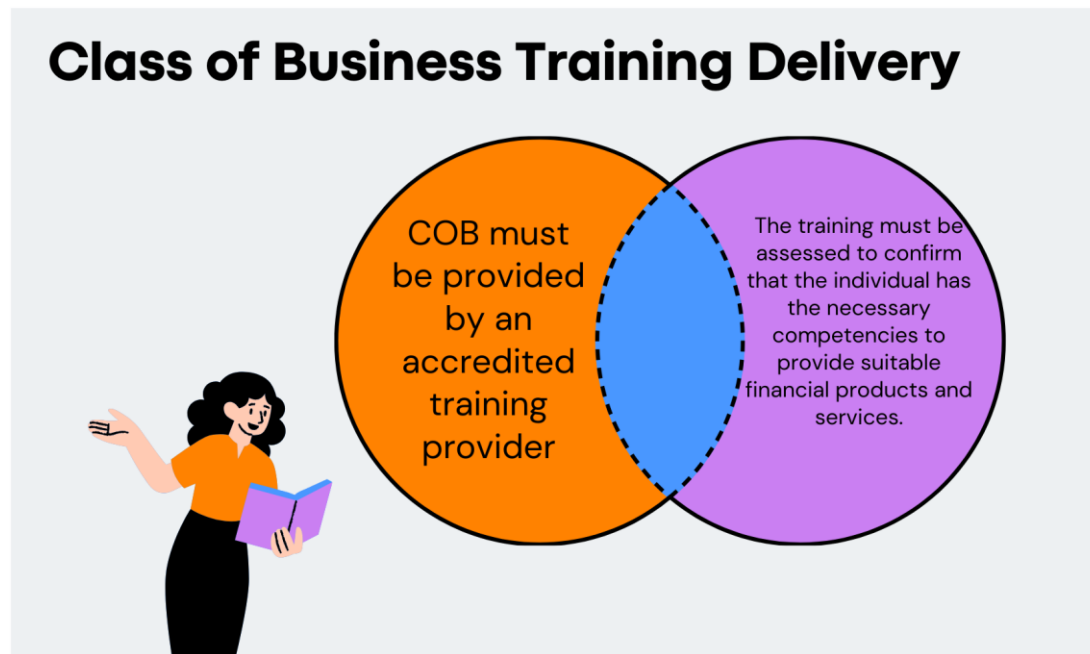
Execution of Sales for CAT I Tier 1 reps
CAT I reps rendering financial services for
Tier 2 financial products

Class of Business Training applies to Kis only for the classes of business for which they are actually registered.

What class of business training must include



Delivery of Training



The Nine (9) Classes of Business

CLASSES OF BUSINESS	
1.	SHORT TERM INSURANCE: PERSONAL LINES
SUB CLASSES: The different types of policies in a class of business	
1.1	Personal Lines: Accident and Health Policy
1.2	Personal Lines: Liability Policy
1.3	Personal Lines: Miscellaneous Policy
1.4	Personal Lines: Motor Policy
1.5	Personal Lines: Property Policy
1.6	Personal Lines: Transportation Policy
1.7	Personal Lines: Short Term Reinsurance Policy
2.	SHORT TERM INSURANCE: COMMERCIAL LINES
SUB CLASSES: The different types of policies in a class of business	
2.1	Commercial Lines: Accident and Health Policy
2.2	Commercial Lines: Engineering Policy
2.3	Commercial Lines: Guarantee Policy

2.4	Commercial Lines: Liability Policy
2.5	Commercial Lines: Miscellaneous Policy
2.6	Commercial Lines: Motor Policy
2.7	Commercial Lines: Property Policy
2.8	Commercial Lines: Transportation Policy
2.9	Commercial Lines: Short Term Reinsurance Policy
CLASSES OF BUSINESS	
3.	LONG TERM INSURANCE
SUB CLASSES: The different types of policies in a class of business	
3.1	Assistance Policy
3.2	Life Risk Policy
3.3	Life Investment Policy
3.4	Fund Policy
3.5	Sinking Fund Policy
3.6	Long Term Reinsurance Policy
4.	PENSION FUND BENEFITS
5.	SHORT- AND LONG-TERM DEPOSITS
6.	STRUCTURED DEPOSITS
7.	INVESTMENTS
SUB CLASSES: The different types of policies in a class of business	
7.1	Shares
7.2	Money Market Instruments
7.3	Debentures and securitized debt
7.4	Bonds
7.5	Derivative instruments, warrants, certificates or other investments
7.6	Securities and instruments
7.7	Participatory Interests in Collective Investment Schemes
7.8	Participatory Interests in Collective Investment Schemes Hedge Fund
7.9	Retail Pension Benefits
8.	FOREX
9.	HEALTH SERVICE BENEFITS

PRODUCT SPECIFIC TRAINING AS A COMPONENT OF QUALIFICATIONS

Understanding Features

Focus on product features, terms, and benefits.

Risk Assessment

Evaluate risks and costs associated with products.



Regulatory Compliance

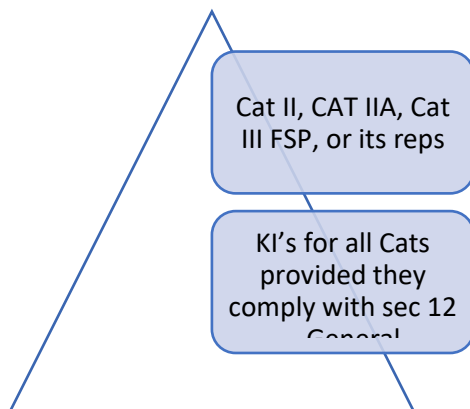
Training must meet regulatory requirements.

Accredited Providers

Training provided by accredited organizations.

Application

Product Specific Training **does not apply** to the following:



to render services .

- Before rendering any financial service, a Rep must complete Product Specific training for the products they are authorised

- A KI must have completed the Class of Business and Product Specific training for training before overseeing or managing the relevant product.
- An FSP must ensure its KI and Reps are proficient and have completed training in their particular products.

Requirement	Explanation	Example
1. Class of Business Training	Must be completed within 1 year of DOFA.	If offering life insurance, the representative must complete life insurance class training within 1 year of appointment.
2. Product Specific Training	Must be completed before rendering any financial service.	A representative must complete training on the specific insurance products they offer before advising clients.

What must product specific training include?

- **Characteristics, Terms, and Features:**

The training should cover the basic characteristics, terms, and features of the product. For example, when selling life insurance, the product-specific training will include details about the policy duration, coverage amount, and premium payment frequency.

- **Any Specific Complexities:**

Certain financial products may have complex terms or conditions that require thorough understanding. For example, derivative products or structured investments have embedded complexities regarding their pricing, underlying assets, or market performance triggers.

- **Material Differentiation:**

Product-specific training should highlight the key differences between similar products to ensure that representatives can clearly distinguish between options for clients.

Example: The differences between **unit trusts** and **exchange-traded funds (ETFs)**, including structure, liquidity, and pricing, must be understood.

- **Nature and Complexity of Any Underlying Component:**

If the product has underlying components, the training should cover the nature and complexity of these components.

Example: A structured product may have complex underlying components like derivatives or options, which affect its risk and returns. Understanding the relationship between these components is crucial for the representative to explain to the client.

- **How the Underlying Components Are Structured and Priced:**

Training should ensure an understanding of how underlying components such as bonds, equities, or commodities within a product are structured and priced.

Example: In a life insurance policy with an investment component, training would cover how the policy's investment fund is structured, how it is priced, and how the underlying assets (e.g., stocks or bonds) perform.

- **Fee Structure, Charges, and Any Other Costs:**

It is essential for the representative to understand the fee structure and any charges or costs associated with the product, such as administration fees, exit fees, or early withdrawal charges.

Example: In investment funds, training would cover the management fees, performance fees, and the trading fees that are deducted from the client's returns.

- **Nature of Any Guarantee:**

Some financial products offer guarantees (e.g., guaranteed returns or capital protection). Training should explain the nature of these guarantees and the conditions under which they apply.

- **Risks:**

Product-specific training must cover the risks inherent in the product. This includes market risk, liquidity risk, credit

- **Tax Impact:**

Understanding how taxes affect the returns or benefits from a product is crucial. For example, capital gains tax or dividend tax may apply differently depending on the product structure.

- **Potential Impact of Abnormal Market Conditions:**

Product-specific training must cover how the product may react to abnormal market conditions, such as economic downturns or volatile markets.

- **Investment Strategies:**

For products like mutual funds or pension funds, the training should include understanding the investment strategies that underpin these products, such as growth, income, or balanced strategies.

- **Flexible Benefit or Service Options:**

Some financial products offer flexible benefits or service options that need to be understood by the representative.

Example: Health insurance products might offer add-ons like dental coverage or vision care, which should be explained to the client.

- **Accessibility of Benefits or Funds:**

Understanding how and when clients can access the benefits or funds from the product is crucial.

- **Level of Liquidity of Product and Underlying Components:**

Product-specific training should include understanding the liquidity of the product, or how easily it can be converted into cash.

Example: In unit trusts, the liquidity refers to how quickly shares in the fund can be sold, whereas in property investments, liquidity may be limited due to the time it takes to sell property.

- **Intended Target Market:**

Training should cover the target market for the product, ensuring that the representative understands who the product is intended for.

Example: A retirement annuity is typically designed for individuals in their 40s or 50s, planning for retirement, whereas a high-yield savings account might be aimed at younger clients seeking short-term savings options.

- **Identity of Product Supplier and Intended Outcomes Delivery:**

Representatives must be aware of who the product supplier is and how the product aims to deliver the intended outcomes for the client.

- **Identity of Product Suppliers and Providers of Underlying Components:**

Understanding who the product suppliers are and the providers of underlying components (e.g., asset managers or investment banks) is essential.

- **Particular Disclosures, Prescribed or Not:**

Some products may require specific disclosures, which must be clearly communicated to clients. Training should cover these prescribed disclosures.

- **Lock-in Periods and Relevant Termination Conditions:**

Training must explain any lock-in periods or conditions under which the product may be terminated or withdrawn.

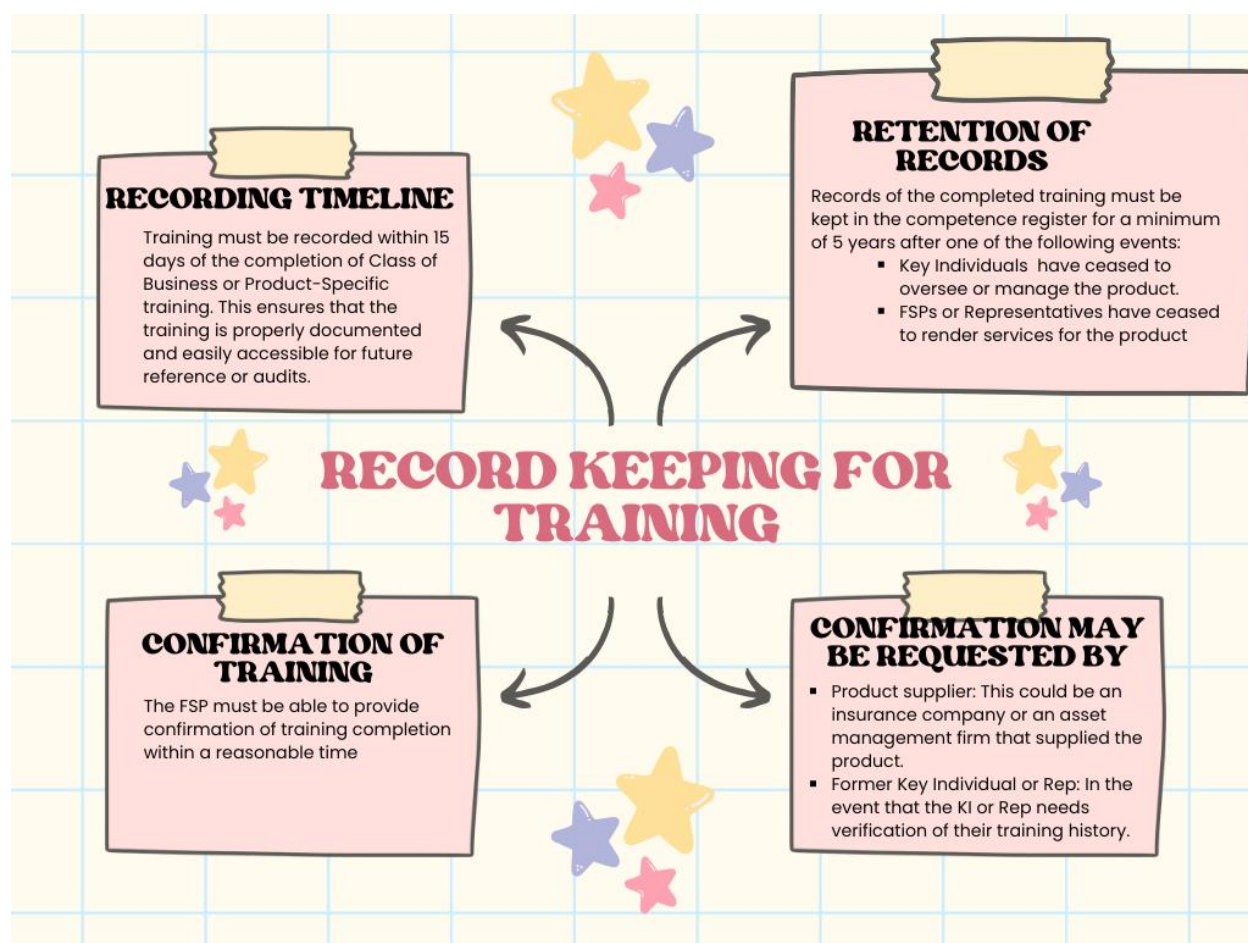
Example: A fixed-term investment may have a lock-in period where the investor cannot withdraw their funds without incurring penalties.

- **Expected Outcomes for Clients:**

Finally, product-specific training should cover the **expected outcomes** for clients, helping the representative explain what the client can reasonably expect from the product.

Example: For a retirement savings plan, training should focus on the expected growth of the savings, as well as potential payouts based on projected market performance.

RECORDKEEPING FOR TRAINING COMPLETED



CONTINUOUS PROFESSIONAL DEVELOPMENT (CPD) AS A COMPONENT OF FIT AND PROPER

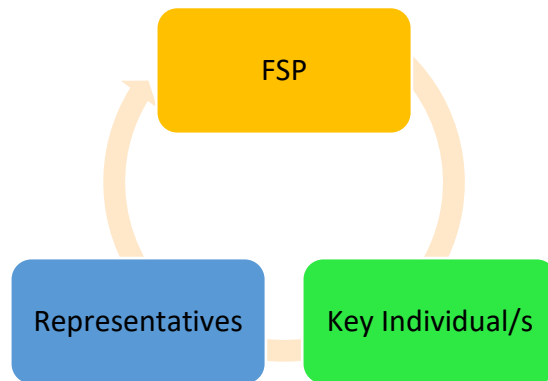
Continuous Professional Development is a crucial component for professionals in the financial services industry to maintain and enhance their knowledge, skills, and competency throughout their careers.

Under the FAIS Act, CPD is designed to ensure that FSPs, representatives, and key individuals remain up to date with the latest industry developments, regulatory changes, and best practices. CPD helps professionals keep pace with evolving financial products, services, and legal requirements, ensuring that they can continue to provide high-quality, informed advice to clients.

CPD is a regulatory requirement, with specific hours or credits typically needed to be completed within a set timeframe (e.g., annually). It encompasses a range of activities, including attending accredited training courses, workshops, webinars, and other learning opportunities. The goal of CPD is to foster lifelong learning and ensure that professionals stay proficient and knowledgeable, upholding the integrity and standards of the financial services sector.

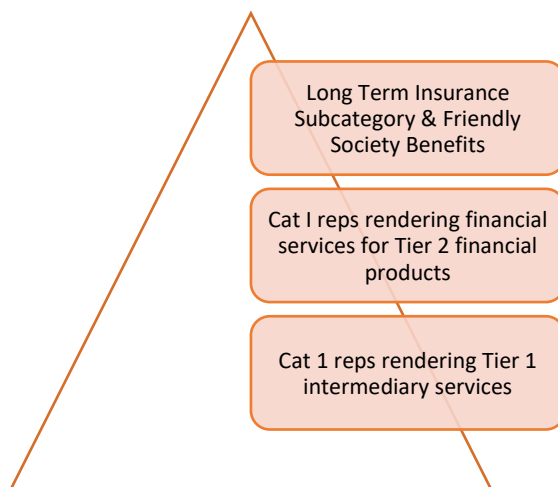
Application

CPD applies to the following:



CPD Exemptions

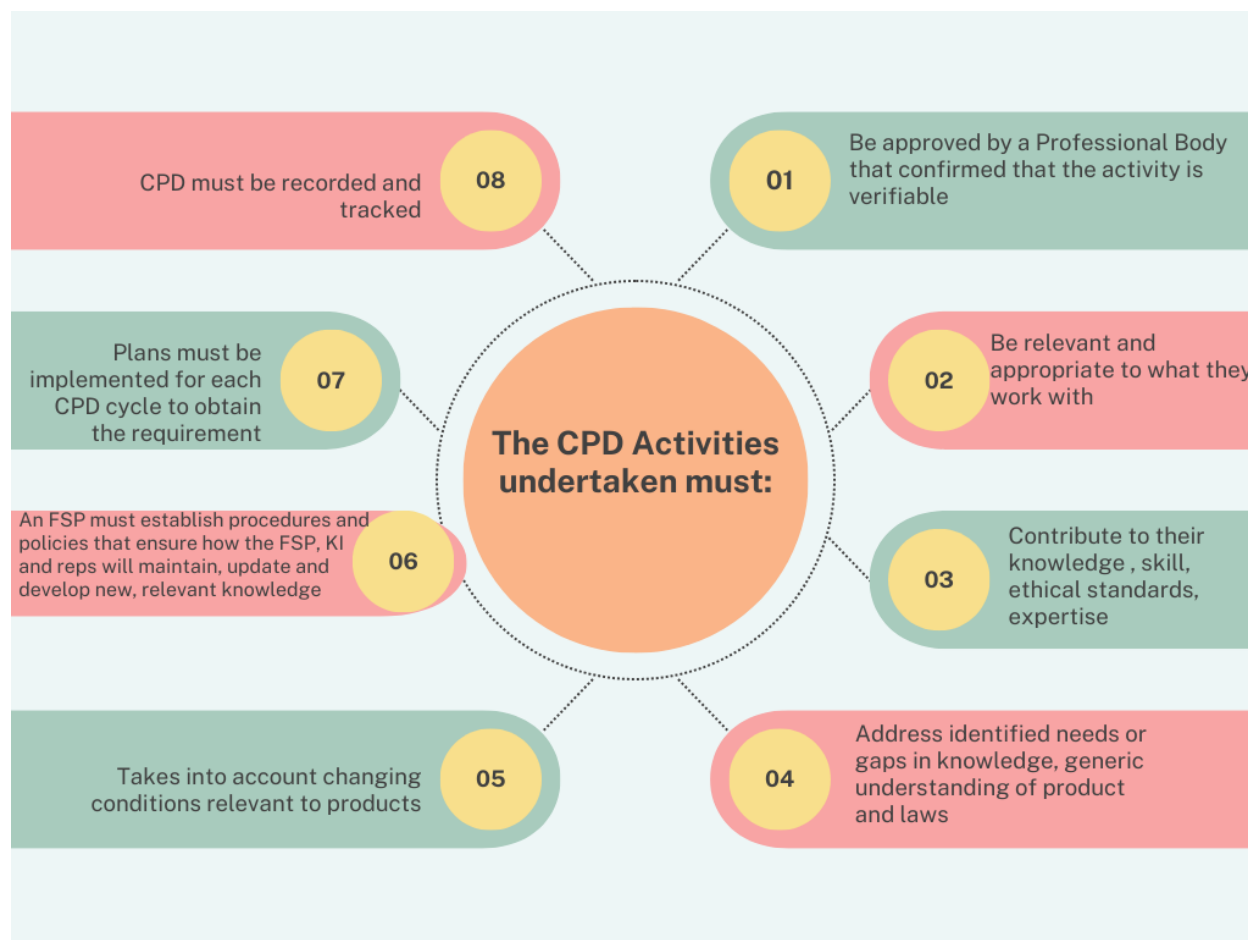
CPD **does NOT apply** to the following:



CPD Cycles

The CPD Cycle refers to a period of 12 months, commencing from 01 June and ending 31 May in the following year.

CPD Activities



Training Delivery



CPD Record Keeping

Key Individuals Responsibilities

Supply FSP with evidence of CPD activities within 15 days of expiry.

FSP Responsibilities

Record activities in competency register within 30 days of expiry.
Record CPD activity dates.
Document any reductions due to leave or illness.



Supporting Evidence

Obtain and retain supporting evidence for at least five years.

Reduction Policy

Reduction allowed for 3 consecutive CPD cycles only due to specific reasons.

Minimum CPD Hours

Hours	Explanation	Example
6	When you render financial services in a single sub-class of business.	A representative rendering financial services in Long Term Insurance subcategory C must complete 6 hours of CPD
12	When you render financial services in multiple subclasses within a single class of business	A representative rendering financial services in Long Term Insurance subcategory A, B1, B2 and C must complete 12 hours of CPD.
18	When you render financial services in more than one class of business	A representative rendering financial services in Long Term Insurance, Short Term Insurance: Personal Lines and Investments must complete 18 hours of CPD.

Pro rata of CPD

If the key individual or representative has not been appointed for a complete CPD cycle, i.e., he or she worked less than one year in the role, a formula is applied to calculate the reduced number of CPD hours required.

The formula is: $(X \div 12) \times Y = Z$

Where:

- X = the required number of CPD hours (6, 12 or 18 hours).
- Y = number of months authorised, approved, or appointed in the role during a CPD cycle (1 June to 31 May).
- Z = the adjusted or pro rata number of hours required

A representative was appointed on 1 September. He requires 6 CPD hours in a cycle. How many hours must be

completed?

X is therefore 6 (number of CPD hours required in a complete year cycle). Y represents the number of completed months in a cycle. Therefore Y is 9 (1 September – 31 May).

$$(X \div 12) \times Y =$$

$$(6 \div 12) \times 9 =$$

$$0.5 \times 9 = 4.5 \text{ or } 4 \frac{1}{2} \text{ hours}$$

If the key individual or representative has had a period of absence, a different formula is applied to calculate the reduced number of CPD hours required. However, the reason for the period of absence must be due to maternity, paternity or adoption leave, long illness or disability or because the a person's absence was to take care of a family member who has a long-term illness or disability.

The formula is: $(X \div 12) \times (12 - Y) = Z$

Where:

- X = the required number of CPD hours (6, 12 or 18 hours).
- Y = number of months absent during a CPD cycle (1 June to 31 May).
- Z = the adjusted or pro rata number of hours required.

A representative went on maternity leave for three months. She requires 18 CPD hours in a cycle. How many

CPD hours will she now be required to complete? X is therefore 18 (number of CPD hours required in a complete year cycle). Y = 3 (3 months that she was on maternity leave, i.e., absent).

Apply the formula:

$$(X \div 12) \times (12 - Y) =$$

$$(18 \div 12) \times (12 - 3) =$$

$$1.5 \times 9 = 13.5 \text{ or } 13 \frac{1}{2} \text{ hours}$$

The competence register

From 2018, FSPs must maintain a competence register for representatives. The competence register needs to include specific details in relation to Fit and Proper competence requirements for each representative, and where applicable, for key individuals.

OPERATIONAL ABILITY AS A COMPONENT OF FIT AND PROPER

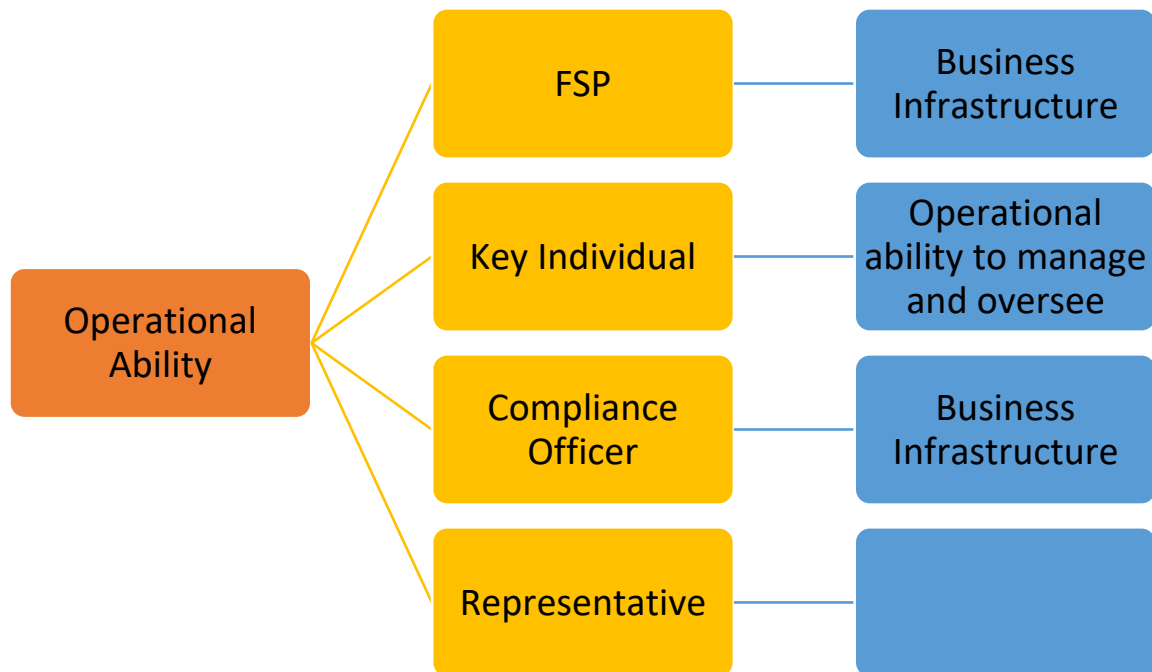
Operational ability is a critical fit and proper requirement under the FAIS Act for FSPs, key individuals, compliance officers and representatives. This requirement ensures that financial services businesses and individuals possess the capacity, resources, and infrastructure to effectively operate, comply with regulations, and deliver services to clients in a professional and compliant manner. Operational ability is central to the FAIS Act's goal of ensuring that financial services are rendered by qualified, competent, and reliable professionals and firms.

Operational ability refers to the capacity of a FSP, Key Individual, Compliance Officer, or Representative to effectively manage and execute the day-to-day operations of a financial services business. It is a critical element in ensuring that the business complies with regulatory requirements, operates efficiently, and meets the needs of its clients.

Operational ability covers several key aspects, including the ability to manage business operations, implement regulatory compliance, manage risks, and handle client relationships. Financial service providers must be capable of running their businesses in a way that ensures proper client care, regulatory adherence, and ethical conduct.

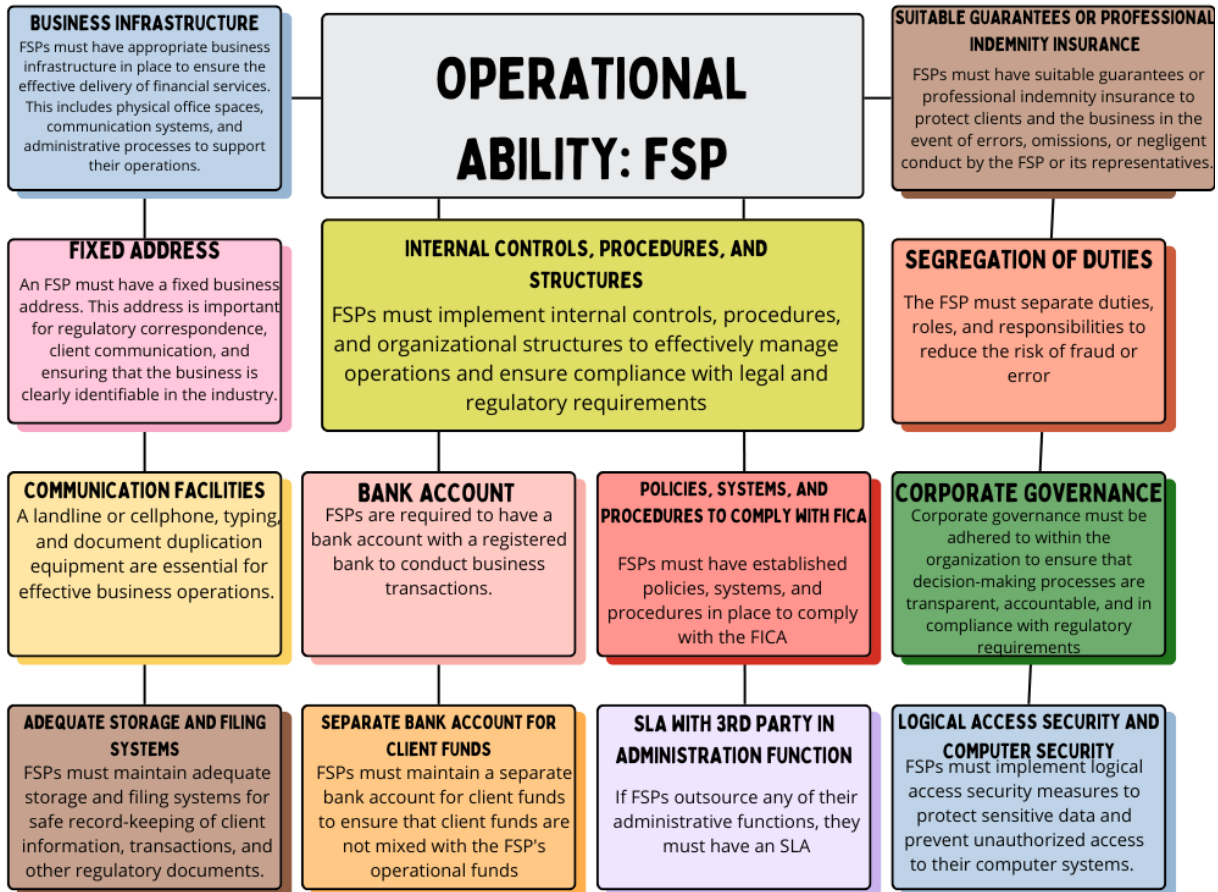
Application

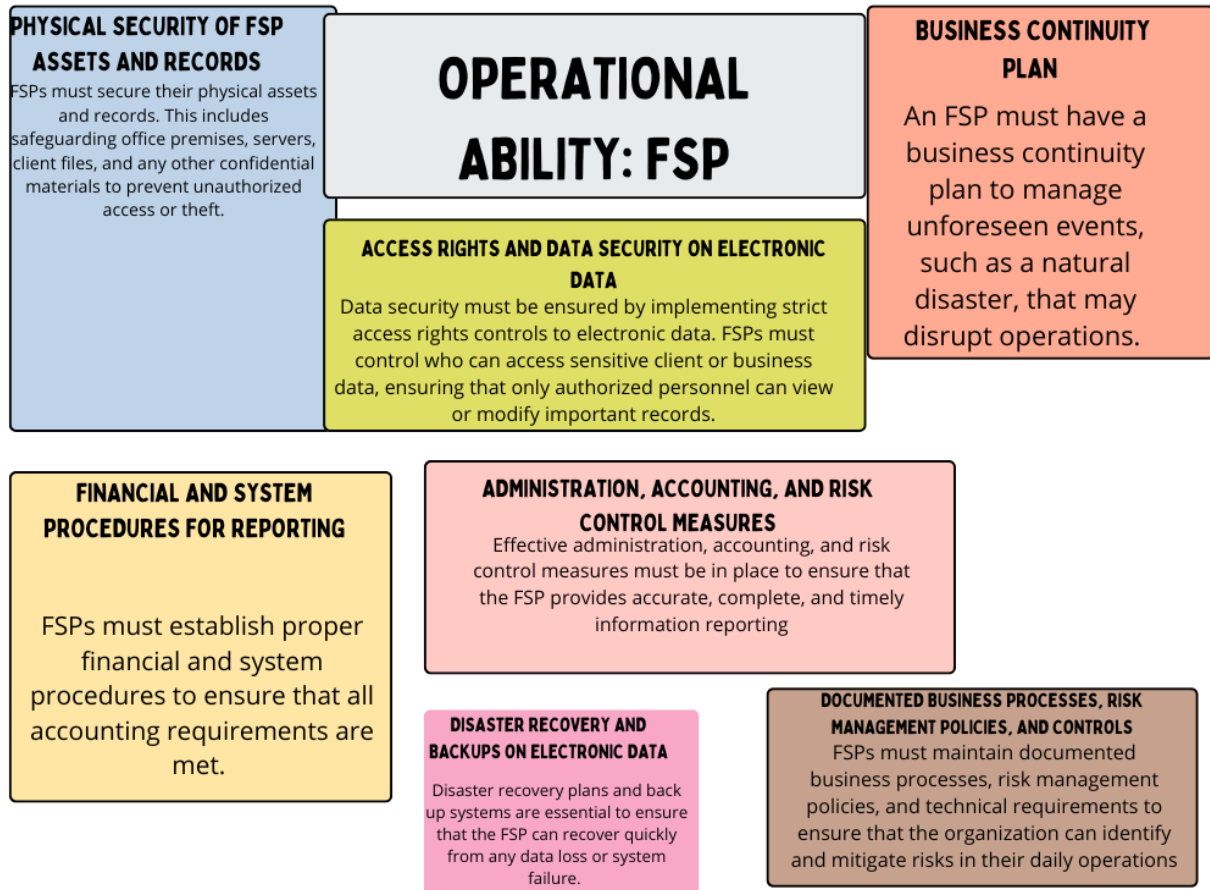
Operational Ability applies to the following people:



Operational ability requirements for FSPs

FSPs are required to demonstrate their operational ability by meeting various infrastructural and regulatory requirements that support business operations, risk management, and compliance. Below is a detailed discussion of the operational ability requirements for FSPs:





The role and responsibility of the Key Individuals regarding operational ability of the FSP

Key Individuals' Responsibilities	Ensure operational ability to render financial services competently, avoid risks, and fulfill licensing conditions.
Adequate Resources	Employ skilled resources, maintain systems and controls, and ensure ongoing supervision of representatives.
Operational Infrastructure	Maintain suitable premises, reliable communication facilities, and effective systems for monitoring and compliance.
Recordkeeping	Generate accurate reports, maintain client records for five years, and ensure records are secure and accessible.

Operational ability requirements for Key Individuals

KI's are responsible for overseeing and managing the operations of the FSP. The FAIS Act and Board Notice 194 of 2017 require that KIs possess the necessary operational ability to manage the business effectively. They must ensure that business operations comply with regulatory requirements and that the FSP provides suitable services to clients.

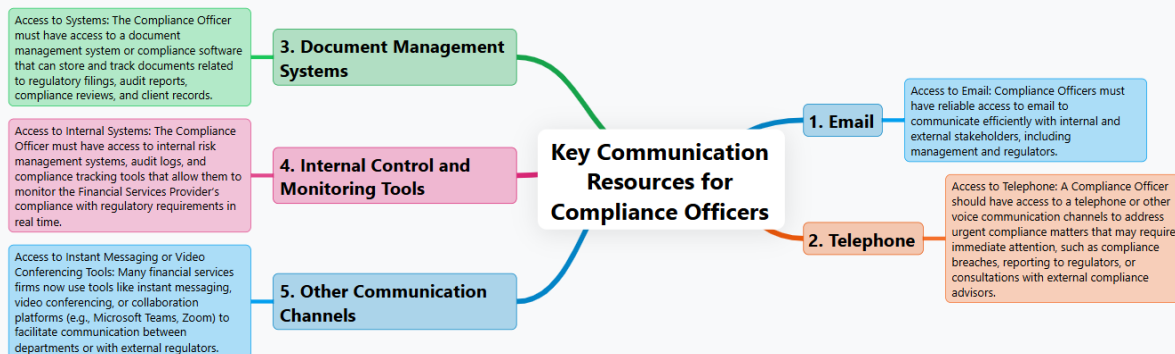
Specific Requirements:

- KIs must have relevant experience and competence in managing financial services businesses.
- KIs should ensure the implementation of internal controls, risk management frameworks, and compliance programs within the organization.
- KIs must ensure that the FSP's operations are conducted with the required ethical standards, maintaining the integrity of the business while ensuring compliance with regulatory standards.
- KIs must also oversee the training and development of staff, ensuring that employees are adequately equipped to meet the operational requirements of their roles.

Operational ability requirements for Compliance Officers

The operational ability of a Compliance Officer is crucial to their ability to carry out these responsibilities effectively. Under the FAIS Act and the FSCA regulations, particularly the Phase I Approval Requirements, Compliance Officers must demonstrate sufficient operational capacity to manage and monitor compliance

Under the FAIS Act and the Phase I approval requirements from the FSCA, Compliance Officers must be equipped with the necessary resources to effectively carry out their responsibilities. One critical aspect of operational ability for a CO is ensuring they have the appropriate tools and access to communication channels to perform their duties competently.



Operational ability requirements for Representatives

Representatives are responsible for providing financial advice or intermediary services. As part of the FAIS Act's fit and proper requirements, operational ability for Reps includes ensuring that they are competent to provide the right advice, use the correct systems, and adhere to legal obligations.

Specific Requirements:

- Reps must be knowledgeable about the financial products they offer, compliant with disclosure requirements, and able to assess the suitability of products for clients.
- Reps must be trained and understand the operational processes required to manage client relationships and offer services effectively.
- They must ensure that their actions align with the ethical and regulatory standards outlined by their FSP, as well as the FAIS Act and Board Notice 194 of 2017.

A representative of an FSP must have the operational ability to effectively function as a representative of the FSP for which that person was appointed.

FINANCIAL SOUNDNESS AS A COMPONENT OF FIT AND PROPER

Financial soundness is a key fit and proper requirement for FSPs, ensuring that the business has sufficient financial resources to meet regulatory obligations and continue operating in a compliant and sustainable manner. It ensures that FSPs can manage liabilities, risks, and financial obligations without jeopardizing their operational capacity or client interests.

Application

Application of Financial Soundness Requirements

Financial soundness does not apply to Representatives, Key Individuals or Compliance Officers under the FAIS Act. The financial soundness requirements are specifically applicable to FSPs, who must demonstrate their financial stability at all times to maintain their license and regulatory compliance.

Financial Soundness Requirements for FSPs

According to Chapter 6 of the Fit and Proper Board Notice 194 of 2017, FSPs must meet specific financial soundness requirements. These requirements ensure that FSPs are financially capable of meeting their liabilities, managing operational risks, and continuing to serve their clients.

The **three main categories** of financial soundness requirements for FSPs are:

General Solvency Requirement

- **Overall Outcome: Assets > Liabilities**

FSPs must maintain a financial position where their assets exceed their liabilities, ensuring the business is solvent and can cover its financial obligations. This requirement helps ensure that the FSP has the financial capacity to operate without the risk of insolvency.

Working Capital Requirement

- **Overall Outcome: Current Assets > Current Liabilities**

FSPs must have sufficient working capital to meet short-term financial obligations. This means that their current assets (assets expected to be converted into cash within a year) must exceed their current liabilities (debts due within the year). This ensures the business can cover its day-to-day expenses and obligations.

The FSP owners may not be an unrehabilitated insolvent and the business may not be under liquidation or provisional liquidation.

Assets, which are items of value that are owned by the FSP, excludes goodwill and other intangible assets and investments for the purposes of calculating financial soundness.

Liabilities, which are debts, excludes loans validly subordinated in favor of other creditors for the purposes of calculating financial soundness.

Working Capital

Liquid assets include cash and cash equivalents such as money market that are easily converted into cash.

If the FSP holds client funds, e.g. they receive investment money or premiums, they must also maintain current assets sufficient to meet current liabilities and liquid assets – the level depends on the licence category.

If the FSP holds multiple licences, the FSP must meet the most onerous financial soundness requirements (highest requirement).

Liquidity Requirement

- **Overall Outcome: Maintain Liquid Assets \geq x/52 weeks of Annual Expenditure**
- FSPs must maintain sufficient liquid assets (cash or assets that can easily be converted into cash) to cover a portion of their annual expenditure. This liquidity requirement is based on the FSP category and ensures the business has the capacity to withstand short-term financial pressures, such as market fluctuations or unexpected expenses.

Capital and liquidity levels required are summarized in the table below:

FSP I and FSP IV	FSP II	FSP IIA & III
Assets exceed liabilities	Assets exceed liabilities	Assets exceed liabilities by at least R3m
Current assets at least enough to meet current liabilities	Current assets at least enough to meet current liabilities	Current assets at least enough to meet current liabilities
Liquid assets equal to or greater than 4/52 weeks of annual expenditure	Liquid assets equal to or greater than 8/52 weeks of annual expenditure	Liquid assets equal to or greater than 13/52 weeks of annual expenditure

Early Warning

The Early Warning Report is a report that can be submitted to the FSCA by the FSP or its Compliance Officers. The FSP must submit or request their Compliance Officer to submit an Early Warning Report that is certified by the CEO, controlling member, managing or general partner or trustee of the FSP, if one of the following financial statuses are true for the FSP:

- Assets exceed liabilities by less than 10%
- Current assets exceed current liabilities by less than 10%
- If any of the financial soundness requirements are not met or if the FSP becomes aware of any situation that may result in any of the above.

SUMMARY OF THE FIT AND PROPER REQUIREMENTS

Fit & Proper	Reps	K.I.'s	Sole Proprietor	FSP	Compliance officer
Honesty, Integrity & Good Standing	Yes	Yes	Yes	Yes	Yes
Competence: Experience	Yes	Yes	Yes	Yes	Yes
Competence: Qualification	Yes	Yes	Yes – Exemptions apply to Cat I	Yes – Exemptions apply to Cat I	Yes
Competence: Knowledge exams	Yes	Yes – excluding COB and PST	Yes – Exemptions apply to Cat I - III	Yes – Exemptions apply to Cat I - III	Yes
Operational Ability	Limited to being able to function effectively, solvency & risk to FSP	Yes	Yes	Yes	Yes
Financial Soundness	No	No	Yes	Yes	No

CPD	Yes	Yes	Yes – Exemptions apply to Cat I	Yes – Exemptions apply to Cat I	Yes
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Before moving on to the next module, please ensure that you are able to meet the below criteria:

Task	Qualifying Criteria	Knowledge (K) or Skill (S)	Legislation Reference / Motivation
Fit and proper requirements	Describe the honesty, integrity, and good standing requirements for a key individual.	K The task requires knowledge of a specific section of the legislation or regulation	GCOC - Sec 10(1) BN 194 of 2017 – Sec 4 BN 194 of 2017 – Sec 4(1) BN 194 of 2017 – Chapter 2 BN 194 of 2017 – Sec 8 BN 194 of 2017 – Sec 8(1) BN 194 of 2017 – Sec 9 BN 194 of 2017 – Sec 9(1) BN 194 of 2017 – Sec 9(3)
	Check whether a current/potential key individual meets honesty, integrity, and good standing requirements.	S The task requires practical ability to perform tasks or apply knowledge in real scenarios	BN 194 of 2017 – Chapter 2 BN 194 of 2017 – Sec 8 BN 194 of 2017 – Sec 9 BN 194 of 2017 – Sec 9(1) BN 194 of 2017 – Sec 9(1)(b)
	Describe the competence requirements for a key individual.	K	FAIS Act – Sec 6A BN 194 of 2017 – Definitions BN 194 of 2017 – Definition of experience BN 194 of 2017 – Chapter 3 BN 194 of 2017 – Sec 17(2) BN 194 of 2017 – Sec 23 BN 194 of 2017 – Sec 26 BN 194 of 2017 – Sec 26(1) BN 194 of 2017 – Sec 33(1) BN 194 of 2017 – Sec 41 BN 194 of 2017 – Sec 41(2) BN 194 of 2017 – Annexure One FSCA FAIS Notice 86 of 2018 – Exemption of Services under supervision
	Check whether a current/potential key individual meets the competence requirements.	S	FAIS Act - Sec 8 FAIS Act - Sec 14 FAIS Act - Sec 44 FSCA Website - Qualifications FSCA Website - DOFA report BN 194 of 2017 – Definitions BN 194 of 2017 - Sec 12 BN 194 of 2017 - Sec 15 BN 194 of 2017 - Sec 17 BN 194 of 2017 - Sec 52 BN 194 of 2017 - Annexure One
	Describe the on-going training and development requirements for key	K	FAIS Act - Sec 6A FAIS Act - Sec 8A BN 194 of 2017 - Sec 1

	individuals.		BN 194 of 2017 - Sec 33 BN 194 of 2017 - Sec 34
	Verify that the record keeping required for the on-going meeting of fit and proper requirements for key individuals is in place.	S	FAIS Act - Sec 6A FAIS Act - Sec 8A BN 194 of 2017 - Sec 13(3) & (4) & (5) BN 194 of 2017 - Sec 28(3) BN 194 of 2017 - Sec 43(b)
	Describe the operational ability requirements prescribed in the FAIS Act.	K	GCOC - Sec 3(2) FAIS Act - Sec 8(4) BN 194 of 2017 – Chapter 5 BN 194 of 2017 – Sec 36 BN 194 of 2017 – Sec 36(1) BN 194 of 2017 – Sec 37 BN 194 of 2017 – Sec 37(2)(b) BN 194 of 2017 – Sec 38(a) - (d) BN 194 of 2017 – Sec 38(c)(ii) BN 194 of 2017 – Sec 38(d)(i) - (iii) License Conditions
	Confirm that there is adequate storage and filing systems for the safe keeping of records, business communications and correspondence.	S	GCOC – Sec 3(2) GCOC – Sec 3(2)(a – d) BN 194 of 2017 – Sec 36 BN 194 of 2017 – Sec 36(1)
	Verify that the FSP has the required bank accounts.	S	GCOC - 10(1)
	Implement and maintain the prescribed guarantees, professional indemnity, or fidelity insurance cover.	S	BN 123 of 2009 - Sec 3 & 4
	Ensure that disaster recovery and business continuity plans are in place.	S	BN 194 of 2017 - Sec 37
	Describe the financial soundness requirements for a FSP.	K	BN 194 of 2017 - Table B BN 194 of 2017 - Sec 44
	Confirm that the financial soundness requirements are met.	S	BN 194 of 2017 - Chapter 6
	Describe the on-going Fit and Proper requirements for representatives.	K	BN 194 of 2017 - Chapter 2 BN 194 of 2017 - Chapter 3 BN 194 of 2017- Sec 33
	Verify that the record keeping required for the on-going meeting of Fit and Proper requirements for representatives is in place.	S	FAIS Act - Sec 13(2) BN 194 of 2017- Sec 13(3)
	Implement and maintain a documented process to ensure that all representatives are competent and will provide	S	FAIS Act - Sec 13(2)

	financial services on behalf of the FSP in accordance with the FAIS Act.		
	Check that there are processes to ensure that representatives are making progress towards the Fit and Proper requirements.	S	FAIS Act - Sec 13(2)
	Describe the implications if a representative no longer meets the Fit and Proper requirements	K	FAIS Act - Sec 13(2) FAIS Act - Sec 14 BN 194 of 2017 - Sec 52

MODULE 6: THE GENERAL CODE OF CONDUCT FOR AUTHORISED FINANCIAL SERVICES PROVIDERS AND REPRESENTATIVES

Learning outcomes:

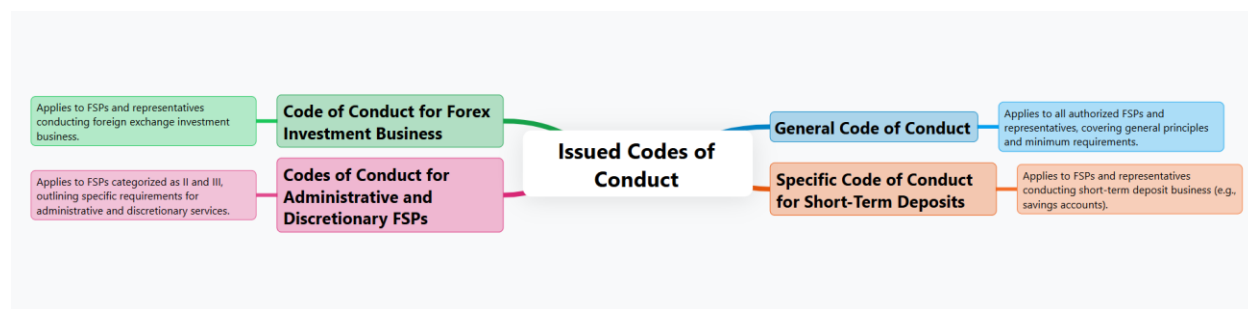
By the end of this module, the learner should be able to:

1. Explain the purpose and scope of the General Code of Conduct under the FAIS Act, including the distinction between general and specific codes applicable to various FSP categories.
2. Describe the general and specific duties of Financial Services Providers (FSPs) and their representatives, including principles of honesty, fairness, skill, care, and diligence when rendering financial services.
3. Apply the disclosure requirements set out in the General Code of Conduct, including those applicable to:
 - FSPs
 - Product suppliers
 - Representatives
 - Direct marketers
 - Commission and remuneration
 - Disclosures about the product and financial service.
4. Evaluate advertising and marketing practices against the requirements of the General Code to ensure truthfulness, accuracy, and risk warnings in promotional material.
5. Outline the rules regarding the custody and collection of client funds and documents, including procedures for safeguarding documents of title and complying with client instructions.
6. Describe the obligations relating to the termination of financial service agreements, including proper procedures and record-keeping requirements for different termination scenarios.
7. Explain the requirements for client confidentiality, including when disclosures are permitted under law or with client consent, and the role of POPIA.
8. Identify and manage conflicts of interest, including required disclosures, prohibited practices, and the implementation of a conflict-of-interest management policy.
9. Apply the principles of effective complaints handling, including internal resolution procedures, escalation, and record-keeping in line with FAIS requirements.
10. Demonstrate an understanding of risk management and internal control requirements, including the need for business continuity and disaster recovery planning.
11. Differentiate between professional indemnity insurance, fidelity cover, and suitable guarantees, and explain when each is required based on the nature of financial services rendered by the FSP.

Sections 15 and 16 of the FAIS Act requires the Commissioner to issue Codes of Conduct for authorized Financial Services Providers and representatives. For this reason, the following codes of conduct have been passed:

1. **General Code of Conduct for Authorized Financial Services Providers and Representatives.** This Code of Conduct applies to all FSPs and all representatives across the different categories.
2. **Specific Code of Conduct for Administrative and Discretionary FSPs.** This Code of Conduct is specific and applies only to Category II, IIA and III FSPs and representatives.
3. **Specific Code of Conduct for Short Term Deposits.** This Code of Conduct is specific and applies to FSPs and representatives who render financial services in short term deposits.
4. **Specific Code of Conduct for Forex Investment Business.** This Code of Conduct applies to FSPs and representatives who render financial services in forex investments.

The General Code of Conduct is the most widely applicable, covering the financial services industry as a whole. The other Codes of Conduct are product- or business-specific.



General Duties of an FSP

Section 2 of the General Code of Conduct outlines the general duties of an FSP and its representatives. These duties include:

- **Honesty and Fairness:** Render financial services honestly and fairly.
- **Due Skill, Care, and Diligence:** Provide services with due skill, care, and diligence.
- **Client Interests:** Act in the best interests of clients.
- **Industry Integrity:** Maintain the integrity of the financial services industry.

Specific Duties of an FSP

Section 3 of the General Code of Conduct outlines the specific duties of an FSP when rendering financial services:

- **Factual Accuracy:** Representations and information must be factually correct.
- **Clear Communication:** Information must be provided in plain language, avoiding uncertainty or confusion, and not be misleading.
- **Adequate Information:** Information must be adequate and appropriate, considering the client's level of knowledge.
- **Timely Disclosure:** Information must be provided timeously, allowing clients to make informed decisions.
- **Confirmation in Writing:** Oral information must be confirmed in writing within a reasonable time (or 30 days in some cases).
- **Clear Written Communication:** Written information must be in clear, readable print size, spacing, and format.
- **Transparent Fees and Charges:** All fees, charges, and monetary obligations must be clearly stated in specific monetary terms or with an adequate description of the calculation basis.

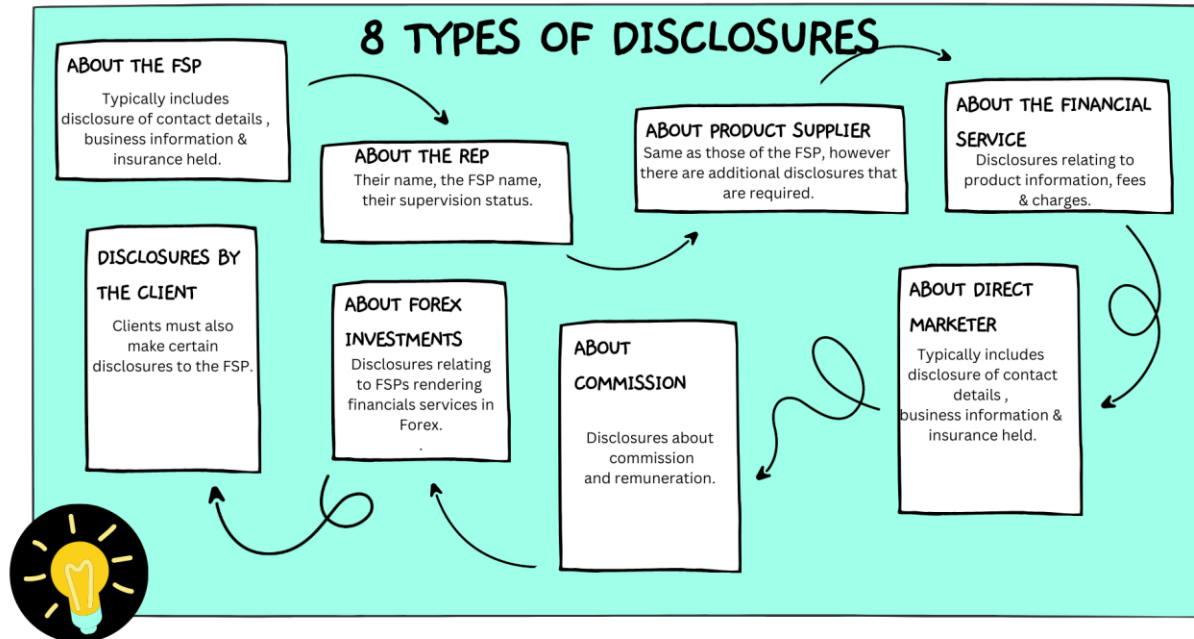
By following these specific duties, FSPs can ensure they provide transparent, accurate, and timely information to their clients.

DISCLOSURE REQUIREMENTS

Purpose of Disclosures

- **Transparency:** Clients need to know who they are dealing with, which FSP the representative represents, and what authority the representative has. These disclosures ensure that clients are aware of the source and scope of the advice being given.
- **Consumer Protection:** By providing this information, the representative helps the client make an informed decision about whether to proceed with the financial products or services offered, or not.
- **Professionalism:** Clear disclosures, both verbal and written, help maintain a professional relationship, ensuring that the client understands the representative's role and qualifications.

TYPES OF DISCLOSURES



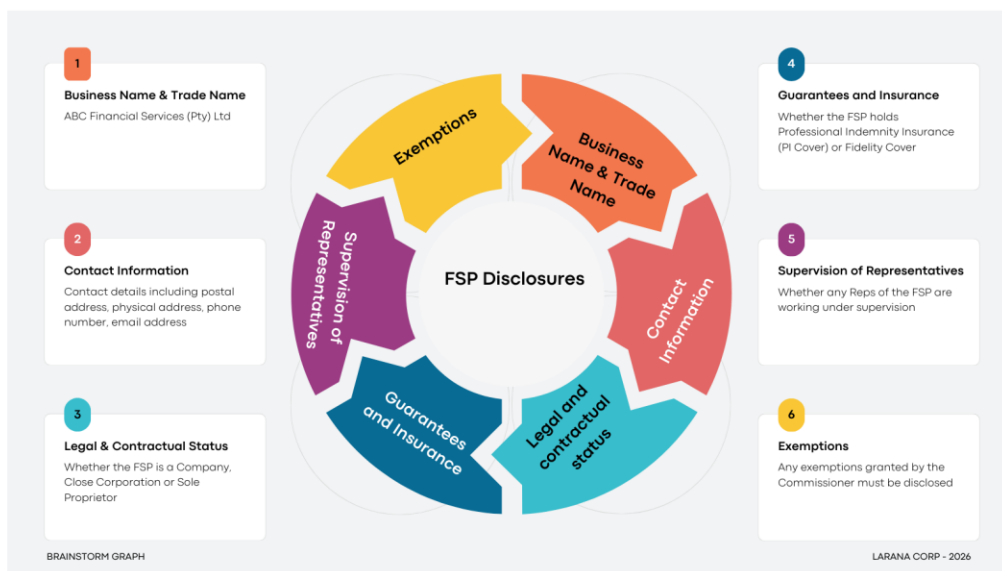
Verbal vs. Written Disclosures:

- Written disclosures ensure that the client has a record of the information for future reference, which is particularly important for confirming the representative's authority and the services they are qualified to provide.
- Verbal disclosures at the start of the interaction ensure immediate clarity and set the tone for transparent and honest communication.

FSP DISCLOSURES

FSPs are required to disclose the following key information to their clients:

- The legal and contractual status of the FSP.
- The business name and registered address as well as contact details.
- The services that the FSP is authorised to provide and license restrictions and conditions.
- The nature of the relationship between An FSP, representative, and the product supplier (where relevant).
- Information about the compliance officer or the compliance department.
- Information about whether the FSP holds professional indemnity or fidelity insurance.

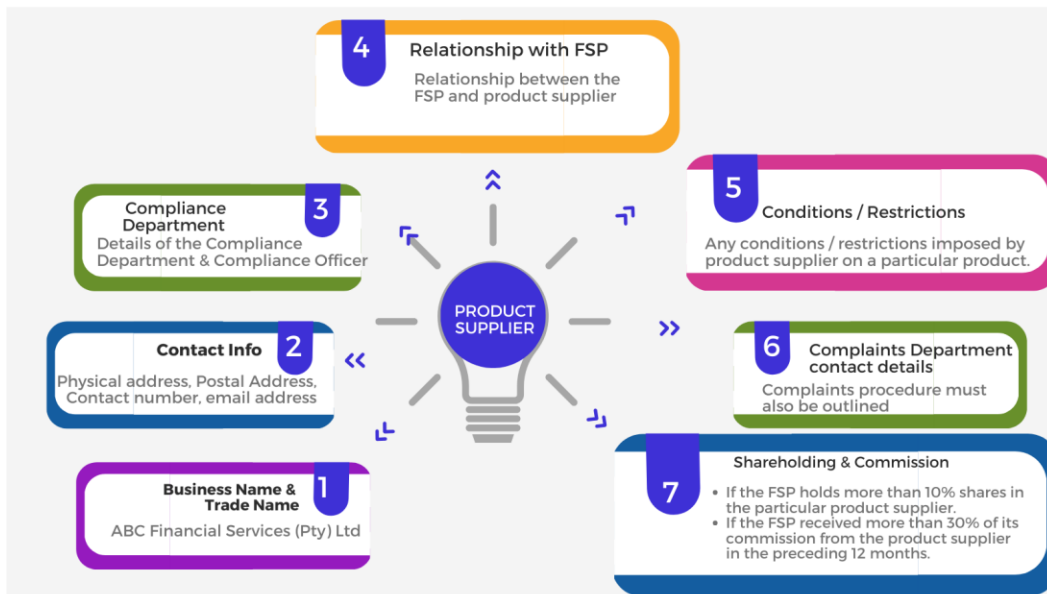


PRODUCT SUPPLIER DISCLOSURES

Section 4 of the General Code outlines disclosure requirements for product suppliers/providers.

Product suppliers must disclose the following information:

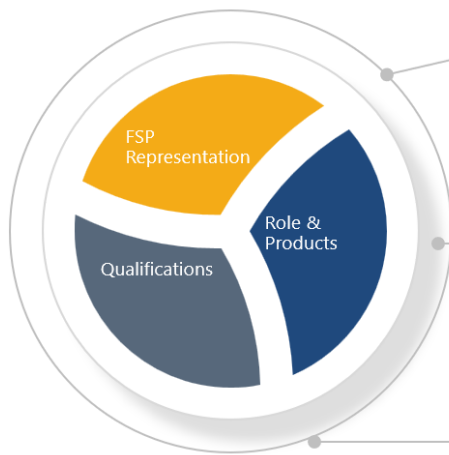
- The business name and registered address as well as contact details.
- Services that they are authorised to provide, license restrictions and conditions.
- Information about the compliance officer or the compliance department.
- Information on the relationship between the FSP and product supplier.
- Conditions or restrictions imposed by the product supplier on its products.
- Information about the Complaints department and the complaints procedure.
- If the FSP holds more than 10% shares in the particular product supplier
- If the FSP received more than 30% of its commission from the product supplier in the preceding 12 months.



DISCLOSURES BY THE REPRESENTATIVE

In terms of the FAIS Act, representatives are required to make specific disclosures to clients, to ensure transparency and to help clients to make informed decisions. These disclosures are aimed at providing clarity regarding the representatives' role, the FSP they represent, and the services that they are offering.

Key Disclosures to be made by the representative



- **Written Disclosure:** The representative must disclose in writing that they are acting on behalf of a specific FSP. This confirms the representative's association with the FSP and assures the client of the legitimacy of the advice or services being provided.
- **Verbal Introduction:** At the outset of any interaction, the representative must verbally disclose that they represent a specific FSP. This verbal disclosure should include the name of the FSP, providing the client with immediate clarity regarding the representative's affiliation.
- **Written Certification:** The representative is also required to provide written certification from the FSP, confirming their authority to represent the FSP. This written document must outline the specific products and services the representative is authorized to provide.

The rep must disclose their name and role within the FSP, as well as the products or services they are authorized to offer.

They should also provide information regarding their qualifications and the relevant training they have undergone, particularly if it pertains to the specific financial products being discussed. This helps the client understand the rep's competence and ability to provide reliable advice.

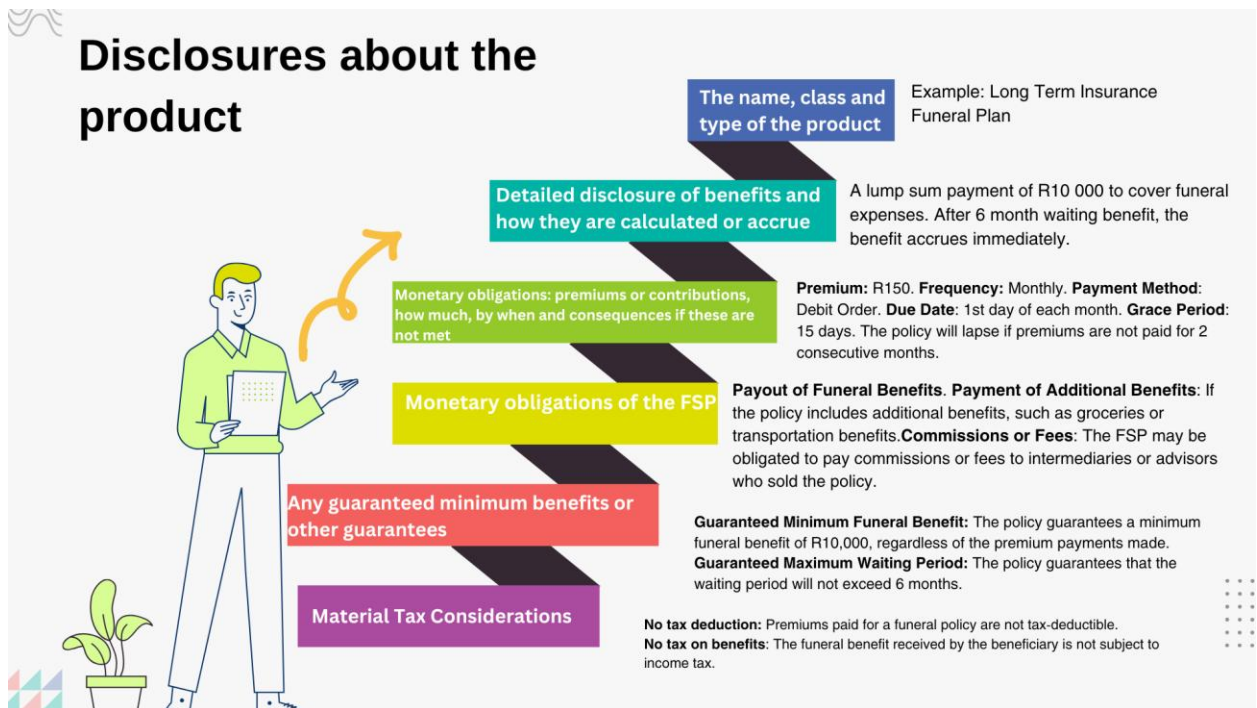
DISCLOSURES ABOUT THE FINANCIAL SERVICE AND PRODUCT


Section 7 of the General Code outlines disclosure requirements for financial services and products.

The following details must be disclosed:


- The name, class, and type of the product. For example: The product is a comprehensive motor vehicle, and the class of business is short term insurance.
 - Detailed disclosure of benefits and how they are calculated or accrued.
 - Where a product includes any form of an investment:
- ✓ The method of valuation if the product is not guaranteed.
 - ✓ Underlying assets.
 - ✓ Past performance includes a warning that past performance is not a measure of future performance.
 - ✓ Related fees and charges – amount and frequency, service they relate to and identity of recipient.
 - ✓ Details of investment fees including a platform fee (system fee).
 - ✓ Net investment amount after all fees are taken off.
 - ✓ Rebates, if applicable, expressed in monetary terms.

- Monetary obligations - premiums or contributions that must be paid by the client, how much, by when and consequences if these are not met.
- Monetary obligations of the FSP, if any.
- Nature and extent of fees and commissions, incentives, remuneration etc. paid directly or indirectly to a person other than product supplier (e.g., broker) including non-cash incentives such as trips offered.
- Details of any special terms or conditions, exclusions of liability, waiting periods, loadings, penalties, excesses, restrictions, or circumstances in which benefits will not be provided.
- Any guaranteed minimum benefits or other guarantees.
- To what extent the product is realizable, or funds are accessible, i.e., when can benefits be cashed out?
- Details of restrictions and penalties that apply to early termination of the product.
- Material tax considerations.
- If a cooling off period applies and the procedure to follow.
- Material investment or other risks of the product.
- Premium increases for the first 5 years and then in five yearly intervals, not exceeding 20 years, i.e., quote the premium amount for each of the first five years, then again quote the premium that applies at year 10, year 15 and year 20.



 <p>Details of details of any special terms or conditions, exclusions of liability, waiting periods, loadings, penalties, excesses, restrictions or circumstances in which benefits will not be provided</p>	<p>Waiting Period: A 6-month waiting period applies from the date of policy commencement. No benefits will be paid if the insured person passes away during this period. Late Payment Fee: A late payment fee of R50 will be charged if premiums are not paid within the specified due date. Age Restrictions: The policy is only available to individuals aged 18-65.</p>
<p>To what extent the product is realisable or funds are accessible (when can benefits be cashed out)</p>	<p>No Cash Value: The funeral plan has no cash value and cannot be surrendered for cash. No Loans: No loans can be taken against the funeral plan. No Withdrawals: No withdrawals can be made from the funeral plan. Benefit Payment: The funeral benefit will be paid out to the beneficiary upon submission of a valid claim.</p>
<p>Details of restrictions and penalties that apply to early termination of the product</p>	<p>If the policy is terminated early, no benefit payment will be made, and the policyholder will not be entitled to any funeral benefits.</p>
<p>If a cooling off period applies and the procedure</p>	<p>A 30-day cooling-off period applies from the date the policy is issued or the date the policyholder receives the policy document, whichever is later. The policyholder must provide written notice to the insurer or intermediary within the 30-day cooling-off period, stating their intention to cancel the policy.</p>
<p>Premium increases for first 5 years and then in five yearly intervals, not exceeding 20 years (quote the premium amount for each of the first five years, then again quote the premium that applies at year 10, year 15 and year 20).</p>	<p>The premiums for this funeral plan will increase annually for the first 5 years, and then in 5-yearly intervals thereafter, up to 20 years. Please note that these premium increases are based on an assumed annual increase of 10% for the first 5 years, and 33.5% every 5 years thereafter.</p>
<p>Nature and extent of fees and commissions, incentives, remuneration etc. paid directly or indirectly to a person other than product supplier (e.g. broker) including non cash incentives such as trips offered</p>	<p>Initial Commission: 20% of the first year's premium is paid to the intermediary as an initial commission. Renewal Commission: 10% of each renewal premium is paid to the intermediary as a renewal commission. Administration Fee: R50 per annum is paid to the intermediary for administrative services. Sales Incentives: Intermediaries may qualify for sales incentives, including trips, based on achieving specific sales targets.</p>

Specific disclosures apply for investment products:

 <p>Disclosures about Investment Products</p> <ul style="list-style-type: none"> Valuation method (if not guaranteed) Underlying assets.. Past performance (with warning that past performance ≠ future performance) Fees and charges: - Amount and frequency - Service and recipient. Investment fees: - Platform fee. Net investment amount (after fees). Rebates (if applicable), expressed in monetary terms 	<p>Method of Calculation The investment return is calculated based on the performance of the underlying assets, which are invested in a portfolio of equity and bond funds.</p> <p>Underlying Assets The investment plan invests in a diversified portfolio of:</p> <ul style="list-style-type: none"> - 60% Equity Funds (local and international) - 30% Bond Funds (local and international) - 10% Money Market Instruments. <p>Management Fee: 1.5% per annum, calculated daily and deducted monthly Administration Fee: R50 per month Platform Fee: 0.5% per annum, calculated daily and deducted monthly</p> <p>Amount and Frequency of Fees The fees are deducted monthly, and the amount is calculated based on the net investment amount. The fees relate to the investment management and administration services provided by:</p> <ul style="list-style-type: none"> - Investment Manager: XYZ Investments (Pty) Ltd <p>After deducting all fees, the net investment amount is:</p> <ul style="list-style-type: none"> - Initial Investment: R10,000 - Ongoing Contributions: R500 per month - Net Investment Amount: R9,300 (initial) and R450 per month (ongoing) <p>Rebates No rebates are applicable to this investment plan.</p>
<p>Material investment or other risks of the product</p>	<p>Material Investment Risks There is a risk that you may lose some or all of your capital investment. This may occur due to market fluctuations, credit defaults, or other risks associated with the investment plan.</p> <p>By investing in this plan, you acknowledge that you understand these risks and are willing to accept them. It is essential to carefully consider these risks before investing.</p>

When rendering financial services, direct marketers must provide clients with the following information at the earliest reasonable opportunity:

DIRECT MARKETER'S DISCLOSURES



Direct marketers must provide clients with a record of advice, where applicable.

Telephone recording and record-keeping requirements for direct marketers

Direct marketers must:

1. **Record telephone conversations** with clients during direct marketing activities.
2. **Store and Retrieve Recordings:** Direct marketers must have procedures and systems in place to store and retrieve recordings.
3. **Record Retention Periods:**
 - If no service was rendered (client did not buy the product), the record must be maintained for **45 days**.
 - If the client bought the product or service, the record must be maintained for **5 years**.
4. **Providing Copies:** FSPs must provide copies of records within **7 days** upon request by the client or commissioner.

Note that records of advice given over the phone do not need to be put in writing, but the voice-logged records serve as evidence of the advice provided.

COMMISSION DISCLOSURES AND FOREX DISCLOSURES

Disclosure Requirements for Commission

FSPs and representatives must adhere to specific guidelines regarding commissions and earnings:

- **Statutory limits:** Commissions and financial interests from third parties must comply with statutory limits outlined in the Medical Schemes, Long- and Short-Term Insurance Acts, where applicable.
- **Fees for Services:** Providers or representatives can charge fees for services rendered, but these must be:
 - Specifically agreed upon in writing by the client.
 - Stoppable at the client's discretion.
- **Reasonable Compensation:** Fees or financial interests earned from third parties for services rendered must be reasonably commensurate with the services provided.

Disclosures for Forex Investments

To ensure transparency and fairness, Forex Service Providers and representatives must disclose the following:

- **Non-Cash Incentives and Indirect Considerations:** FSPs and representatives rendering financial services in forex financial services, must disclose any non-cash incentives or indirect benefits they receive.
- **Mandate Confirmation:** FSPs must confirm in writing whether they hold a managed forex account or are self-directed.
- **Electronic Mandate:** Clients can enter into a mandate electronically, provided proof of identity has been established.
- **Commission Disclosure:** FSPs must disclose whether they or their intermediaries receive commissions, incentives, and/or rebates from foreign forex service providers for placing business.

CLIENT DISCLOSURES

Application Completion and Submission

When completing and submitting an application for a contract, the following disclosures are required:

- **Client Responsibility:** The client is accountable for ensuring the accuracy and completeness of the information provided, regardless of whether the application was completed by the client or a representative on their behalf.
- **Consequences of Non-Disclosure or Misrepresentation:** Failure to disclose material information or providing false information may result in severe consequences, including the rejection of claims. For instance, if a client fails to disclose a pre-existing medical condition, a future claim related to that condition may be denied.
- **Access to Application Records:** Upon request, the FSP must provide the client with a written copy of the completed application form.

ANNUAL STATEMENTS FOR CLIENTS

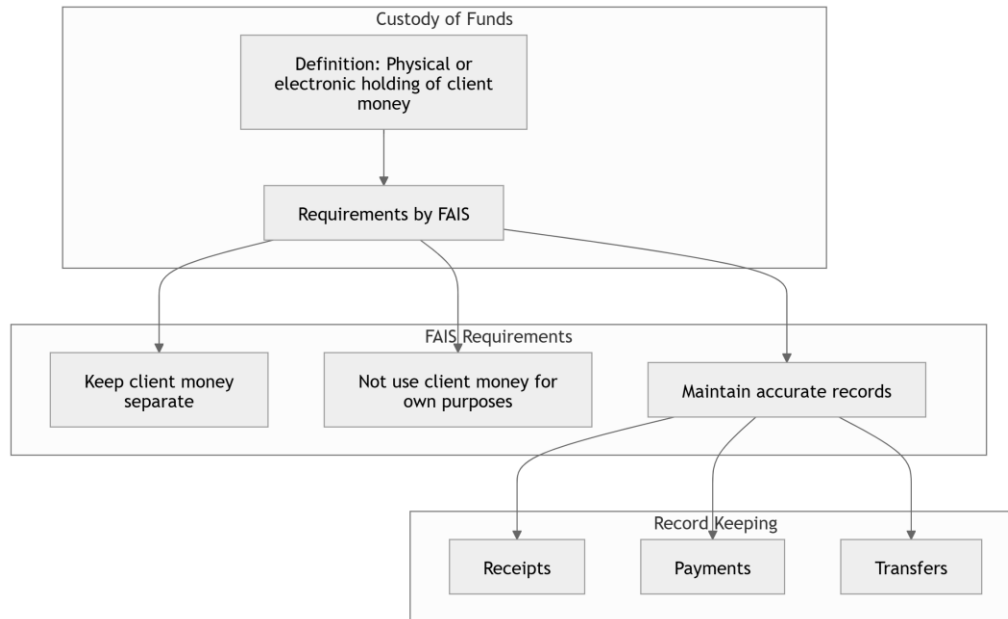
In terms of Section 7 of the General Code of Conduct, a product supplier must provide at least an annual statement to the client, including the following disclosures:

- The ongoing monetary obligations of the client. There must be a clear outline of the ongoing financial commitments required from the client.
- The current investment value.
- How much of the investment or product is accessible to the client, where applicable.
- The ongoing fees and commissions, where applicable.

A statement does not need to be provided where the client is aware, or ought reasonably to be aware, that the provider concerned does not render or has ceased rendering ongoing financial services in respect of the client or the products concerned.

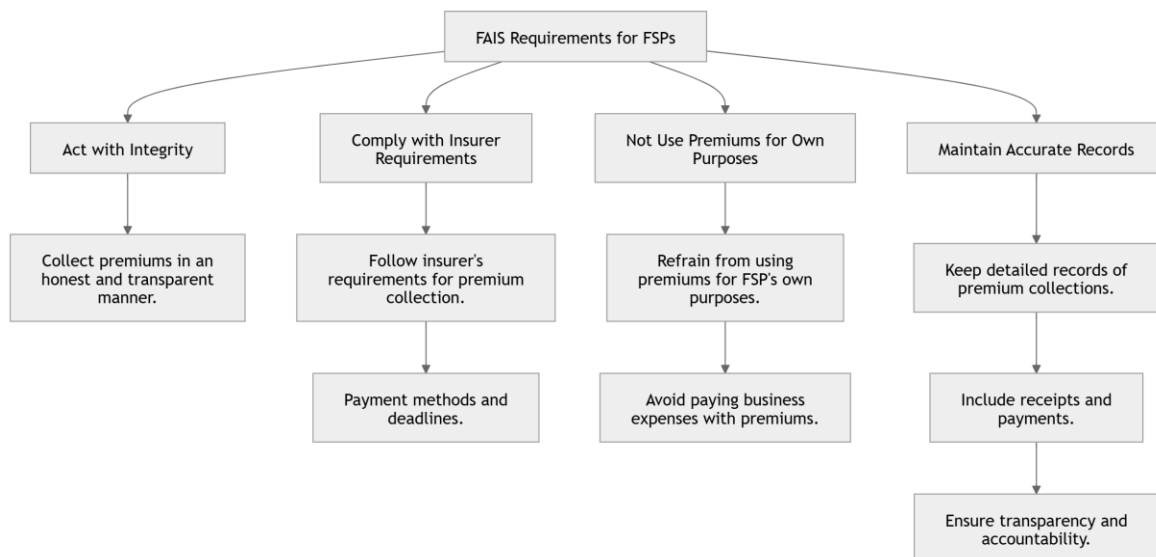
CUSTODY OF FINANCIAL PRODUCTS AND FUNDS

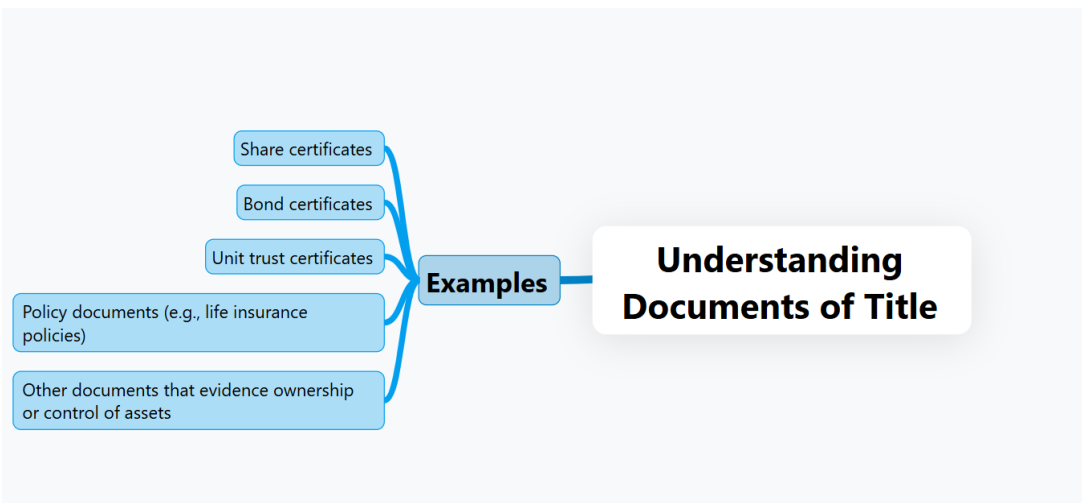
Section 10 of the General Code of Conduct outlines the requirements for FSPs, when handling client funds and financial products. Custody of funds and collection of premiums refer to the handling of client money and premiums by FSPs and their representatives.



Collection of Premiums and documents and title

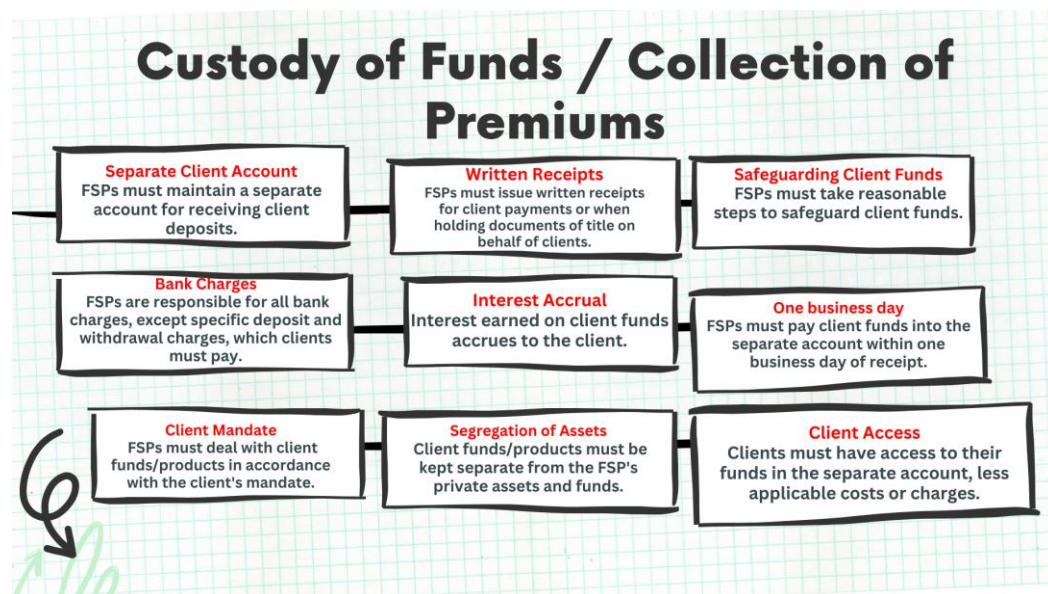
Collection of premiums refers to the process of receiving premiums from clients on behalf of an insurer.





The FAIS Act requires FSPs to:

- **Keep documents of title secure:** by storing them in a safe and secure manner, protecting them from loss, theft, or damage.
- **Maintain accurate records:** by keeping accurate and up-to-date records of documents of title, including details of the assets they represent.
- **Comply with client instructions:** by following the client instructions regarding documents of title, such as transferring or surrendering documents.
- **Avoid unauthorized use:** by refraining from using documents of title for unauthorized purposes, such as pledging them as collateral without client consent.



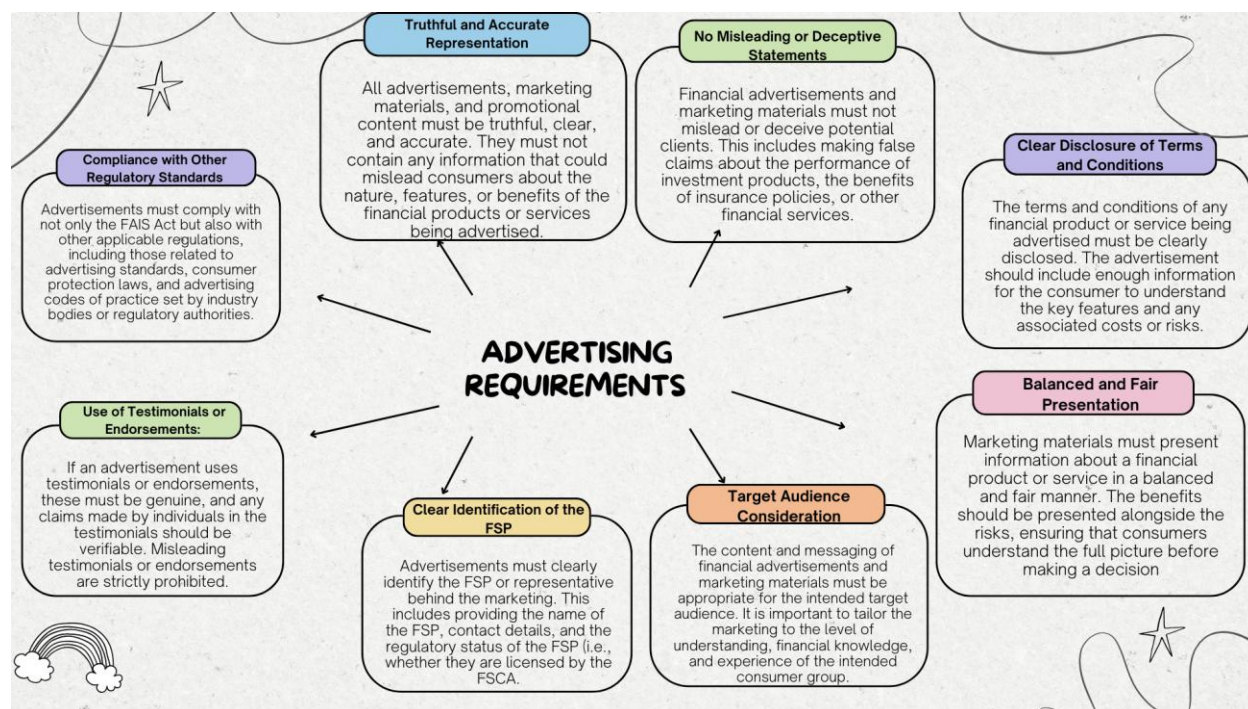
ADVERTISING AND MARKETING

Advertising and marketing in the financial services industry are heavily regulated by the FAIS Act, to ensure that consumers are not misled or deceived when seeking financial products or services. The General Code of Conduct sets out specific requirements for how FSPs and their representatives can advertise and market their products. The goal is to ensure that all promotional materials are accurate, clear, fair, and not misleading to consumers.

FSPs must comply with the following advertising rules:

- **Truthfulness:** Advertisements must not contain untrue, misleading, or fraudulent statements or promises.
- **Reasonable Assumptions:** Advertisements may include assumptions (for example: performance, returns, costs, and charges) if they are reasonable.
 1. Performance Forecasts: Advertisements with performance forecasts must include warnings that:
 2. Forecasts are not guaranteed.
 3. Past performance does not guarantee future performance.
 4. Information is used for illustrative purposes.
- **Market Forces Disclosure:** Advertisements must clearly indicate when benefits depend on underlying assets and variable market forces.
- **Risk Warning:** Advertisements must include a warning statement about the risks involved in buying or selling financial products.

These requirements ensure that FSPs provide accurate, transparent, and fair advertising to clients.



Examples of Advertising and Marketing Practices Under FAIS:

Clear and Transparent Advertising:

A retirement fund advertisement states: "Our retirement plan helps you save for your future with annual returns of up to 8%. Fees are 1.5% per annum. Past performance is no guarantee of future results." This type of advertising is transparent because it includes the potential returns, fee structure, and the important disclaimer regarding past performance.

Misleading Advertising:

An example of misleading advertising would be an advertisement claiming, "Invest in our high-return bond that guarantees a 15% return every year with no risk." This advert makes unsubstantiated claims and misrepresents the nature of the investment, potentially violating the FAIS Act by misleading consumers into thinking the investment is guaranteed with no risk, which is unrealistic.

Targeting the Right Audience:

An advertisement for a complex derivative product aimed at retail investors includes the following disclaimer: "This product is suitable for experienced investors with a high-risk tolerance. Please ensure that you understand the risks involved before investing." This advertisement is appropriate because it provides a clear warning about the risks and makes it clear that the product is meant for a specific audience—experienced investors.

TERMINATION OF AGREEMENT AND CANCELLATIONS

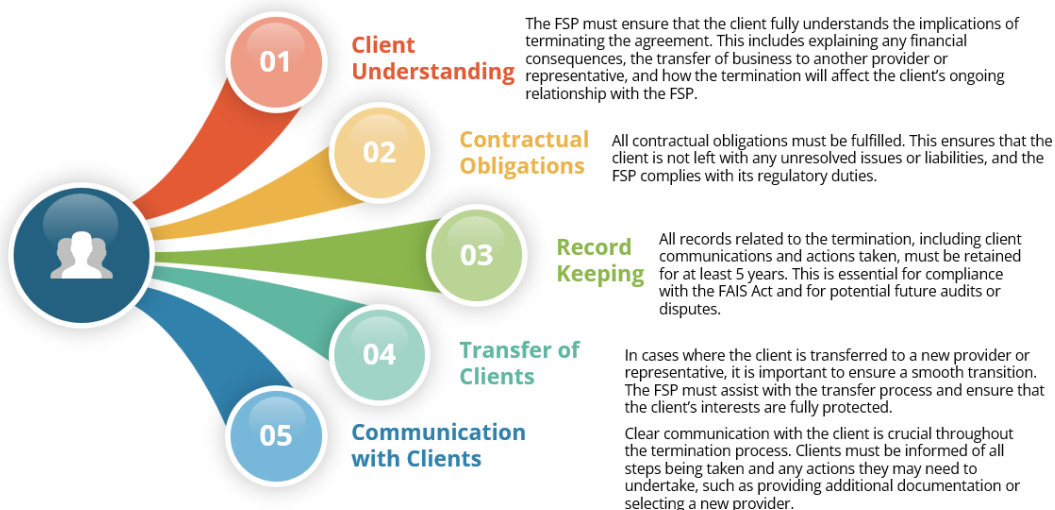
When an agreement between a client and an FSP is terminated, specific steps must be taken to ensure compliance with the FAIS Act and proper handling of the termination process.

The termination of agreements between clients, FSPs, and representatives is a regulated process under the FAIS Act, to ensure that both the FSP and the client's rights are protected. By following the required actions, including client notification, fulfilling obligations, and record-keeping, the FSP ensures a transparent and compliant termination process. This helps mitigate any potential issues and ensures that the FAIS Act's regulatory standards are met.

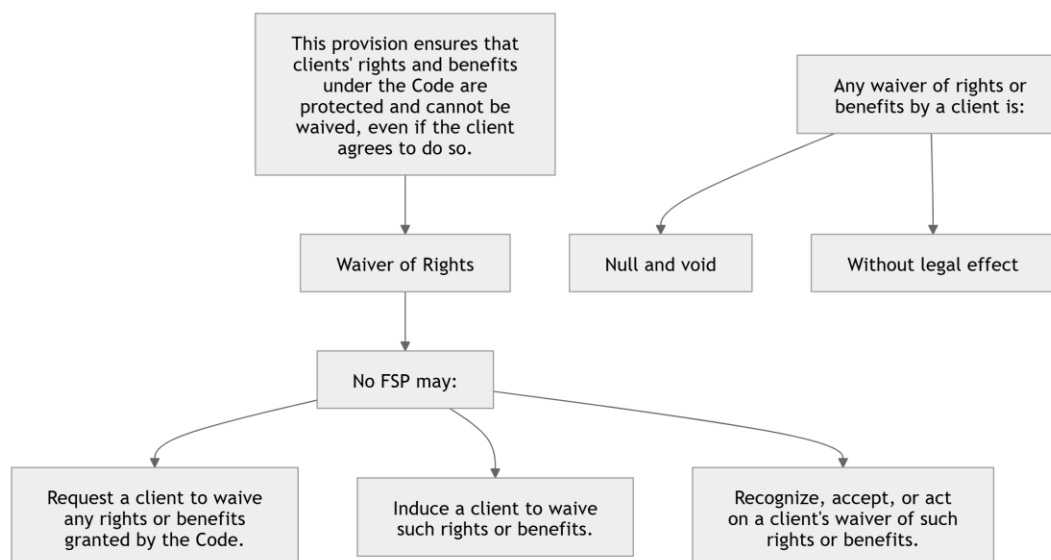
Steps to follow for each type of termination:

Type of Termination	Required Actions
Client terminates agreement with the FSP	- Allow the client's request for termination as soon as possible.
	- Notify the client about the termination process and implications.
	- Ensure the client understands the implications of the termination.
	- Transfer the client to another provider if applicable.
	- Fulfill all contractual obligations as per the agreement.
	- Keep records of the termination for a minimum of 5 years after the termination.
FSP terminates business or closes down	- Notify the client about the termination of the business relationship.
	- Ensure outstanding business is concluded, including payments and services.
	- Transfer the client to another provider if required.
	- Fulfill all contractual obligations related to the termination.
	- Keep records of the termination for a minimum of 5 years.
Representative stops operating (resigns or is debarred)	- Notify clients that the representative will no longer be operating.
	- Transfer the client to another representative to ensure continuity.
	- Ensure outstanding business is concluded, including any pending transactions.
	- Fulfill all contractual obligations related to the client.
	- Keep records of the termination for a minimum of 5 years.

Key Considerations when terminating the relationship with a client



WAIVER OF RIGHTS



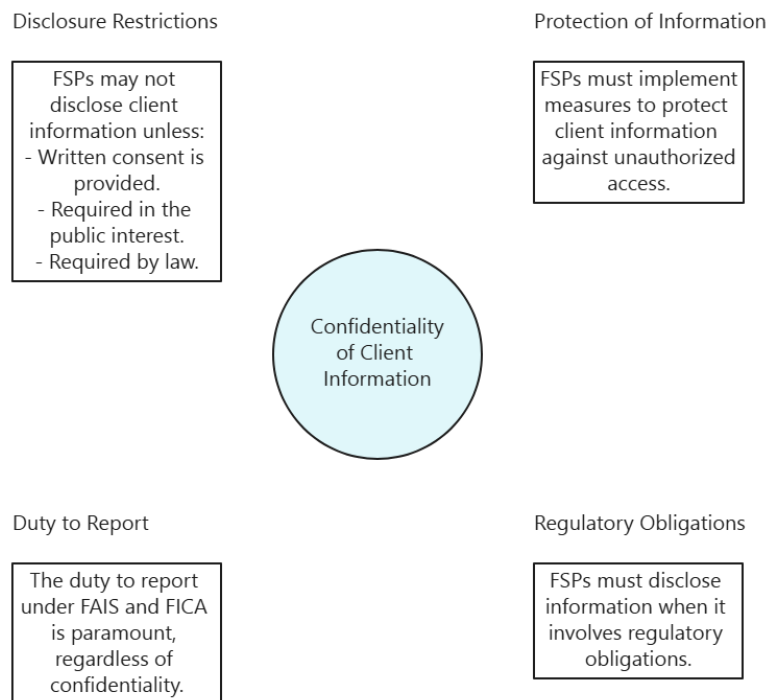
CONFIDENTIALITY OF CLIENT INFORMATION

Section 3 of the General code of conduct determines that an FSP may not disclose any confidential information about a client or a product supplier unless this is done under certain circumstances.

Disclosure is only permitted if:

- There is written consent from the client to disclose information.
- The disclosure is in the public interests. In this case, a formal process would be required. For example, a subpoena might be required.
- When disclosure is required under a law. For example, where a client is being investigated for a crime and various records have been formally subpoenaed by the prosecutor's office, or a suspicious transaction has taken place, and it must be reported to the Financial Intelligence Centre under FICA.

To ensure client confidentiality, a key individual must ensure that client records and information are protected and kept confidential as per requirements of other laws like the Protection of Personal Information Act (POPI).

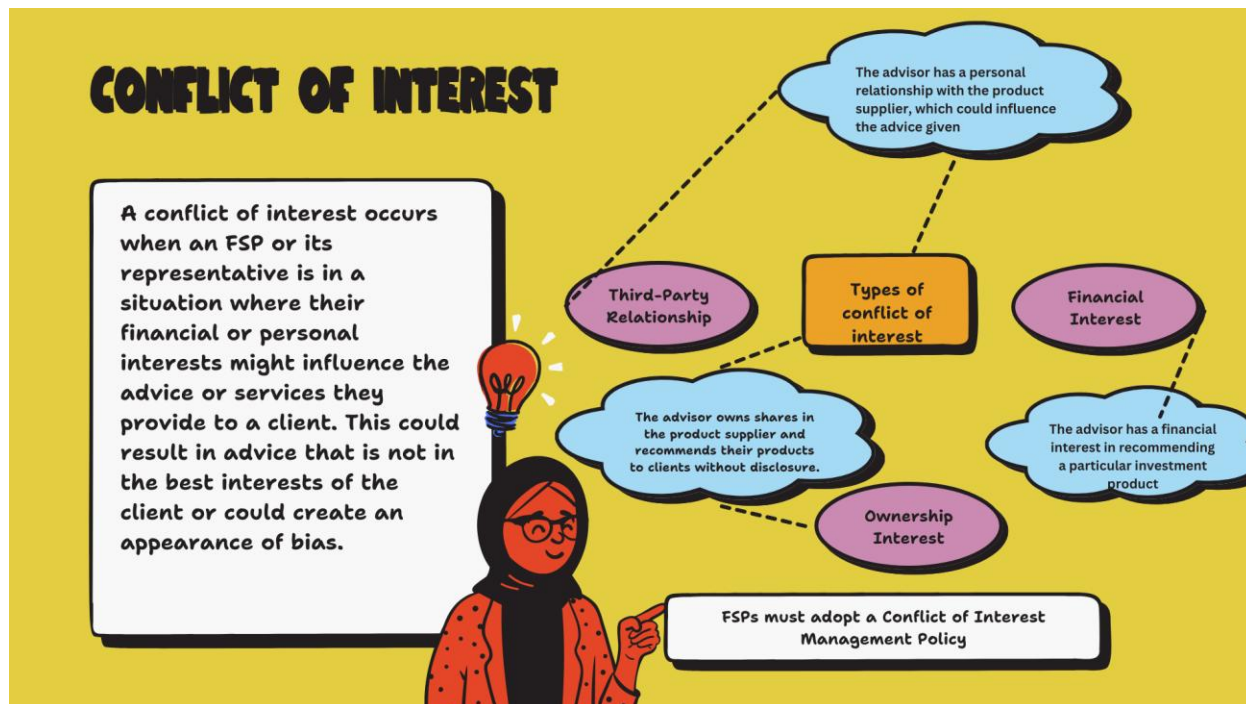


CONFLICT OF INTEREST MANAGEMENT

Under the FAIS Act and the General Code of Conduct, managing and disclosing conflicts of interest is a key requirement for ensuring that FSPs act in the best interests of their clients. A conflict of interest arises when an FSP or their representative has competing interests, where one could influence their impartiality and objectivity when providing financial advice or recommendations to a client.

The FAIS Act mandates that FSPs, and their representatives act in a manner that avoids situations where their personal interests (such as earning a commission or other financial incentives) conflict with their duty

to provide objective, unbiased advice. The requirements for managing and disclosing conflicts of interest are designed to maintain trust, ensure transparency, and protect clients from potential harm.



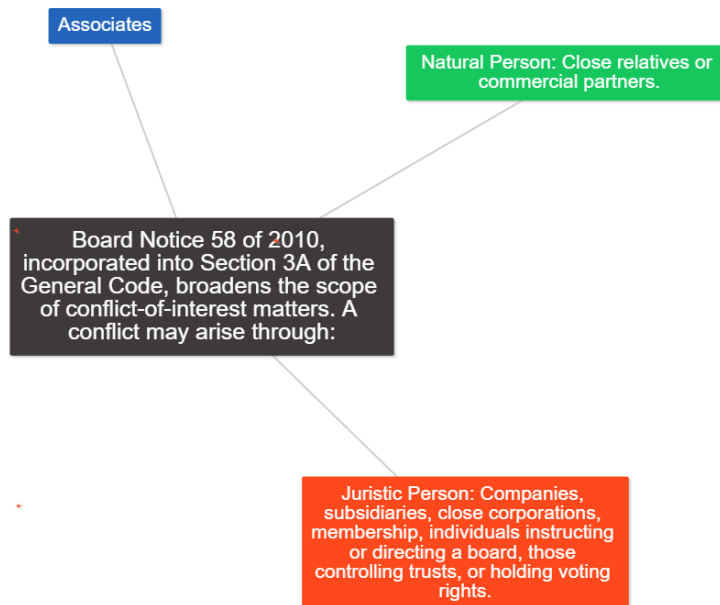
SPECIFIC DUTIES REGARDING CONFLICTS OF INTEREST

Section 3 of the General Code of Conduct outlines the following obligations for FSPs and representatives:

- **Awareness of Potential Conflicts:** FSPs and representatives must recognize potential conflicts of interest.
- **Disclosure of Conflicts:** FSPs and representatives must disclose to clients the existence of any:
 - Personal interests in relevant services.
 - Circumstances giving rise to actual or potential conflicts.
 - Measures taken to avoid or mitigate conflicts.
- **Disclosure of ownership and financial interests:** FSPs and representatives must disclose any ownership or financial interests in products or services.
- **Disclosure of third-party relationships:** FSPs and representatives must disclose the nature of any relationships with third parties that may give rise to conflicts.
- **Conflict of interest management policy:** FSPs must adopt a conflict-of-interest management policy and clients must be informed about the policy and how to access it.

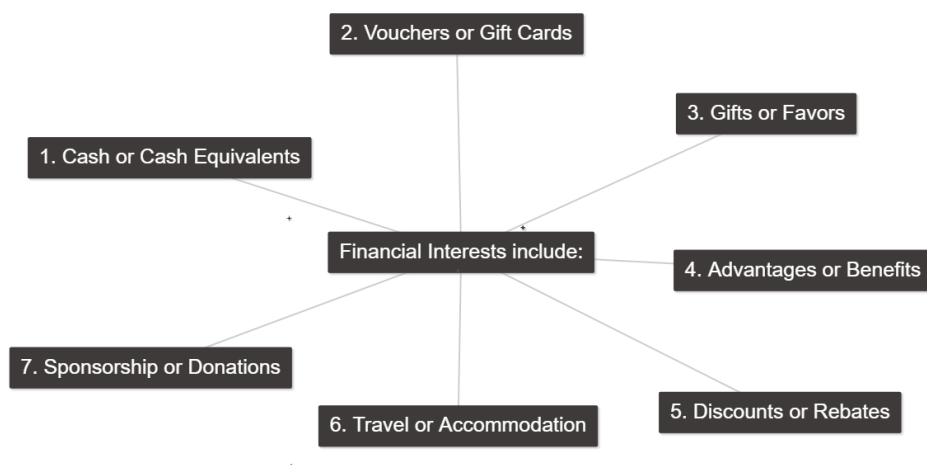
- **Contractual relationship:** Services must be provided in accordance with the contractual relationship, prioritizing the client's interests above those of the FSP.
- **Prohibition on self-dealing:** FSPs cannot deal with products for their own benefit.
- **Disclosure of non-cash incentives:** FSPs must disclose non-cash incentives or indirect considerations that could be viewed as potential conflicts of interest.

Expanded Conflict of Interest Provisions



FINANCIAL INTERESTS

Financial interests refer to any benefit, advantage, or reward that may influence an FSP or representative's financial advice or recommendations.



FSPs and representatives must disclose any financial interests that may influence their advice or recommendations.

IMMATERIAL INTERESTS

“Immaterial financial interest” means any financial interest with a determinable monetary value, the aggregate of which does not exceed R1,000 in any calendar year from the same third party in that calendar year received by:

- An FSP
- a representative,
- or a direct family member of such a representative.

THIRD-PARTY CONFLICTS

Third-Party conflicts refer to situations where an FSP’s relationships with third parties may influence their advice or recommendations. To manage third-party conflicts, FSPs should disclose conflicts of interest to clients and ensure transparency.

Ownership Conflicts

Ownership or control of a product supplier or distribution channel that may influence recommendations.

Revenue Sharing Conflicts

Revenue sharing arrangements with product suppliers or distribution channels that may influence recommendations.



Exclusive Arrangements Conflicts

Exclusive arrangements with product suppliers or distribution channels that may limit options and influence recommendations.

Gifts or Hospitality Conflicts

Receipt of gifts or hospitality from product suppliers or distribution channels that may influence recommendations.

An FSP may not offer any financial interest to its representatives for:

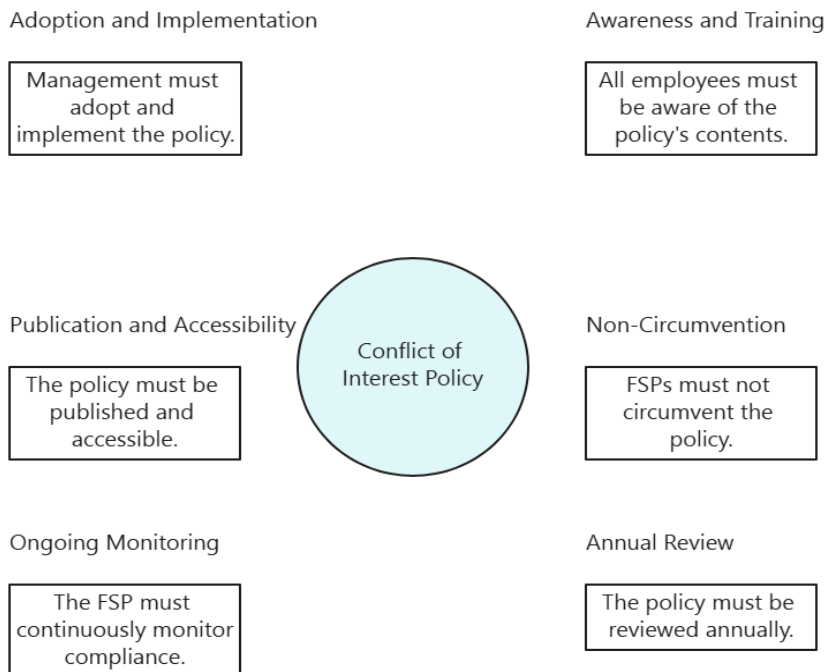
- Giving preference to quantity of business over quality.
- Giving preference to a specific provider where more than one may be recommended
- Giving preference to a specific product where may recommend more than one product

The representative must find the best solution for the client's identified needs, which must not be influenced by an incentive to place business at a specific provider when it is not in the client's best interest.

CONFLICT OF INTEREST POLICY

FSPs must adopt a Conflict-of-Interest Management Policy, which includes:

- **Identifying and avoiding conflicts** where possible.
- **Monitoring compliance** with the policy and **reporting** non-compliance.
- **Ensuring that any financial interest** provided to the advisor does not influence the quality of service provided to the client.



REQUIREMENTS FOR MANAGING AND DISCLOSING CONFLICT OF INTEREST

1. Acting in the best interest of the client

The FAIS Act states that FSPs and their representatives must always act in the best interests of the client. This means providing suitable advice based on the client's financial needs, goals, and risk tolerance, rather than the financial incentives that the representative may receive from product suppliers.

Example: A representative should recommend a product based on its suitability for the client, not based on the highest commission they can earn from recommending it.

2. Disclosure of conflicts of interest:

FSPs and their representatives are required to disclose any potential conflict of interest to the client as soon as the conflict arises. This disclosure must be made in a clear, understandable, and easily accessible manner. The disclosure should include information about the nature of the conflict, how it might affect the client's interests, and the steps taken to mitigate the conflict.

Example: If a representative is recommending a product from a product supplier with whom they have a financial relationship (such as a higher commission), they must inform the client of this relationship upfront, explaining how it could impact the advice provided.

3. Avoidance and mitigation of conflicts:

FSPs are required to take reasonable steps to avoid conflicts of interest. If a conflict is unavoidable, the FSP must mitigate the potential negative impact on the client. This can be done by:

- Ensuring that clients are fully informed of the conflict.
- Explaining how the conflict might influence the recommendation.
- Taking measures to ensure that the client's needs are still prioritized.

Example: If a representative is recommending a product for which they receive a commission, they should explain the possible influence of the commission on their recommendation and ensure that the advice is still in the client's best interest.

4. No personal benefit from clients' decisions:

The FAIS Act states that FSPs must not allow personal financial gain to influence the financial advice given to clients. This includes ensuring that commission structures, bonuses, or incentives do not encourage representatives to recommend products based on personal gain rather than the suitability for the client.

Example: A representative should not recommend an investment with high fees or commission simply because it results in a higher payout to them, especially if the product does not align with the client's needs.

5. Proper remuneration disclosure:

FSPs and representatives must disclose to clients any fees, commissions, or other forms of remuneration they will receive for providing financial services or recommending specific products. This disclosure should occur prior to giving advice and must be kept transparent so the client is aware of any potential conflicts.

The representative must disclose that they will receive a commission from a specific product supplier and explain how this might affect the advice, including whether they are incentivized to recommend one product over another.

6. Maintaining objectivity:

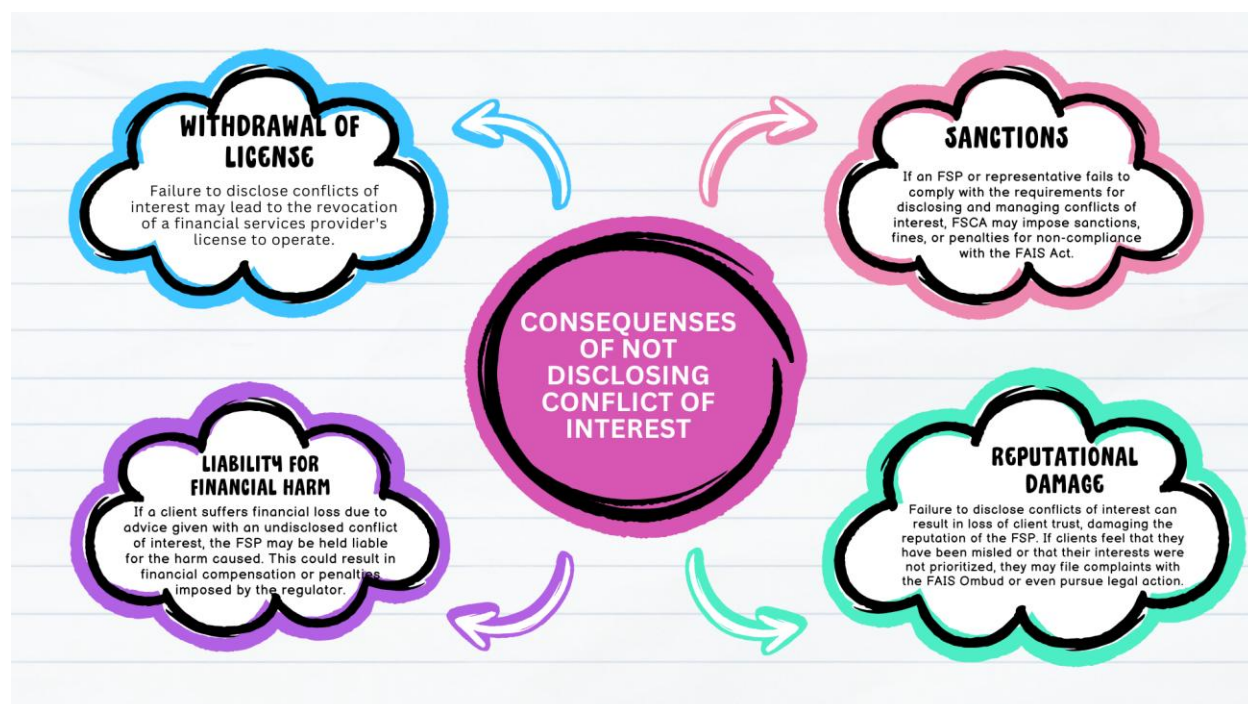
FSPs and their representatives must always strive to maintain objectivity and impartiality when providing advice. This means they must make recommendations based on the client's financial situation and needs, without being swayed by external factors such as commissions or incentives.

7. Record-keeping and documentation:

To ensure compliance with the FAIS Act and to protect both the client and the representative, all disclosures, and communications about conflicts of interest must be properly documented. This includes maintaining records of all instances where conflicts were disclosed, how they were mitigated, and any subsequent decisions made by the client.

The FSP must keep a record of the specific disclosures made to the client regarding any conflicts of interest, ensuring that the client acknowledged and understood the information provided.

CONSEQUENCES OF NON-DISCLOSURE OF CONFLICT OF INTEREST



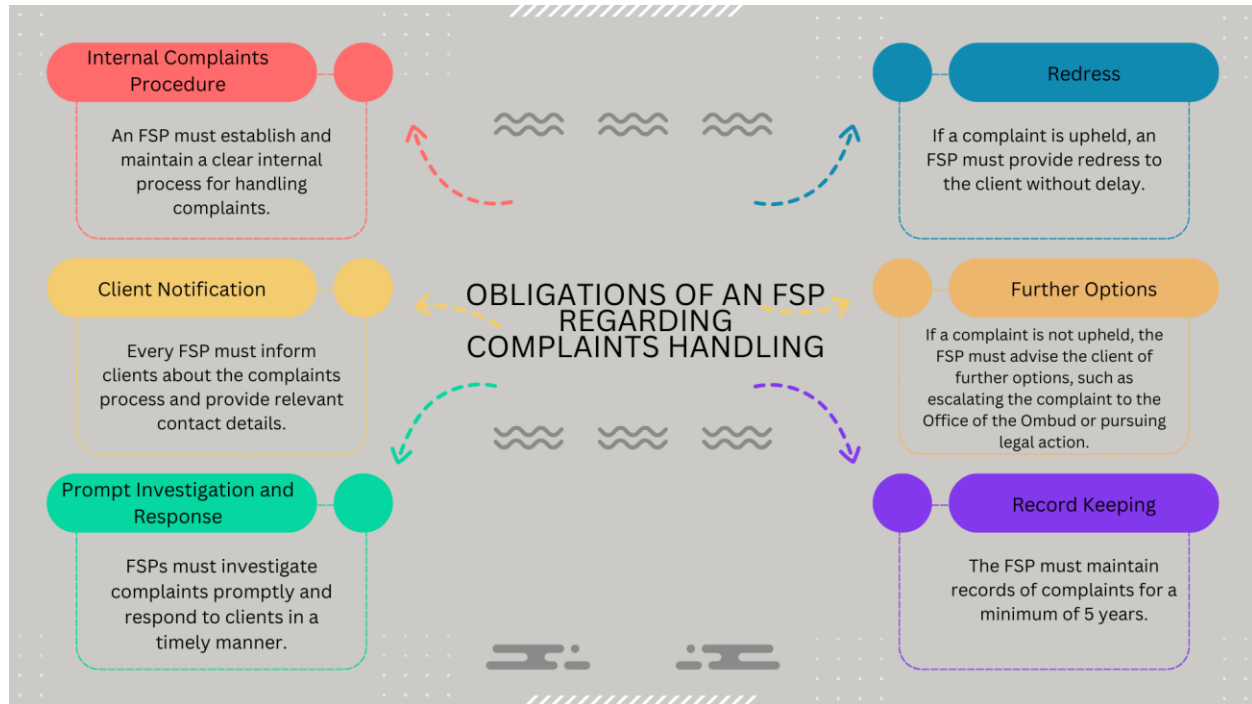
COMPLAINTS HANDLING

A complaint, in terms of the FAIS Act, means a specific complaint relating to a financial service rendered by an FSP or representative to the complainant on or after the date of commencement of the FAIS Act, and in which it is alleged that the FSP or representative:

1. has contravened or failed to comply with a provision of the FAIS Act and that as a result, the complainant has suffered or is likely to suffer financial prejudice or damage, or
2. has willfully (on purpose) or negligently (accidentally) rendered a financial service to the complainant which has caused prejudice or damage to the complainant, or which is likely to result in such prejudice or damage; or

3. has treated the complainant unfairly.

The above are the requirements that must be met, for a complaint to be deemed to be a valid complaint in terms of the FAIS Act.



BASIC PRINCIPLES OF COMPLAINTS SYSTEMS AND PROCEDURES

FSPs must establish and maintain an internal complaint resolution system and procedures based on the following principles:

- **Comprehensive complaints policy**: Develop and maintain a clear policy outlining the FSP's commitment to internal complaint resolution, including its system and procedures.
- **Transparency and Visibility**: Ensure clients have full knowledge of complaint resolution procedures.
- **Accessibility**: Provide easy access to complaint procedures through various channels, including:
 - Offices or branches
 - Postal services
 - Fax
 - Telephone
 - Electronic helpdesk support
- **Fairness**: Ensure the complaint resolution process is fair to both clients and the FSP, including its staff.

Effective Complaint Resolution

An FSP's internal complaint resolution system must ensure:

- **Adequate Resources:** Availability of sufficient manpower and resources.
- **Staff Training:** Comprehensive training for relevant staff, covering:
 - The provisions of the FAIS Act
 - The General Code of Conduct requirements for complaint resolution
- **Delegated Responsibilities:** Clear delegation of responsibilities for resolving routine complaints.
- **Escalation Procedure:** Established process for escalating complex, serious complaints to experienced staff.
- **Internal Follow-up:** Procedures to:
 - Prevent recurring issues
 - Improve services
 - Enhance complaint systems and procedures as needed

Specific Obligations of FSPs Regarding Complaints

Client Access: Clients have access to the complaints resolution policy and know how to raise a complaint and to whom.

Complaints Resolution Policy: The policy includes:

- Client rights and FSP duties
- Summary of relevant Act and Code provisions

Further Steps: Clients are informed of further steps if a complaint is unresolved, including:

- Lodging a complaint with the Ombud's office (process and contact details)
- Taking legal action.

Written Complaints: Complaints must be lodged in writing with relevant information and documentation.

Prompt Response: FSPs must respond promptly to acknowledge receipt of a complaint and provide contact details of the staff handling the resolution.

Proper Consideration: Complaints must receive proper consideration from appointed staff.

Management Controls: Adequate management controls must be in place to control and supervise the process.

Results and Reasons: Clients must be informed of the results and reasons within 6 weeks.

Unfavourable Decisions: If the decision is not in favour of the client, the FSP must provide Ombud details and procedure, and inform the client of the 6-month timeframe to escalate the complaint.

Favourable Decisions: If the decision is in favour of the client, the FSP must ensure full and appropriate redress is made without delay.

RISK MANAGEMENT

In terms of section 11, an FSP must at all times have and effectively employ the resources, procedures, and appropriate technological systems to eliminate as far as possible the risk that clients, product

suppliers and other providers or representatives will suffer financial loss through theft, fraud, other dishonest acts, poor administration, negligence, professional misconduct, or culpable omissions.

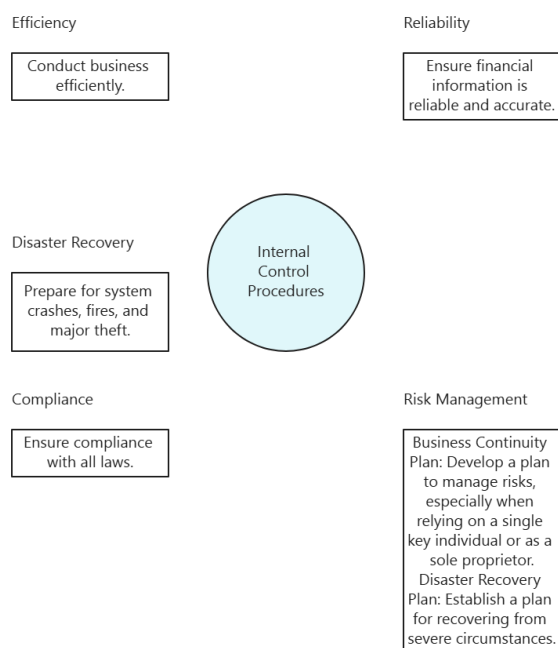
Specific control objectives apply which means that the FSP must have structured internal control procedures to:

- Carry on business in an orderly and efficient manner.
- Ensure that financial and other information used is reliable (and accurate).
- Ensure that the FSP complies with all laws.

Additional risk management requirements are required. These are:

- A business continuity plan is required. This is also sometimes called business contingency planning. The business continuity plan is especially important where risks need to be managed.
- A disaster recovery plan is a requirement. Essentially, this is a plan for the business to recover in the event of a severe set of circumstances, for example, a system crash, a fire destroying the offices, a major theft and even COVID 19 outbreak.

An FSP must have structured internal control procedures to:



PROFESSIONAL INDEMNITY INSURANCE

FSPs must have adequate insurance coverage, as specified in the Code of Conduct and Board Notice 123 of 2009.

Professional Indemnity Insurance (PI cover) is a type of insurance policy designed to protect professionals, businesses, and organizations against claims of negligence, errors, or omissions in the provision of their services. PI insurance covers the FSP and its representatives against claims arising from:

- **Negligent advice:** Incorrect or misleading advice provided to clients.
- **Errors or omissions:** Mistakes or oversights in the provision of financial services.
- **Breach of duty:** Failure to meet professional standards or duties owed to clients.
- **Unintentional breaches:** Unintentional violations of laws, regulations, or industry standards.

PI insurance typically covers:

- **Civil liability:** Compensation for damages or losses suffered by clients.
- **Legal costs:** Defense costs and expenses associated with responding to claims or lawsuits.
- **Investigations:** Costs related to investigations or inquiries by regulatory bodies.

All FSPs must hold professional indemnity cover or suitable guarantees.

FSPs that have recently been authorized or approved must ensure that they have adequate insurance (Professional Indemnity Insurance, Fidelity Cover or suitable guarantees) within 6 weeks of authorisation for all new licensees.

A financial advisor, John, working for XYZ Financial Services (an FSP), recommends a high-risk investment to his client, Mrs. Smith, without assessing her risk tolerance. As a result, Mrs. Smith suffers significant financial losses when the investment fails. Mrs. Smith files a claim against XYZ Financial Services, alleging that John's incorrect advice caused her losses. The claim includes

compensation for the financial losses and legal costs. XYZ Financial Services has professional indemnity insurance cover, which kicks in to:

- **Cover the financial losses:** The insurance policy pays out to compensate Mrs. Smith for her losses.
- **Pay legal costs:** The policy also covers the legal costs associated with defending the claim and resolving the matter.

SUITABLE GUARANTEES

Guarantees, in the context of risk management, refer to a formal commitment or undertaking by a third party (usually a financially stable institution or individual) to cover potential losses or liabilities arising from the actions of an FSP or its representatives. In essence, a guarantee is a promise to assume responsibility for paying out claims or losses up to a specified amount, in the event that the FSP or its representatives are unable to meet their obligations.

Guarantees can take various forms, such as:

- **Parent company guarantees:** A parent company provides a guarantee to cover the liabilities of its subsidiary FSP.
- **Bank guarantees:** A bank issues a guarantee to cover potential losses or liabilities of an FSP.

Guarantees serve as an alternative to professional indemnity insurance, providing an additional layer of protection for clients and helping to maintain trust and confidence in the financial services industry.

If XYZ Financial Services had guarantees in place instead of PI insurance, the guarantees would provide the necessary funds to:

- **Compensate Mrs. Smith:** For her financial losses.
- **Cover legal costs:** Associated with the claim.

In both scenarios, the professional indemnity insurance cover or guarantees ensure that funds are available to make good on the claim, protecting both the client (Mrs. Smith) and the FSP (XYZ Financial Services).

FIDELITY COVER

Fidelity cover, also known as Fidelity Insurance, is a type of insurance policy designed to protect businesses, particularly FSPs, against financial losses resulting from:

- **Employee dishonesty:** such as theft, embezzlement, or other fraudulent acts committed by employees.
- **Internal fraud:** Unauthorized transactions, forgery, or other deceitful activities by employees or internal agents.
- **System failures:** Losses resulting from system failures, such as hacking, cyber-attacks, or other technological failures.

XYZ Financial Services, a registered FSP, employs a financial advisor named Alex. Alex has been working with XYZ for five years and has built a strong reputation with clients.

However, unbeknownst to XYZ, Alex has been struggling financially and has begun to embezzle client funds. Over a period of six months, Alex steals R500,000 from several clients' accounts.

One of the affected clients, Mrs. Johnson, discovers the theft and reports it to XYZ. XYZ immediately launches an investigation and notifies their fidelity insurance provider.

The fidelity insurance policy covers XYZ against employee dishonesty, including theft and embezzlement. The policy has a limit of R1 million.

The fidelity insurance provider investigates the claim and confirms that Alex's actions were indeed fraudulent. The insurer reimburses XYZ for the stolen amount of R500,000.

XYZ uses the reimbursement to restore Mrs. Johnson's account and compensate the other affected clients. The company also takes disciplinary action against Alex and reports the incident to the relevant regulatory authorities.

LEVEL OF COVER REQUIRED

- All FSPs must have suitable guarantees or professional indemnity insurance cover.
- If the FSP holds client funds, they must also have fidelity insurance cover for the same amount.

Where guarantees are in place instead of insurance policies, these must cover both professional indemnity and fidelity risks.

FSPs that DO NOT receive client premiums or hold assets on behalf of clients		
Category	Either suitable guarantee or	Professional Indemnity Cover
I, II, IIA, or IV	Minimum: R1 Million	Minimum: R1 Million
FSPs that DO receive premiums or hold client assets on behalf of clients		
Category	Either suitable guarantee or	Professional Indemnity AND Fidelity cover
I or IV	Minimum: R1 Million	Minimum: R1 Million
II, IIA and III	Minimum: R5 Million	Minimum: R5 Million

Before proceeding to the next module, please ensure that you meet the below task criteria as set out by the FSCA.

Task	Qualifying Criteria	Knowledge (K) or Skill (S)	Legislation Reference / Motivation
Adhere to the specific Codes of Conduct.	Describe the general and specific duties of a provider.	K The task requires knowledge of a specific section of the legislation or regulation	GCOC –Sec 2 GCOC –Sec 3 GCOC –Sec 3(3) GCOC –Sec 3(1)(c)(i)
	Describe the processes that need to be in place to manage conflict of interest.	K	GCOC – Sec 3A
	Describe what could possibly be a conflict of interest.	K	GCOC – Sec 3A
	Define what needs to be in a conflict-of-interest policy.	K	GCOC – Sec 3A
	Ensure that the FSP is managing potential conflicts of	S The task requires practical ability to perform tasks or apply knowledge in real scenarios	GCOC - Sec 1 Definition of Conflict of Interest
	Apply the requirements of the General Code of Conduct	S	GCOC - Sec 8

	Explain the disclosures that need to be made before rendering a financial service.	K	GCOC - Sec 4
	Explain disclosures that must be made when rendering a financial service.		GCOC - Sec 4(1)(d) GCOC – 5(f) FAIS Act - Sec 13 FAIS Act - Sec 13(1)(b)(i)(bb) FAIS Act Sec - 14
	Check that disclosures are adequate to enable client's to make an informed decision.	S	GCOC - Sec 4 GCOC - Sec 5 GCOC - Sec 7 GCOC - Sec 7A GCOC - Sec 8

MODULE 7 COMPLIANCE OFFICER

Learning outcomes:

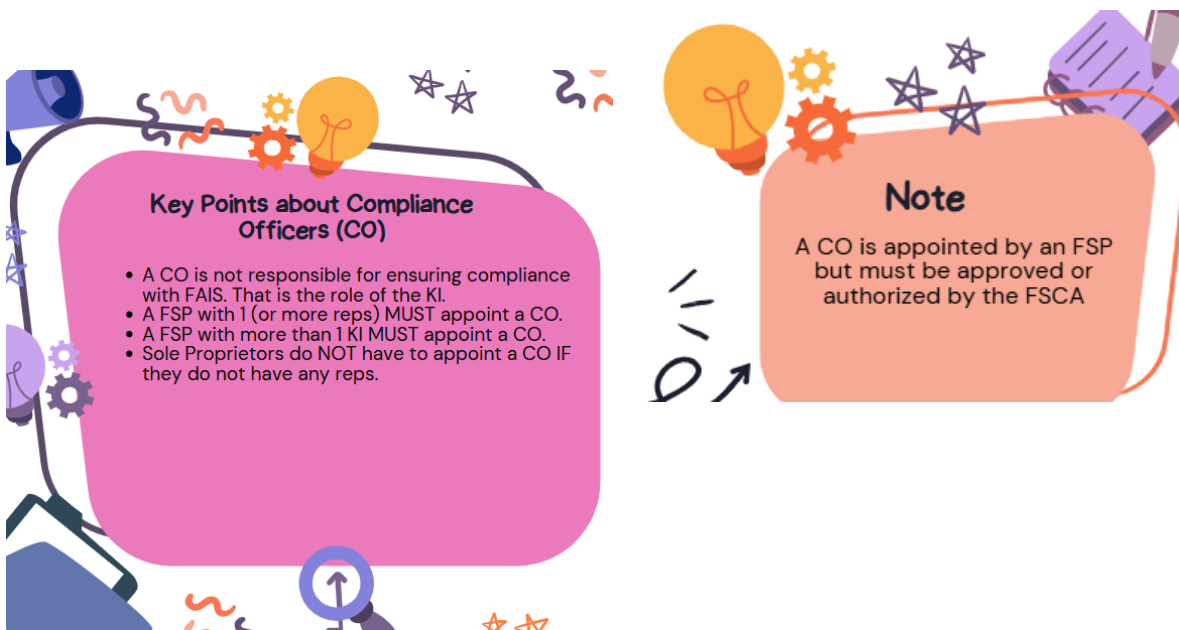
By the end of this module, you will be able to:

1. Explain the role and legal obligations of a Compliance Officer in terms of the Financial Advisory and Intermediary Services Act, including the distinction between internal and external Compliance Officers.
2. Identify the circumstances under which a Compliance Officer must be appointed by a Financial Services Provider and explain the exemptions applicable to sole proprietors.
3. Describe the monitoring, oversight, and reporting functions of a Compliance Officer, including the processes for identifying regulatory weaknesses, testing controls, and submitting reports to the FSP and the FSCA.
4. Differentiate between the roles of the Compliance Officer and the Key Individual and explain how they collaborate to ensure regulatory compliance within the FSP.
5. Explain the requirements and procedures for irregularity reporting under the FAIS Act and Board Notice 194 of 2017, including the reporting of breaches, misconduct, and other forms of non-compliance.
6. Discuss the purpose, timing, and content of Early Warning Reports, and explain when and how these reports must be submitted to the FSCA to mitigate emerging risks.
7. Describe the on-site inspection requirements for Compliance Officers, including the frequency and purpose of branch visits for both internal and external officers, and explain the importance of delegation in compliance monitoring.
8. Analyze the importance of independence and objectivity in the Compliance Officer function and identify practical ways to avoid conflicts of interest within an FSP.
9. Demonstrate understanding of how to establish and maintain an effective compliance function within an FSP, including the implementation of internal controls, compliance frameworks, reporting structures, and resource allocation.
10. Interpret the compliance reporting obligations, including the compilation, accuracy, and submission of annual compliance reports and the escalation of unresolved compliance breaches.
11. Assess the implications of failing to appoint or replace a Compliance Officer when required by the FSCA, including the potential consequences for the FSP's license conditions and regulatory standing.
12. Evaluate the compliance officer's responsibility in maintaining full and accurate records, supporting audit trails and FSCA inspections, and ensuring transparency in compliance reviews and corrective action.
13. Apply knowledge of FAIS legislation, BN 194 of 2017, and other regulatory guidelines to real-world compliance functions, including reporting, monitoring, and irregularity response in a financial services environment.

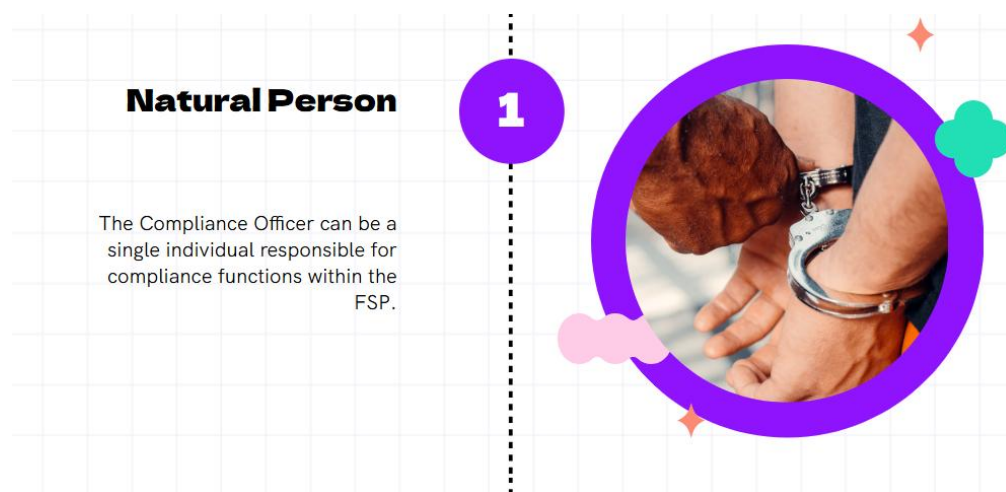
The Compliance Officer plays a crucial role in ensuring adherence to regulatory requirements. They are expected to act with diligence, care, and competence, and are responsible for monitoring, oversight, and reporting on compliance matters. Additionally, they serve as a liaison with the Commissioner on compliance-related issues, providing a key link between the organization and regulatory authorities.

A Compliance Officer is a natural person or a compliance practice that is appointed by a FSP to ensure that the FSP complies with the requirements of the FAIS Act and other relevant financial services laws.

A compliance officer monitors compliance with the FAIS Act and reports on this.



Below is a summary relating to Compliance Officers





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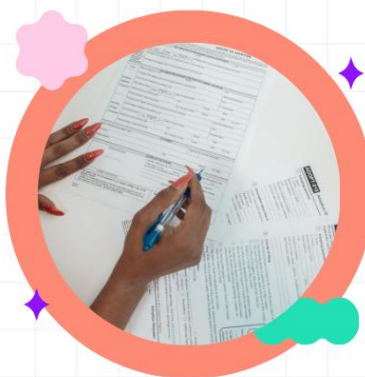
Compliance Practice

Alternatively, an external compliance practice can be hired to manage compliance functions for the FSP.

Assisting FSPs

The Compliance Officer helps the FSP establish and maintain compliance procedures, ensuring adherence to regulations.

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Compulsory Appointment

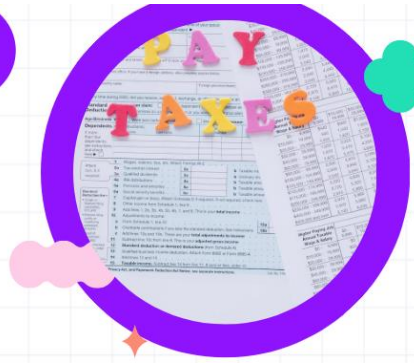
If the FSP employs more than one Key Individual or Representative, appointing a Compliance Officer is mandatory.



Internal or External

The FSP can choose to appoint the Compliance Officer internally or contract with an external compliance practice.

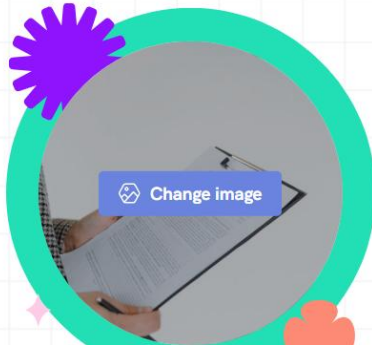
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FSP Appointment

The FSP appoints the Compliance Officer, but the FSMA needs to approve their appointment.

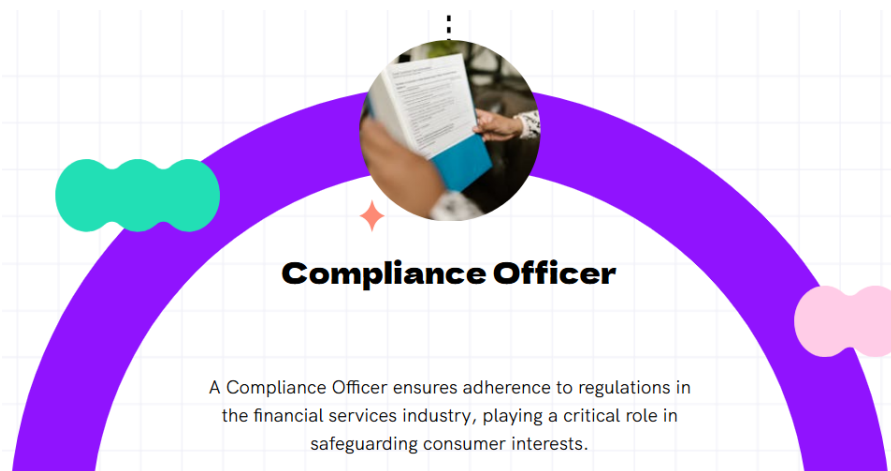


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Phase II Approval

Phase II approval requires the Compliance Officer to have experience in the FSP's specific product subcategories.





WHEN MUST A COMPLIANCE OFFICER BE APPOINTED?

If the FSP has more than one key individual, or one or more representatives, the FSP must appoint a compliance officer

Exemptions

A sole prop FSP working alone does not have to appoint a specific compliance officer. The sole proprietor may oversee his or her own compliance and submit reports accordingly. In this case, the sole proprietor does not become a compliance officer but is allowed to report directly on compliance without appointing a compliance officer.

ROLE AND RESPONSIBILITIES OF A COMPLIANCE OFFICER

Monitoring Functions

- Create, implement, and monitor systems and procedures to:
- Identify weak/vulnerable areas
- Ensure effective compliance controls
- Test and review controls

Oversight Functions

- Oversee compliance functions established by FSP/key individual
- Make recommendations for improvements/changes
- Ensure non-compliance issues are identified and rectified

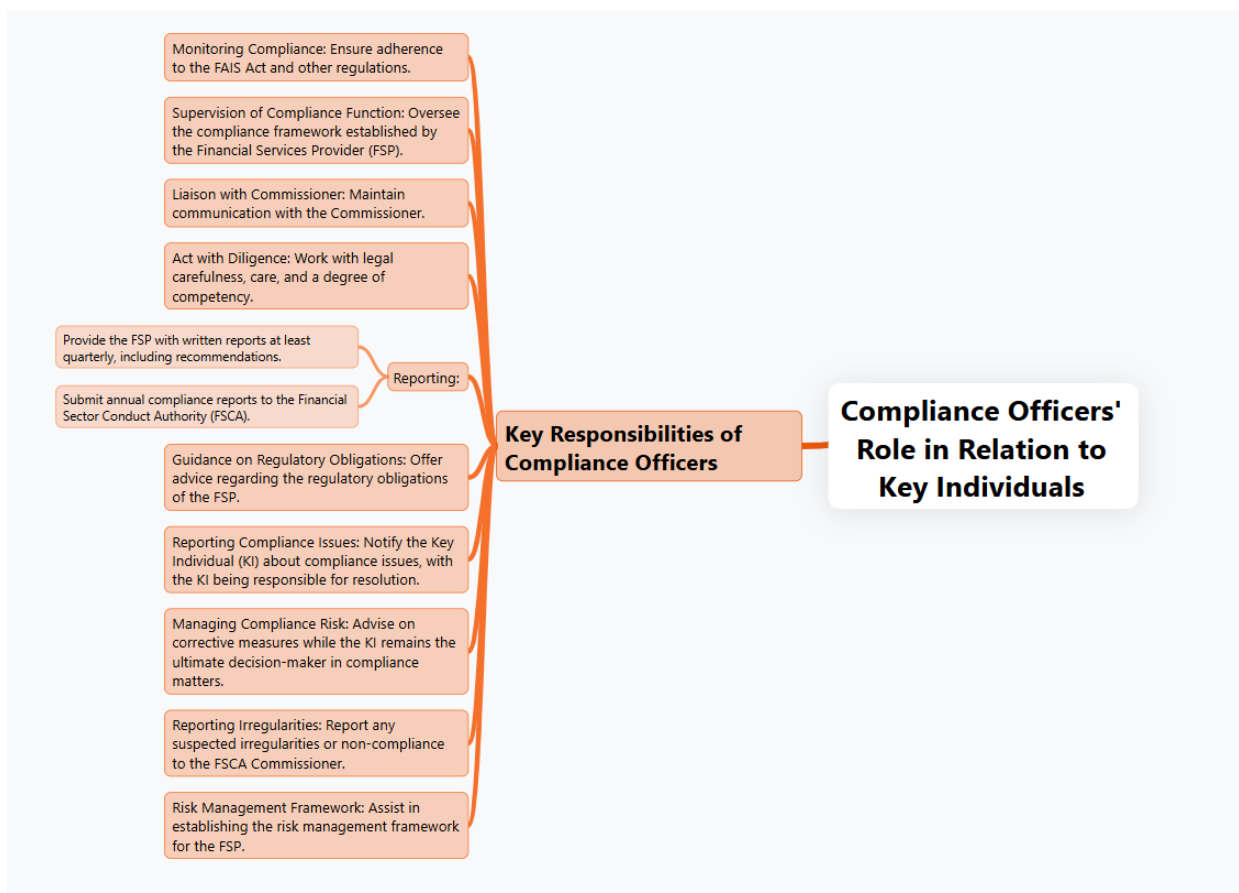
Reporting Functions

- Prepare and submit annual compliance report to Commissioner

- Prepare regular written reports to FSP on compliance progress and recommendations

THE ROLE OF THE COMPLIANCE OFFICER IN RELATION TO THAT OF THE KI

While Compliance Officers have a critical role in managing the compliance function, their responsibilities are advisory and monitoring in nature. They assist KIs by:



IRREGULARITY REPORTING

Under the FAIS Act and Board Notice 194 of 2017, the Compliance Officer is responsible for ensuring that an FSP operates in full compliance with all regulatory obligations. One of the key duties of the Compliance Officer is irregularity reporting, which involves identifying, documenting, and reporting any instances of non-compliance, misconduct, or operational irregularities that could impact the FSP's ability to meet its regulatory requirements.

Irregularity reporting is an essential part of maintaining the integrity of the financial services sector, as it helps to identify and address issues that could undermine client protection, regulatory compliance, and market stability. The FAIS Act outlines the procedures and responsibilities of the Compliance Officer when irregularities or non-compliance are detected within the FSP's operations.

The Compliance Officer has a duty to report any irregularities or non-compliance within the FSP's operations to the appropriate parties, including the FSP's senior management, Key Individuals, and the

FSCA. The compliance officer is responsible for identifying any breach of regulations, laws, or internal policies that could potentially jeopardize the FSP's compliance status or lead to reputational damage.

The FAIS Act specifies that a Compliance Officer must report on a wide range of irregularities, including:



EARLY WARNING REPORTS

If the Compliance Officer becomes aware of financial instability or signs that the FSP is at risk of non-compliance with regulatory obligations (such as failing to meet solvency or liquidity requirements), the compliance officer must submit an Early Warning Report to the FSCA. This report should highlight the potential risks and the FSP's efforts to remedy the situation. The Early Warning Report is a proactive measure that allows the FSCA to assess the situation and take steps to prevent further regulatory breaches or financial harm to clients.

ON-SITE VISITS AND INSPECTIONS BY COMPLIANCE OFFICERS

The FAIS Act and Board Notice 194 of 2017 require that Compliance Officers regularly visit branches and meet with representatives to ensure ongoing compliance with regulatory requirements. The frequency and type of on-site visits depend on whether the Compliance Officer is an external (outsourced) or internal (employed by the FSP) officer, as well as the category of the FSP.

On-site visit requirements for external compliance officers

External Compliance Officers refer to compliance practices that are contracted by an FSP to provide compliance oversight and services.

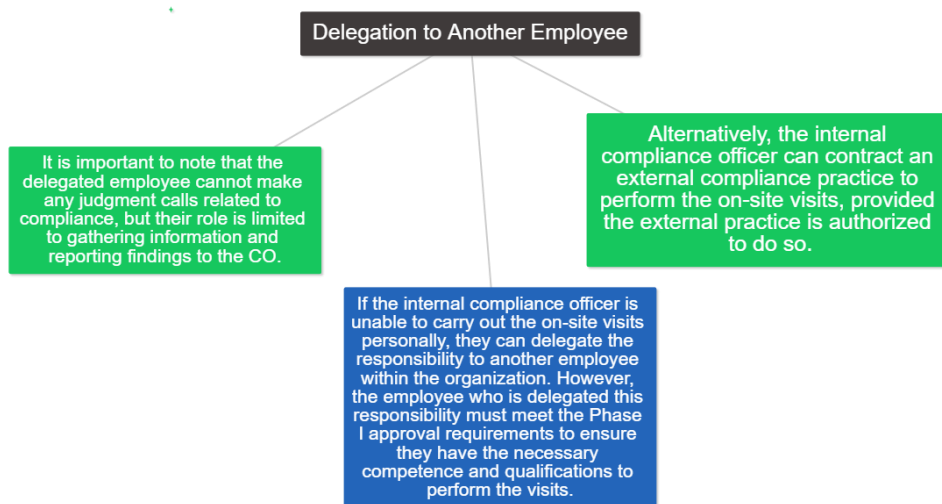
On-Site Visit Requirements for External CO	External Compliance Officers refer to compliance practices contracted by an FSP to provide oversight and services.
Category I & IV FSPs	<ul style="list-style-type: none"> • Quarterly branch visits: At least once every quarter. • Bi-annual visits to representatives: At least twice per year.
Category II, IIA & III FSPs	<ul style="list-style-type: none"> • Monthly visits to branches: Every month. • Monthly visits to representatives: Consistently adhering to guidelines.

On-site visit requirements for internal compliance officers

Internal Compliance Officers are employed by the FSP itself, particularly larger FSPs. These officers are responsible for managing compliance within the organization on a day-to-day basis.

On-Site Visit Requirements for Internal CO	Internal Compliance Officers are responsible for managing compliance within the organization on a day-to-day basis.
Category I & IV FSPs	<ul style="list-style-type: none"> • Annual branch visits: At least once a year to assess operations. • Annual visits to representatives: At least once per year to monitor compliance.
Category II, IIA & III FSPs	<ul style="list-style-type: none"> • Quarterly visits to branches: At least once every quarter. • Quarterly visits to representatives: To monitor adherence and competence.

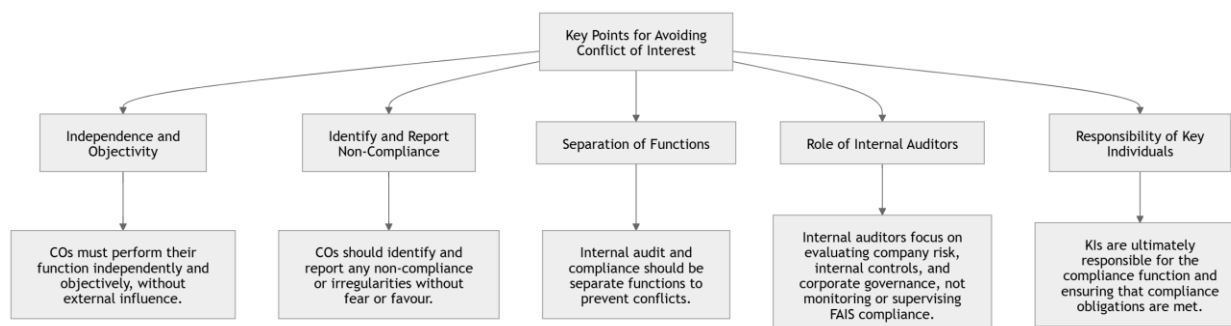
Delegation of On-Site Visits



The on-site visits required by the FAIS Act are crucial for ensuring that FSPs maintain ongoing compliance with regulatory obligations. Whether the Compliance Officer is an external or internal employee, these visits ensure that the FSP's branches and representatives are regularly monitored for compliance with the FAIS Act and other applicable financial regulations. The frequency of visits is based on the category of the FSP and whether the officer is internal or external, with more frequent visits required for more complex financial services providers. Ensuring that these visits are carried out, and that proper delegation systems are in place, is a key responsibility for maintaining the FSP's adherence to legal standards and protecting clients' interests.

AVOIDING CONFLICTS OF INTEREST

To ensure that Compliance Officers can effectively perform their duties, it is crucial to avoid conflicts of interest. This enables them to work independently and objectively, ensuring compliance with the FAIS Act and other regulatory requirements.



To establish the compliance function, an FSP must appoint a compliance officer who has been approved by the FSCA where required. The FSP must define the officer's authority, allocate appropriate resources, and implement a formal compliance framework. Reporting lines should be structured to maintain independence from business operations.

The FSP must maintain full and accurate records of all compliance and financial matters. These records form the basis for regulatory submissions and should include documented compliance monitoring, logs of corrective actions, and evidence of oversight of representatives. These records must be made available during FSCA inspections.

FSPs are required to document how often compliance reviews and monitoring will occur and to whom the findings will be reported. The compliance monitoring plan must define the timing and frequency of reviews and reporting cycles. It must also clarify escalation protocols for non-compliance.

A documented process must be implemented to assess and maintain the adequacy of the FSP's compliance and monitoring activities. This includes process mapping, internal checklists, standard operating procedures, and regular internal audits. The goal is to provide a consistent approach to compliance and allow for ongoing improvements based on monitoring results.

To ensure the compliance function is effective, the FSP must allocate sufficient resources including skilled personnel, appropriate technology, and access to regulatory guidance and training. The compliance function must be equipped to conduct reviews, submit reports, and respond to FSCA inquiries without delay or limitation.

The independence of the compliance officer is critical to ensuring impartial oversight and the integrity of the compliance function. If a compliance officer is influenced by management or operational interests, they may be less likely to report regulatory breaches or take corrective action. Independence ensures that the compliance officer can make objective decisions and maintain regulatory trust.

An FSP must demonstrate that its compliance function is structured in a manner that avoids undue influence by operational management. The compliance officer must not hold dual roles that present

conflicts and must be empowered to report directly to the board or key individuals. A conflict-of-interest register should be maintained, and procedures should be in place to manage or avoid conflicts.

Conflicts of interest undermine the credibility and reliability of compliance oversight. If a compliance officer has a personal or financial interest in the operations they are meant to oversee, their ability to act impartially is compromised. Avoiding conflicts of interest is vital for maintaining public confidence, regulatory compliance, and ethical governance.

Where no dedicated compliance officer is appointed, the FSP must still ensure that compliance oversight is performed impartially. In such cases, it is essential to assign responsibility to a person who is not directly involved in service delivery and to establish internal checks and balances. The FSP should adopt a Conflict-of-Interest Management Policy and ensure it is implemented and monitored.

The compliance officer must understand all aspects of the compliance report, including risk findings, identified breaches, remedial actions, and overall trends in compliance performance. Signing off a report signifies formal accountability and submission to the FSCA. Therefore, the officer must ensure the accuracy and completeness of all data reported.

Upon discovering non-compliance, the compliance officer must initiate or recommend corrective action, including training, supervision, reporting to the FSCA, or changes to internal controls. They must track and document all remedial steps and confirm that the issue has been resolved to avoid recurrence.

If a compliance officer is not approved or loses their approval by the FSCA, the FSP must immediately appoint a new candidate who meets the criteria. Delayed replacement may place the FSP in breach of its licensing conditions and expose it to regulatory penalties or enforcement action.

By ensuring that Compliance Officers operate independently, organizations can effectively manage compliance risks. This structure supports the FAIS Act's requirements for ethical conduct and transparency, helping Key Individuals fulfill their role in overseeing compliance within the FSP.

Before proceeding to the next module, please ensure that you meet the below task criteria as set out by the FSCA.

Task	Qualifying Criteria	Knowledge (K) or Skill (S)	Legislation Reference / Motivation
Manage and oversee the compliance functions as required by the FAIS Act.	Describe the compliance arrangements required by the FSP.	K The task requires knowledge of a specific section of the legislation or regulation	FAIS Act - Sec 14 FAIS Act – Sec 17 FAIS Act – Sec 17(2)(b) FAIS Act – Sec 17(4)(a) & (b) FAIS Regulations Regulation 4
	Explain the requirements of the compliance function within the FSP.	K	FAIS Act - Sec 14 FAIS Act - Sec 17 FAIS Act - Sec 17(2) FAIS Act - Sec 17(3) & (4) BN 127 of 2010 - Sec 4(2) FAIS Regulations - Reg 5(3)
	Establish the compliance function within the FSP.	S The task requires practical ability to perform tasks or apply knowledge in real scenarios	FAIS Act - Sec 17 FAIS Act - Sec 17(1)
	Establish and maintain compliance and reporting arrangements for the FSP.	S	FAIS Act - Sec 19 FAIS Act - Sec 19(2) FAIS Act - Sec 19(3) BN 194 of 2017 - Sec 37
	Check that the compliance arrangements specify frequency of monitoring and reporting.	S	FAIS Act - Sec 17 BN 127 of 2010 - Sec 4 BN 127 of 2010 - Sec 4(4)(a) FAIS Notice 119 of 2017 - Sec 2(2)(d)
	Implement and maintain a documented process to ensure the adequacy of the FSP's compliance and monitoring arrangements.	S	FAIS Act - Sec 18
	Describe when a Compliance Officer should be appointed.	K	FAIS Act - Sec 17 FAIS Act – Sec 17(1)(a) FAIS Act – Sec 17(1)(c)

	Explain the criteria for approval of a Compliance Officer by the Financial Sector Conduct Authority	K	BN 127 of 2010 - Sec 3 BN 127 of 2010 - Sec 4 FAIS Act - Sec 17
	Ensure that the Compliance Officer is approved by the Financial Sector Conduct Authority.	S	FAIS Act - Sec 17 FAIS Act - Sec 17(2)
	Describe the role and function of a Compliance Officer.	K	FAIS Act - Sec 17 FAIS Act - Sec 17(1)(c) FAIS Act - Sec 18 FAIS Act - Sec 18(d) FAIS Regulations - Reg 5 & 5(1) & 5(3) BN 127 of 2010 - Sec 4(3) GCOC – Sec 3(1) GCOC – Sec 8(1)
	Confirm that the compliance function / compliance practice has sufficient resources to provide an efficient compliance service.	S	BN 127 of 2010 - Sec 4 BN 127 of 2010 - Sec 4(2)
	Explain why it is important for the Compliance Officer to act independently from the management of the FSP.	K	BN 127 of 2010 - Sec 4 BN 127 of 2010 - Sec 4(3)
	Confirm that the Compliance Officer / compliance practice can function objectively and sufficiently independently of the FSP and avoids conflicts of interest.	S	BN 127 of 2010 - Sec 4 BN 127 of 2010 - Sec 4(2) BN 127 of 2010 - Sec 4(3)
	Explain why it is important for the Compliance Officer to be able to avoid conflicts	K	BN 127 of 2010 - Sec 4 BN 127 of 2010 - Sec 4(3)

	of interest during the execution of their duties		
	Manage potential conflict of interest where there is not a specifically appointed Compliance Officer / compliance practice.	S	GCOC - Sec 3(1) GCOC - Sec 3A (2) BN 127 of 2010 - Sec 4(3)
	Understand the content of the compliance report(s) in order to be able to sign it off.	K	FAIS Act - Sec 17 FAIS Act - Sec 17(4)
	Confirm that where the Compliance Officer found any instances of non-compliance that this is addressed and rectified.	S	FSCA FAIS Notice 86 of 2018 – Exemption of Services under Supervision FAIS Act - Sec 18 FAIS Act - Sec 18(d)
	Replace the Compliance Officer if he/she does not have the required approval of the Financial Sector Conduct Authority.	S	FAIS Act - Sec 17 FAIS Act - Sec 17(2)

MODULE 8: RECORDKEEPING

Learning outcomes:

By the end of this module, you will be able to:

1. Explain the legal and regulatory framework governing recordkeeping obligations in the financial services sector, including the FAIS Act, the General Code of Conduct, FICA, POPIA, and Board Notice 194 of 2017.
2. Identify the types of records required to be kept under the FAIS Act, including records of premature cancellations, formal complaints, continued compliance, and non-compliance, and explain the required retention periods.
3. Describe the specific recordkeeping procedures required by the General Code of Conduct, including the handling of verbal and written client communications, storage requirements, retrieval timeframes, and record format specifications.
4. Explain the requirements for maintaining a Competence Register in accordance with Board Notice 194 of 2017, including documentation of qualifications, regulatory exams, product-specific and class of business training, and CPD.
5. Discuss the recordkeeping obligations imposed by the Financial Intelligence Centre Act (FICA), including the types of FICA records to be maintained, minimum retention periods, and required accessibility to supervisory bodies.
6. Apply knowledge of record retention timeframes across FAIS, FICA, and POPIA, including the correct calculation of five-year retention periods from specific transaction or relationship milestones.
7. Assess the conditions under which recordkeeping functions may be outsourced and identify the responsibilities of the FSP when entering into a Service Level Agreement (SLA) with a third-party provider.
8. Evaluate the controls and safeguards required to ensure the confidentiality, security, and lawful access to client records, in accordance with the Protection of Personal Information Act (POPIA).
9. Demonstrate understanding of telephonic advice recordkeeping obligations, including the maintenance and retention of voice recordings in environments such as call centers or tele-advice scenarios.
10. Explain the disclosure obligations relating to training records and competence information, including when and how such records must be shared with product suppliers or other FSPs.
11. Describe verification processes to ensure compliance with recordkeeping requirements, including periodic audits, access logs, retrieval testing, and the adequacy of physical and digital systems.
12. Discuss the risks and regulatory consequences of failing to maintain adequate and compliant records, including potential sanctions by the FSCA, FIC, or Information Regulator.

Record keeping is a key compliance obligation under the FAIS Act) the Financial Intelligence Centre Act (FICA), the General Code of Conduct (GCOC), and the Protection of Personal Information Act (POPIA). These laws require FSPs to maintain accurate and retrievable records to ensure regulatory compliance, enable supervision, and safeguard client interests.

RECORDKEEPING IN TERMS OF THE FAIS ACT

The FAIS Act specifies five types of records that must be kept for a period of five years:

Premature Cancellations	Details of transactions or products cancelled by the client. Reason for termination (where possible). Communication to the client disclosing implications of cancellation (e.g. loss of valuable cover, potential future affordability/qualifying issues).
Formal Complaints Record	Details of complaints received. Resolution of complaints (where applicable).
Continued Compliance Records	Record of the FSP's continued compliance with licensing requirements. Record of representatives' continued compliance with FAIS requirements.
Cases of Non-Compliance	Records of instances where the FSP or representative failed to comply with the FAIS Act. Reasons for non-compliance.

RECORDKEEPING IN TERMS OF THE GENERAL CODE OF CONDUCT

Sections 3 and 9 of the General Code of Conduct outline the record keeping requirements for FSPs:

Communication Records	FSPs must have procedures to record all verbal and written communications with clients related to financial services.
Record Storage	Records must be stored safely to prevent destruction and must be easily retrievable within 7 days of a request.
Retention Period	Records must be kept for 5 years from termination of a financial product or rendering of a financial service.
Outsourcing	FSPs can outsource record keeping but must have an SLA and ensure compliance with all requirements.
Format of Records	Records can be in electronic or recorded format but must be convertible to written or print form.
Records of Advice	Records of advice given to clients must be maintained, including all relevant information as per the Code of Conduct.
Telephonic Records	Proper voice logging systems must be in place for verbal advice, with records kept for at least 45 days.

RECORD KEEPING OBLIGATIONS RELATING TO THE COMPETENCE REGISTER

As per Board Notice 194 of 2017, FSPs must maintain a competence register that records the following:

The competence register must be:

- Established and maintained by the FSP.
- Updated on a regular basis.

Competence Register	FSPs must maintain a competence register that records qualifications, completed regulatory examinations, product-specific training, class of business training, and CPD records.
Retention Period	Competence information must be retained for at least 5 years and updated regularly to ensure compliance.
Disclosure Requirements	FSPs must provide confirmation of training upon request and share training records with other FSPs for appointment purposes.
Storage Procedures	Implement procedures for safe storage, retrieval within seven days, and ongoing reviews of storage practices.
Verification	Verification includes checking physical and digital systems, backups, logs of retrievals, and procedures for lost records.

Retention and Disclosure of Competence Information

Competence information and documentation relating to training completed must be retained for at least 5 years.

OUTSOURCING OF RECORD KEEPING

FSPs may outsource record keeping functions to third parties but remain accountable for compliance.

Key requirements include:

- A formal written agreement (Service Level Agreement) with the third party.
- Clear provisions for record access, confidentiality, data protection, and retention period.
- The ability to produce records upon regulator request within the statutory time frame.

To ensure compliant outsourcing:

- Review SLA terms to confirm alignment with FAIS, FICA, and POPIA.
- Check that the third-party provider has adequate systems, controls, and insurance.
- Ensure that responsibility for compliance remains clear with the FSP.
- Verify the FSP, can access and retrieve data on demand.

Confidentiality and access

FSPs must:

- Protect records from unauthorized access, alteration, or loss.
- Implement secure access controls, encryption, and storage protocols.
- Ensure that only authorised personnel can access personal and client data.

- Maintain audit trails of record access.
- Apply the principles of POPIA to ensure that client personal information is lawfully processed, stored, and disposed of.

Failure to implement adequate security may result in FSCA or Information Regulator sanctions.

SUMMARY OF RECORD KEEPING IN TERMS OF FAIS AND CODE OF CONDUCT

ACT

(Remember, the Act talks about WHICH records must be kept by the FSP. An easy way to memorize them is to remember the **5 C's**)

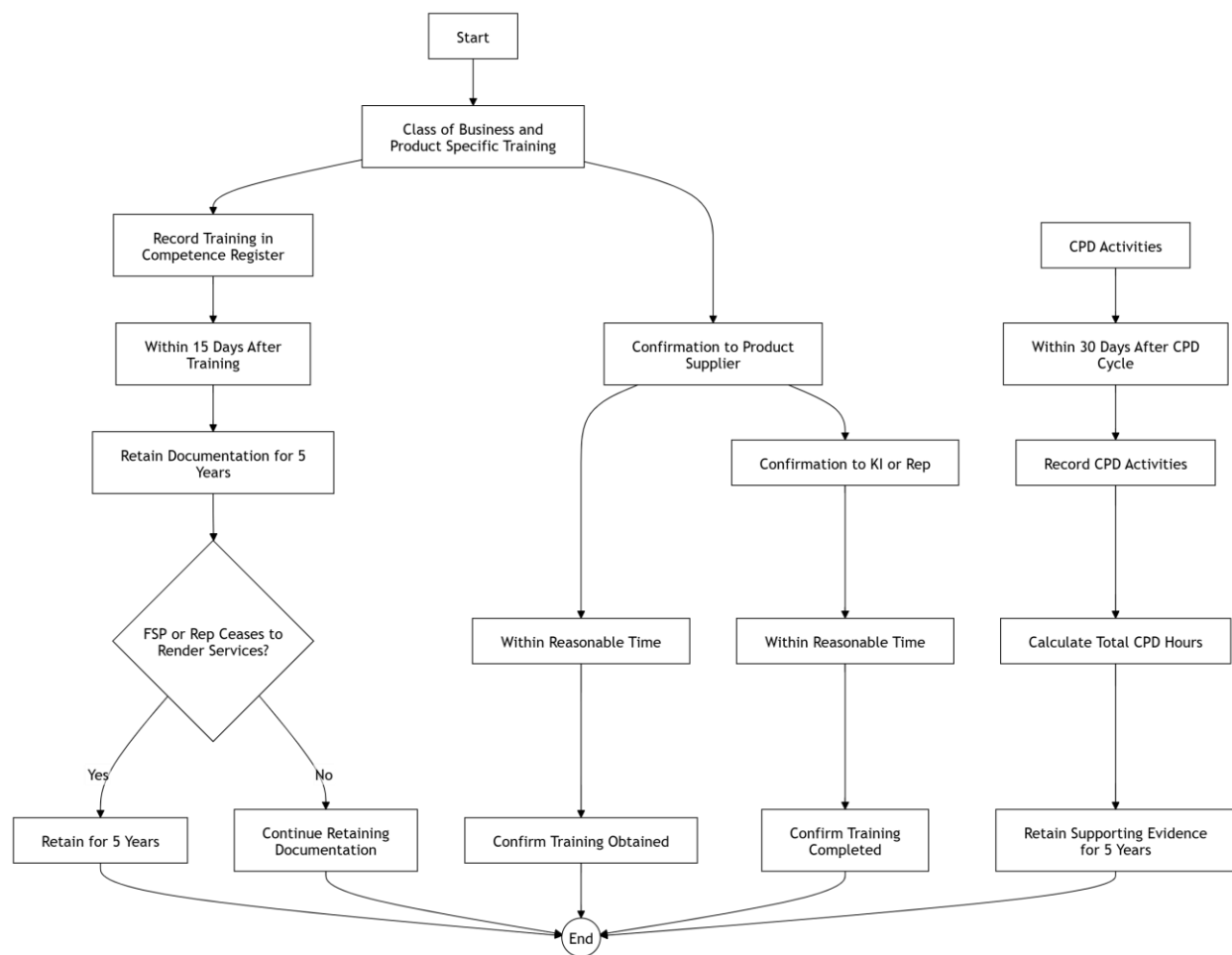
The following records need not be kept for a period which exceeds 5 years:

- 1. **C** – known premature **Cancellations** of transactions or Financial Products by clients.
- 2. **C** – **Complaints** received and an indication whether or not the complaint has been **resolved**.
- 3. **C** – Cases of **non-Compliance** with the Act and the reasons why there is non-compliance.
- 4. **C** – Continued **Compliance** with the requirements of **section 8** of the Act (maintain information on F & P of KIs, Reps, Directors, Partners and trustees).
- 5. **C** – Continued **Compliance** by Rep with the requirements referred to in **section 13(1) and 13(2)** of the Act (authority given by FSP to Rep and responsibility taken by FSP for Reps actions).

General Code of Conduct

HOW records must be kept by the FSP)

- The FSP must **record any verbal and written communication** relating to a Financial Service that was rendered (provided) to a client and must be able to **store and retrieve** these records.
- Keep these records and documentation **safe from destruction**.
- Records **must** be kept for a **minimum of 5 years**:
 - after the **termination of the product** (as far as the provider knows about the termination),
 - OR**
 - **after the rendering (provision) of the Financial Service**.
- Records can be outsourced to a 3rd party, **BUT**:
 - there **must** be a **written agreement** between the FSP and 3rd party.
 - the FSP is still **responsible** for documents.
- If the FSP or a third party is keeping the records, the FSP must ensure that records are available to the Authority for inspection, **within 7 days**.
- Records may be kept in an **appropriate electronic or recorded format but MUST** be easily put into writing and accessible.
- Service over the phone and **NO** service given: record kept for minimum 45 days.
- Service over the phone and a service is given (transaction concluded): 5 years after rendering the service or termination of the product.
- Service over the phone and client wants a copy of the conversation: the client must receive it **within 7 days**.



RECORD KEEPING REQUIREMENTS IN TERMS FICA

Under FICA, accountable institutions (including most FSPs) must retain the following records:

- Client identification and verification documents.
- Transaction records (e.g., account opening, transactions, instructions, and correspondence).
- Business relationship documentation.
- Records of suspicious or unusual transactions reported to the FIC.

Retention Period:

- All FICA-related records must be kept for five years from the date of the transaction or termination of the relationship.

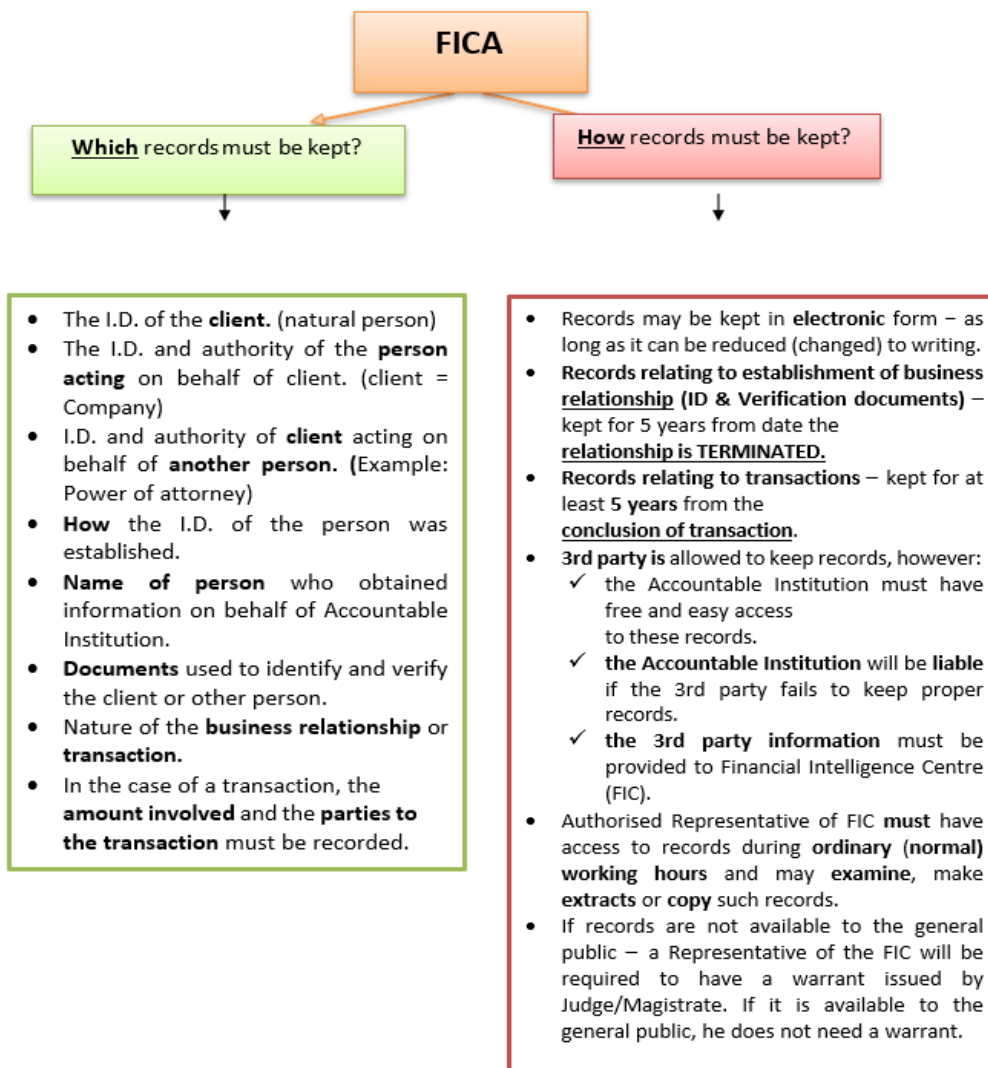
Security and Accessibility:

- Records must be available to the Financial Intelligence Centre (FIC) or supervisory body (e.g., FSCA) upon request.
- These records must be stored in a secure, yet accessible format (physical or electronic).

Where outsourced, Section 24(2) of FICA stipulates that:

- The third party must be contractually obligated to comply with all retention and disclosure obligations.

Before proceeding to the next module, please ensure that you meet the below task criteria as set out by the FSCA.



Task	Qualifying Criteria	Knowledge (K) or Skill (S)	Legislation Reference / Motivation
Comply with regulated record keeping requirements	Explain the record keeping obligations as prescribed by the FAIS and FICA Acts.	K The task requires knowledge of a specific section of the legislation or regulation	FAIS Act - Sec 13 FAIS Act - Sec 13(3) FAIS Act - Sec 13(4) FAIS Act - Sec 18 FAIS Act - Sec 18(b) & (d) FICA - Sec 23 FICA - Sec 24 GCOC - Sec 3 GCOC - Sec 3(2) & (3) FSCA FAIS Notice 29 of 2023 - Form 5
	Verify that record keeping, and retrieval of records is carried out in terms of the obligations prescribed by the FAIS and FICA Acts.	S The task requires practical ability to perform tasks or apply knowledge in real scenarios	FAIS Act - Sec 18 BN 194 of 2017 - Sec 37
	Describe the requirements imposed when record keeping is outsourced to a third party.	K	GCOC - Sec 3(2) FICA - Sec 24(1)
	Confirm that third party outsourcing agreements are executed correctly	S	GCOC - Sec 3(2) FICA - Sec 24(2)
	Explain the security requirements for record keeping in terms of confidentiality and access to records, taking into account the requirements of the Protection of Personal Information Act.	K	BN 194 of 2017 - Sec 37

MODULE 9: ACCOUNTING AND FINANCIAL REQUIREMENTS

Learning outcomes:

By the end of this module, you will be able to:

1. Explain the statutory financial reporting and recordkeeping obligations of an FSP as prescribed under the FAIS Act and associated regulations.
2. Describe the purpose, structure, and components of financial statements required to be submitted to the FSCA, including income statements, balance sheets, and supporting notes.
3. Differentiate between audited and unaudited financial statements and explain the circumstances under which each is applicable to an FSP.
4. Interpret the requirements of Section 19(2) and Section 19(3) Reports, including when and how these reports must be prepared and submitted.
5. Identify the role and responsibilities of the Key Individual in ensuring that the FSP maintains proper accounting systems, complies with financial regulations, and submits reports within the required timeframe.
6. Explain the function, authority, and duties of an auditor appointed to an FSP, including independence, professional qualifications, and scope of engagement under the Auditing Profession Act.
7. Describe the auditor appointment and approval process, including the FSP's obligation to formally appoint a registered auditor and obtain FSCA approval.
8. Analyze the auditor's responsibility for irregularity reporting, including the obligation to report material findings, concerns, or termination of mandate to the FSCA within 15 days.
9. Discuss the powers of the FSCA Commissioner to instruct the termination of an auditor's mandate, including the procedural safeguards and the rights of both the FSP and the auditor.
10. Outline the financial management responsibilities of FSPs, including monthly record updates, preparation of accurate and complete records, and retention of evidence supporting submitted statements.
11. Demonstrate understanding of the minimum financial requirements for FSPs, including solvency, liquidity, and capital adequacy standards as applicable under the FAIS regulatory framework.
12. Evaluate the implications of non-compliance with financial obligations, including enforcement actions, license suspension, reputational harm, or personal liability for Key Individuals.
13. Apply the principles of sound financial governance in a regulated environment, including the use of qualified accounting officers, audit assurance procedures, and timely submission to regulatory authorities.

Financial Services Providers are legally obligated to maintain proper accounting records and prepare financial statements in accordance with the FAIS Act. These records must accurately reflect the financial position of the business and ensure transparency, compliance, and financial soundness.

This module outlines the statutory requirements regarding financial statements, roles of Key Individuals and auditors, and the reporting obligations of FSPs.

An auditor is an independent professional responsible for examining and evaluating an FSP's financial statements, records, and systems to ensure accuracy, completeness, and compliance with relevant laws and regulations.

An auditor plays a crucial role in ensuring that an FSP complies with the Act's requirements. An auditor is a professional who conducts an independent examination and evaluation of an organization's financial statements, records, and operations to ensure accuracy, completeness, and compliance with laws and regulations. An Auditor performs the following functions:

- Conduct audits to identify errors, irregularities, or non-compliance.
- Evaluate internal controls and risk management processes.
- Provide assurance on financial statements and operations.
- Identify areas for improvement and provide recommendations.



KEY CHARACTERISTICS OF AN AUDITOR

Independent and Objective

An auditor must maintain independence and objectivity in their work.

Trained and Certified

Auditors are typically trained and certified (e.g., CA, ACCA).



Skilled in Accounting

They possess skills in accounting, auditing, and financial analysis.

Familiar with Laws

Auditors must be familiar with relevant laws, regulations, and standards.

ROLE AND RESPONSIBILITIES OF AUDITOR

Conduct Audits

Conduct audits and reviews of financial statements.

Evaluate Controls

Evaluate internal controls and risk management processes.

Identify Findings

Identify and report material findings and non-compliance.

Provide Recommendations

Provide recommendations for improvement and remediation.

APPOINTMENT OF AN AUDITOR

An Auditor is appointed by the FSP but is approved by the Commissioner of the FSCA. The auditor must be a registered auditor in terms of the Auditing Profession Act, 2005. The auditor must be independent of the FSP and its management. The auditor must have the necessary skills, knowledge, and experience to perform the audit

The FSP must appoint the auditor. The appointment must be in writing and must specify the terms and conditions of the appointment.

APPROVAL OF AN AUDITOR

Approval of Auditor	The FSP must notify the FSCA of the auditor's appointment within 15 days by submitting a completed FSP9 form along with the required application fee.
Auditor's Responsibilities	<ol style="list-style-type: none"> 1. Independence: Maintain objectivity. 2. Notification: Inform if unable to perform duties. 3. Professional Development: Stay updated with industry standards.
Competence & Qualifications	<ol style="list-style-type: none"> 4. Sufficient experience and knowledge. 5. Qualifications: Registered with a professional body. 6. Access to Resources: Up-to-date information library.
FSCA Approval	The Auditor must be approved by the Commissioner of the FSCA. The FSCA may object within 30 days, requiring the FSP to appoint a new auditor.

IRREGULARITY REPORTING

Auditors have a critical role in ensuring compliance with the FAIS Act, and as such, they are required to report any irregularities or suspected irregularities to the FSCA **within 15 days**. This includes reporting any material findings or concerns regarding the FSP financial statements or internal controls.

Furthermore, auditors must also report to the FSCA if their mandate is terminated or changed by the FSP, ensuring transparency and accountability throughout the auditing process.

TERMINATION OF MANDATE OF THE AUDITOR BY THE FSP

Termination of Auditor's Mandate	If the appointment of an Auditor of an FSP is terminated, the Auditor must submit a statement to the Commissioner regarding the reasons for termination.
Auditor's Reporting Obligations	If there are reasons to submit a report regarding any irregularity or suspected irregularity, the Auditor must submit such a report.
Commissioner's Authority	The Commissioner may require the FSP to terminate the Auditor's appointment if the Auditor no longer complies with requirements or fails to comply materially.
Notice Requirements	The notice takes effect on a specified date and may only be sent after the Commissioner has given reasons to the FSP and the Auditor.

TERMINATION ON INSTRUCTION BY THE COMMISSIONER

The Commissioner has the authority to instruct an FSP to terminate the appointment of an auditor under certain circumstances. This may occur if the auditor no longer meets the requirements that were in place when they were initially approved by the Commissioner, or if they fail to comply with any provision of the regulations in a material manner. Before issuing such a notice, the Commissioner must provide the FSP and the auditor with reasons for the proposed termination, as well as a reasonable opportunity to respond and be heard. The Commissioner will consider any submissions made before making a final decision, and the notice will take effect on a specified date.

FINANCIAL STATEMENTS

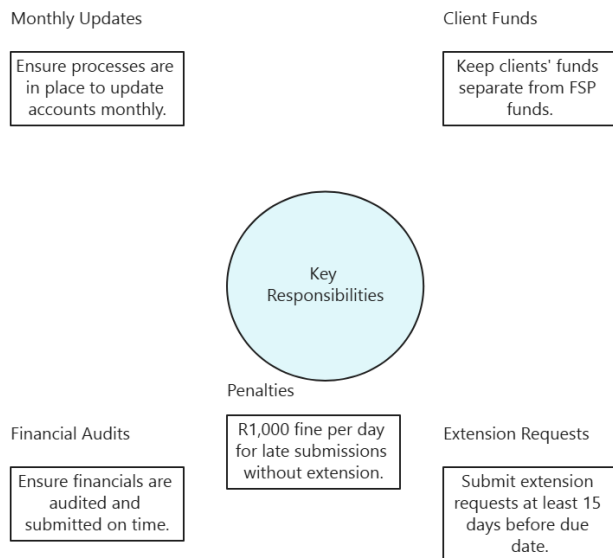
Accounting Records	All FSPs must maintain accounting records updated at least monthly to support the preparation of financial statements.
Financial Statements	Financial statements must fairly represent the state of affairs and refer to any material facts affecting the FSP's financial affairs.
Submission Deadline	Statements must be submitted to the FSCA within four months after the end of the FSP's financial year.
Audit Requirements	Financial statements must be audited by an external auditor approved by the Commissioner, in line with the Auditing Profession Act.

KEY INDIVIDUAL RESPONSIBILITY IN RESPECT OF FINANCIAL STATEMENTS

Key Individuals are responsible for ensuring that:

- The FSP has adequate financial systems in place.
- Accurate records are maintained monthly.
- Financial statements are prepared and submitted to the FSCA on time.
- That all financial obligations and solvency requirements are met.

Failure to ensure compliance may result in regulatory sanctions, license suspension, or personal liability.



AUDITED VS UNAUDITED FINANCIAL STATEMENTS

Audited Financial Statements are required when:

- The FSP holds or handles client funds or collects premiums.
- The FSP is incorporated as a company.
- The FSCA or legislation mandates external auditing due to the FSP's size, scope, or business activities.

Unaudited Financial Statements may be accepted for:

- Sole proprietors who do not collect premiums or client funds.

Financial Statements Overview	In terms of section 19, all financial statements must be audited. However, certain providers are exempted from the audit requirements.
Category II, IIA, III and IV FSP's	Must submit AUDITED FINANCIAL STATEMENTS.
Category I FSP's	Companies – AUDITED FINANCIAL STATEMENTS Sole proprietors and CC's that DO NOT receive client funds or premiums – UNAUDITED FINANCIAL STATEMENTS Sole proprietors and CC that DO receive client funds or premiums – AUDITED FINANCIAL STATEMENTS.

TYPES OF FINANCIAL STATEMENTS

- Section 19 (2) Report

External Auditors Report -S19(2) Report

Purpose

This report is part of all financial statements.

Who Needs to Submit?

- Category II, IIA, III and IV FSP's
- Any registered company

Exclusions

- FSP who receives client funds and/or premiums
- EXCLUDING FSP's approved in Long Term Cat A.

Requirements

These FSP's must have financial statements prepared by an accounting officer.

- Section 19(3) Report

Audit Report (19(3))

This report details the separate banking account (Trust Account) to ensure client assets are protected and kept separate from FSP's business funds.

Purpose of 19(3) Report

- Protect client assets from unauthorized use
- Keep funds separate from FSP's business
- Detect non-compliance regarding client funds

Who Needs to Submit?

Any FSP receiving client funds or holding assets, except short-term insurance brokers with a valid IGF.

Submission Details

FSPs must submit the report prepared by an external auditor or an accounting officer for specific categories.

FSPs must:

- Ensure that financial records are up to date and reconcilable.
- Confirm that an auditor is appointed where required.

- Submit financial reports in the prescribed format and timeframe.
- Maintain documentary evidence to support all submitted financial information.

Before proceeding to the next module, please ensure that you meet the below task criteria as set out by the FSCA.

Task	Qualifying Criteria	Knowledge (K) or Skill (S)	Legislation Reference / Motivation
Manage and oversee the accounting and auditing requirements	Describe the accounting and auditing requirements prescribed by the FAIS Act.	K The task requires knowledge of a specific section of the legislation or regulation	FAIS Act - Sec 19 FAIS Act - Sec 19(1) FAIS Act - Sec 19(2) FAIS Act - Sec 19(3)
	Check that the required accounting and auditing requirements are in place and carried out accurately and timeously.	S The task requires practical ability to perform tasks or apply knowledge in real scenarios	FAIS Act - Sec 19 FAIS Act - Sec 19(1)
	Describe the requirements for appointing an auditor or accounting officer.	K	FAIS Act - Sec 19 FAIS Act - Sec 19(2)(a) FAIS Notice 82 of 2015
	Ensure that the audit report submitted to the Financial Sector Conduct Authority where funds are received meets the regulatory requirements.	S	FAIS Act - Sec 19 FAIS Act - Sec 19(1) FAIS Act - Sec 19(3) GCOC - Sec 10 BN85 of 2008 – Schedule B

MODULE 10: ANTI MONEY LAUNDERING

Learning outcomes:

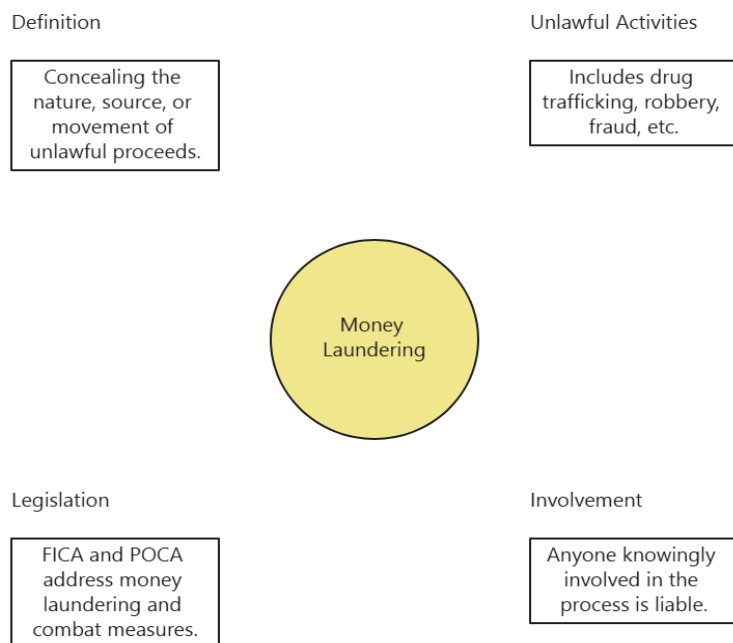
By the end of this module, you will be able to:

1. Explain the objectives and key provisions of the Financial Intelligence Centre Act (FICA) and describe its relationship with other legislation such as the FAIS Act, POCA, and POCDATARA.
2. Define money laundering and terrorist financing and explain the risks these pose to the financial sector and the broader economy.
3. Describe the legal framework and regulatory bodies involved in anti-money laundering (AML) and counter-terrorism financing (CTF), including the roles of the Financial Intelligence Centre (FIC), the Counter-Money Laundering Advisory Council, and accountable institutions.
4. Identify the obligations of Financial Services Providers as Accountable Institutions, including requirements relating to client identification and verification, ongoing due diligence, and recordkeeping under FICA.
5. Develop and implement a Risk Management and Compliance Programme (RMCP) that meets the statutory requirements of FICA and supports effective AML/CTF controls, including procedures for customer due diligence (CDD), enhanced due diligence (EDD), and transaction monitoring.
6. Explain the reporting obligations under FICA, including Cash Threshold Reporting (CTR) under Section 28, Suspicious Transaction Reporting (STR) under Section 29, Terrorist Property Reporting (TPR) under Section 28A, and International Funds Transfer Reporting (IFTR) under Section 31.
7. Interpret the applicable thresholds, timelines, and exemptions for various reports, including the R50,000 threshold for CTR and the R20,000 threshold for IFTR.
8. Describe the process for submitting reports to the FIC using the goAML system, and explain the confidentiality, legal protection, and non-tipping-off requirements relating to such submissions.
9. Explain the consequences of non-compliance with AML/CTF obligations, including administrative sanctions, criminal penalties, reputational risk, and possible suspension or withdrawal of an FSP license.
10. Demonstrate knowledge of the role of the Money Laundering Reporting Officer (MLRO) in overseeing the implementation of the RMCP, reviewing internal escalations, liaising with the FIC, and ensuring employee training.
11. Assess the internal controls and governance practices needed to support AML compliance, including sanctions screening, client risk classification, audit trails, and staff accountability.
12. Recognize the importance of ongoing AML training and awareness and outline the content and documentation requirements for an effective employee AML training programme.
13. Apply a risk-based approach to compliance, including identifying red flags, escalating suspicious transactions, conducting enhanced due diligence, and implementing controls to mitigate identified AML/CTF risks.

The Financial Intelligence Centre Act (FICA) is a crucial piece of legislation in South Africa that aims to combat money laundering, terrorist financing, and other illicit financial activities. It establishes strict obligations for FSPs (who are deemed to be Accountable Institutions) as well as other accountable institutions, to identify suspicious activities and report them to the Financial Intelligence Centre (FIC). FICA also creates a framework for due diligence, record-keeping, and training, all designed to mitigate the risks of the financial system being used for illegal activities. Financial Services Providers (FSPs) in South Africa are required to comply with the Financial Intelligence Centre Act (FICA) and specific provisions of the Financial Advisory and Intermediary Services (FAIS) Act in relation to anti-money laundering (AML) and counter-terrorism financing (CTF).

This module outlines the legal framework, obligations, and compliance mechanisms required to manage money laundering risk effectively within an FSP.

DEFINING MONEY LAUNDERING



PREVENTION OF ORGANISED CRIME ACT 21 OF 1998 (POCA)

This Act is important as the actual money laundering deeds are a criminal offence under POCA.

Objectives of POCA are to:

- Criminalize racketeering and offences relating to activities of criminal gangs.
- Criminalize money laundering and serious offences relating to money laundering and racketeering.
- Create reporting obligations for businesses coming into possession of suspicious property.
- Create a mechanism for criminal confiscation of proceeds and for civil forfeiture of proceeds.

THE RELATIONSHIP BETWEEN FICA AND POCA

Interconnectedness

- POCA and FICA are complementary laws that work together
- POCA focuses on criminal activities and involvement in proceeds of crimes
- FICA imposes duties on identifying and reporting proceeds of crimes.

Consequences of Non-Compliance

- A person can be charged under both laws for:
- Committing a crime under POCA (e.g., money laundering)
- Failing to report suspicious transactions under FICA

POCDATARA (Protection of Constitutional Democracy against Terrorism and Related Activities Act), 2004

FICA Overview	FICA aligns with international efforts to prevent the laundering of criminal proceeds, ensuring compliance with global anti-money laundering (AML) regulations.
Money Laundering	Money laundering is the process of hiding the origins of money gained from criminal activity, making it appear as though the money was earned legally.
FICA's Role	FICA plays a vital role in preventing money laundering and terrorist financing within South Africa's financial system through compliance programs and reporting obligations.
Compliance Requirements	FSPs must implement robust compliance programs, maintain confidentiality, and ensure proper record-keeping, client verification, and training to combat financial crime.
Consequences of Non-Compliance	Non-compliance with FICA can result in significant legal and financial consequences, impacting the integrity of the financial system.

ROLE PLAYERS IN FICA

Accountable institutions

FICA has listed institutions that have obligations in dealing with clients - the list includes institutions and their related role players that could be used by criminals to launder money. The list of accountable institutions includes all forms of banks and the Postbank, estate agents, attorneys, trust companies, collective investment scheme managers, investment brokers, public accountants, stockbrokers, the Ithala development corporation, money remitters, casinos, and long-term insurance companies as well as their brokers and representatives (not all products are affected). Accountable institutions have to comply with various duties and procedures which relate to the reporting of suspicious and unusual transactions to the Financial Intelligence Centre.

The Financial Intelligence Centre (FIC)

The Financial Intelligence Centre (FIC) is the central body created by FICA to coordinate the effort against money laundering. The objectives of the FIC are to:

- Assist with the identification of proceeds of unlawful activities and combating of money laundering activities.
- Make information gathered by it available to various authorities, such as the police or intelligence services, and the South African Revenue Services (SARS).
- Exchange information with similar bodies in other countries about techniques used by criminals as well as about specific transactions or suspected international criminals.

(Counter) Money laundering Advisory Council

The Counter Money Laundering Advisory Council is an advisory body. Objectives include advising the Minister of Finance on policies and best practice to combat money laundering activities and the identification of proceeds of unlawful activities. The Council acts as a forum for various associations to meet and consult each other on common issues, such as how best to implement the obligations of the Act. The associations include the State and supervisory bodies. Based on the outcome of discussions and input from the State and international bodies, the Council advises the FIC on how best to perform its functions.

PURPOSE OF FICA

FICA aims to combat money laundering and the financing of terrorism by:

- Establishing the Financial Intelligence Centre (FIC) and a Counter-Money Laundering Advisory Council.
- Imposing duties on institutions that might be used for money laundering.

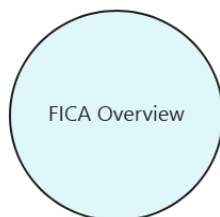
- Registering accountable and reportable institutions.
- Amending related laws

Goals of FICA

- Identification of unlawful proceeds
- Combating money laundering
- Combating terrorist financing

Supporting Legislation

- Prevention of Organized Crime Act (POCA)
- Protection of Constitutional Democracy Against Terrorism and Related Activities Act (POCDATARA)



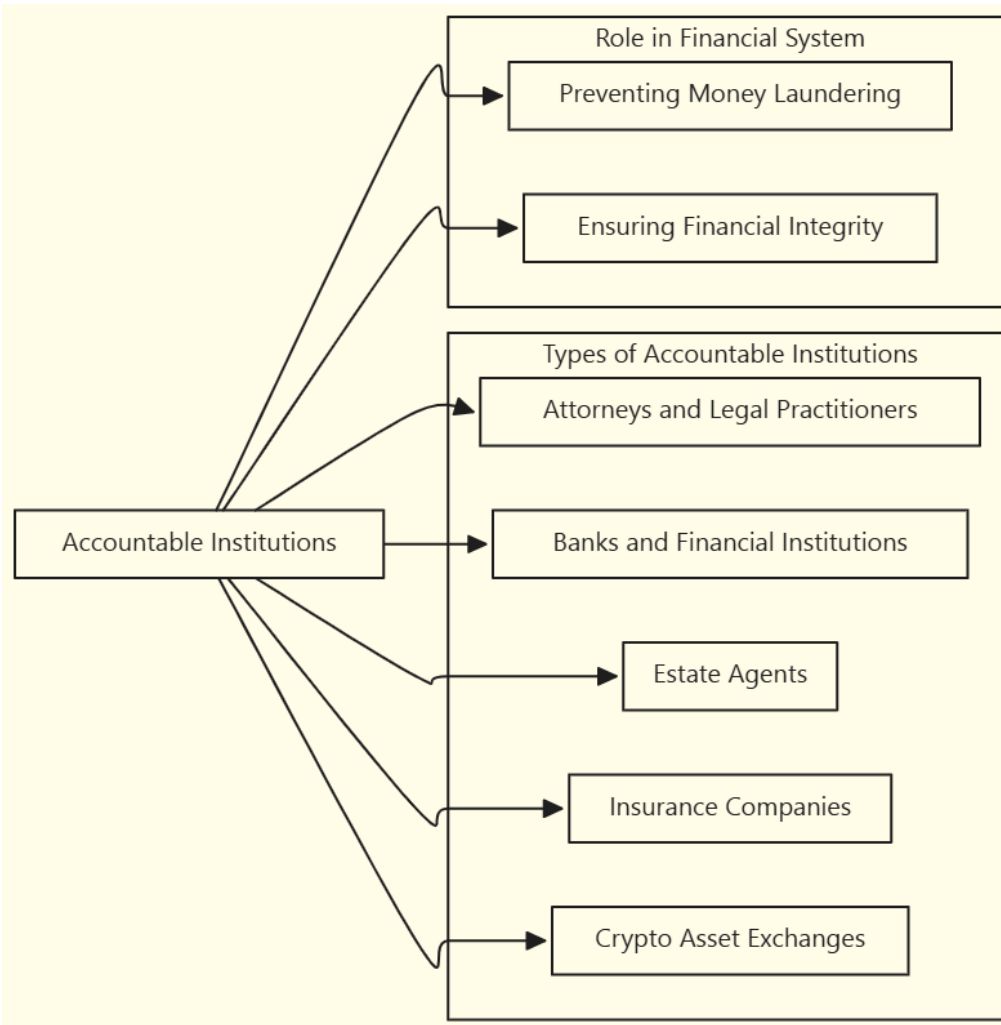
Key Functions

- Detect illegal proceeds
- Prevent disguising of crime proceeds
- Block terrorist funding

Impact

- Strengthens financial system integrity
- Enhances national security
- Promotes lawful economic activities

Key Institutions	FICA applies to accountable institutions, including FSPs, financial institutions, attorneys, car dealerships, estate agents, casinos, and microlenders.
FICA Requirements	Institutions must formulate and implement internal FICA rules and Risk Management and Compliance Programs (RMCP) to detect and mitigate risks related to money laundering and terrorist financing.
Employee Compliance	Ensure all employees adhere to FICA requirements and report suspicious transactions to maintain compliance and prevent illicit activities.



Compliance Officer Appointment	Institutions must appoint a compliance officer and ensure employees are well-trained in the requirements of FICA.
Record Keeping	Accountable Institutions must keep records for at least five years, including identity details of clients and transaction amounts.
Methods of Record Keeping	Records can be kept electronically and must be accessible. If kept by a third party, the institution is still responsible for compliance.
Access to Records	Authorized FIC representatives can access records during working hours with a warrant if there are reasonable grounds for suspicion.

Obligations of Accountable Institutions

Under FICA, FSPs are defined as "accountable institutions" as outlined in Schedule 1. Their obligations include:

Client Identification	FSPs must identify and verify the identity of clients before establishing a business relationship or conducting a single transaction above the prescribed threshold.
Ongoing Due Diligence	Maintain current client information and understand the nature and purpose of the business relationship.
Record Keeping	Maintain records of client identity, transactions, and due diligence for at least five years. Records must be readily accessible and securely stored.
Risk-Based Approach	Develop and implement a Risk Management and Compliance Programme (RMCP) that outlines client identification, risk assessment, and internal reporting procedures.
Reporting Obligations	Report suspicious transactions, cash threshold reporting, terrorist property reporting, and international funds transfer reporting as per the specified timelines.
Employee Training	Ensure all staff receive AML/CTF training and are aware of reporting obligations, with a documented process for training and staff acknowledgment.
Security and Confidentiality	Information gathered must be protected in line with POPIA and FICA's confidentiality rules.
Inspection and Co-operation	FSPs must cooperate with inspections and provide information as required by the FIC or supervisory body.

REPORTING OBLIGATIONS IN TERMS OF FIC

1. Cash Transaction Reporting under FICA

The Financial Intelligence Centre Act, 38 of 2001 places obligations on accountable institutions to assist in the fight against money laundering, terrorist financing, and other financial crimes. One of these obligations is Cash Transaction Reporting (CTR).

What is Cash Transaction Reporting (CTR)?	Cash Transaction Reporting is the obligation placed on certain businesses to report high-value cash transactions to the Financial Intelligence Centre (FIC) to monitor for money laundering.
Reporting Thresholds	Current threshold (2025): R50,000 or more. This includes single or multiple cash transactions that total R50,000 within 24 hours.
Timelines for Reporting	Reports must be submitted within 2 business days of awareness of the cash transaction meeting the threshold. Suspicious transactions must be reported immediately.
Exemptions	Exemptions include reinsurance policies, unit trusts (if EFT), and long-term insurance policies under specific conditions.

2. Reporting Terrorist Financing

Terrorist financing is one of the most serious reporting obligations under the Financial Intelligence Centre Act. It carries strict timelines, criminal penalties, and a zero-tolerance approach.

What is Terrorist Financing Reporting?	<p>Reporting actual knowledge, suspicion, or belief that a transaction or activity is linked to:</p> <ul style="list-style-type: none"> - Terrorist acts - Terrorist organizations - Property connected to terrorism. <p>This obligation is triggered even if no cash is involved, focusing on terrorism links, not just money laundering.</p>
What Law Applies?	<p>The primary laws governing this in South Africa are:</p> <ul style="list-style-type: none"> - FICA: Requires immediate reporting of terrorist financing suspicions - POCDATARA Act: Defines terrorist acts, organizations, offences - UN Security Council Resolutions: Enforce financial sanctions against listed terrorist entities.
Reporting Timeline	<p>Type: Reporting Timeline</p> <ul style="list-style-type: none"> - Suspicion of terrorist financing (section 29 of FICA): Within 5 business days - Actual knowledge or possession of terrorist property (section 284 of FICA): Immediately.
Filing Reports	<p>The report (called a Terrorist Property Report or TPR) must be filed via the FIC's goAML system using the correct TPR form. South Africa is part of international agreements (like FATF) and is obliged to monitor terrorist financing aggressively.</p>

3. Suspicious Transaction Reporting

Suspicious transaction reporting is one of the core obligations under the Financial Intelligence Centre Act. It is a broad duty that applies across all types of financial crimes, not just money laundering or terrorist financing.

What is a Suspicious Transaction?	A suspicious transaction occurs when a person knows, suspects, or ought reasonably to have known or suspected that a transaction may involve unlawful activities or has no apparent lawful purpose.
Important Points	Suspicion alone is enough to report. Reports must be made within 5 business days after suspicion arises.
Reporting Rules	No tipping-off allowed. Internal escalation required. Report even if the transaction does not go through. STRs are confidential.
After Reporting	The FIC may investigate or freeze accounts. Failure to file a STR can result in severe penalties.

Rule	Explanation
No tipping-off allowed	You cannot tell the client you reported them. This is a criminal offence under FICA.
Internal escalation	Many institutions require you to escalate internally first (to the Money Laundering Reporting Officer - MLRO) before submitting to the FIC.
Even if the transaction does not go through	You must still report attempted suspicious transactions (e.g., client withdraws after you ask FICA questions).
STRs are confidential	Only the FIC and authorised persons may access the information.

Failure to file a STR when required can result in:

Criminal Penalty	Fine of up to R100 million and/or 15 years' imprisonment
Administrative Sanctions	Censure, directives, remedial action

4. International Funds Transfer Reporting (IFTR)

International funds transfer reporting is another important obligation under the Financial Intelligence Centre Act. It focuses specifically on cross-border money movements, that is, payments into and out of South Africa.

What is IFTR?	International Funds Transfer Report (IFTR) is required when an accountable institution sends or receives money across South Africa's borders. It applies to outgoing and incoming transfers, both personal and business.
When to Report?	Section 31 of FICA mandates reporting for every qualifying cross-border transfer, regardless of suspicion. All transfers initiated by or for a person in South Africa must be reported.
Reporting Thresholds	Transfers of R20,000 or more must be reported. Multiple smaller transfers that total R20,000 in a day by the same client also require reporting, regardless of suspicion.
Reporting Deadline	Reports must be submitted within 3 business days after the transaction is concluded, which is defined as when the money is paid or received.
Institutions Required to Report	Reporting applies to banks, financial institutions, authorized dealers in foreign exchange, money remitters, and some insurers involved in cross-border transfers.

Risk Management and Compliance Programme (RMCP)

Every FSP that qualifies as an accountable institution must implement a documented Risk Management and Compliance Programme. The RMCP must:

- Describe how the institution will comply with FICA
- Include risk assessment processes
- Set out procedures for CDD, record keeping, reporting, and training
- Be approved by senior management or Key Individuals
- Include mechanisms for evaluating new products and services for AML/CTF risk
- Be verified to ensure processes for identification, verification, reporting, and record-keeping are in place (Sec 22, 23(a), 28A, 43, 43A, 43B)

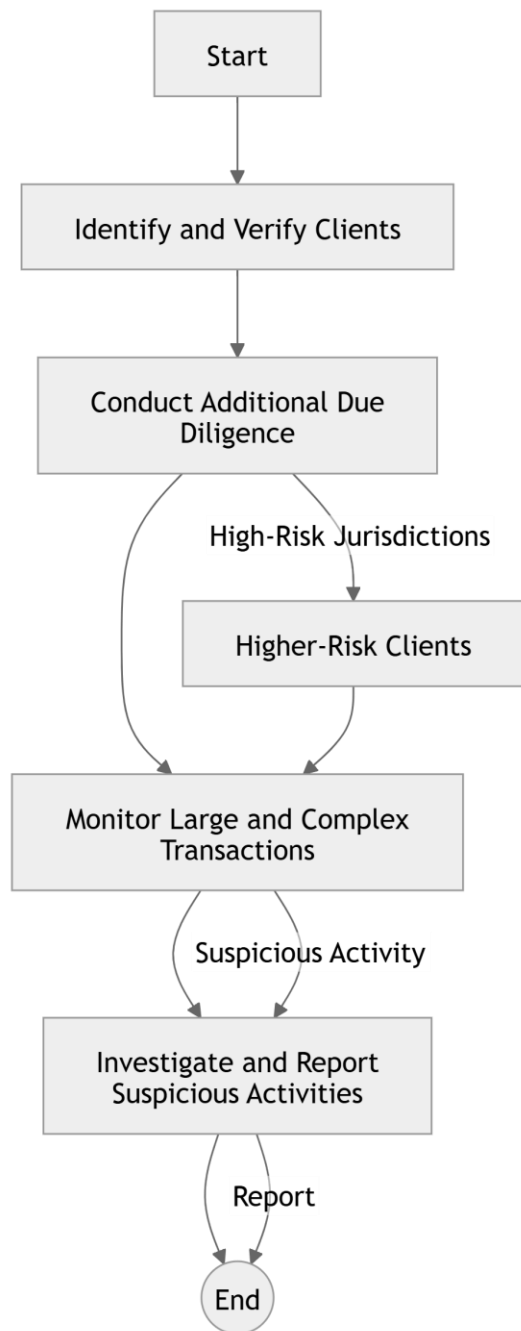
FSPs are required to implement a Risk Management and Compliance Programme (RMCP). This program must include:

- **Identification:** FSPs must identify clients and verify their identities to ensure that they are legitimate.

- **Assessment:** The FSP must assess the risk of the client's potential involvement in money laundering or terrorist financing.
- **Monitoring:** Regular monitoring of transactions is essential to detect any suspicious activities.
- **Mitigation:** FSPs must take steps to prevent illicit activities and comply with FICA.

The RMCP should outline how the FSP / Accountable Institution will:

- Identify and verify clients. FSPs / Accountable Institutions must verify the identities of their clients to ensure that they are not facilitating illegal activities.
- Conduct additional due diligence on higher-risk clients (such as clients from high-risk jurisdictions). FSPs / Accountable Institutions must also establish due diligence measures, especially when dealing with higher-risk business relationships (e.g., politically exposed persons or entities from high-risk countries).
- Monitor large and complex transactions.
- Investigate and report suspicious activities.



CONFIDENTIALITY AND REPORTING

FSPs are required to protect client confidentiality, but must disclose information under FICA in certain situations.

DISCLOSURE CIRCUMSTANCES

- Written consent from the client allows for disclosure.
- Disclosure required by law under FICA.
- Public interest disclosures (e.g., national security, preventing crime).

FICA REPORTING OVERRIDES

FSPs must report suspicious transactions or cash transactions over R24,999.99, regardless of confidentiality.

ACCESS TO REPORTS

The Financial Intelligence Centre (FIC) and authorized bodies may access these reports.

Compliance Officer Appointment	FSPs must appoint a Compliance Officer responsible for ensuring that the institution complies with FICA regulations. The Compliance Officer is also responsible for ensuring employees adhere to internal FICA rules.
Training Responsibilities	Conducting training for employees to recognize suspicious transactions and reporting suspicious activities to the FIC. This training should be ongoing to keep up with new risks and regulations.
Ongoing Training	FSPs must provide adequate training to their employees on how to identify suspicious activities and comply with FICA requirements. This training should adapt to evolving criminal tactics.

Role of the Money Laundering Reporting Officer (MLRO)

FSPs must appoint a compliance officer or MLRO responsible for:

- Implementing the RMCP
- Ensuring staff are trained on AML/CTF obligations
- Reviewing and escalating STRs and other reports
- Liaising with the FIC

The MLRO must act independently and ensure the integrity of the compliance process.

Training and Awareness

All employees, including representatives, must receive regular AML training. Training must include:

- Identifying red flags for suspicious activity
- Knowing when and how to escalate suspicious transactions
- Understanding internal procedures for CDD and reporting
- Awareness of sanctions screening and terrorist financing indicators
- Confirm that employees are trained

Enforcement and Penalties

Failure to comply with FICA may result in:

- Administrative sanctions imposed by the FIC or FSCA
- Criminal penalties including fines or imprisonment
- Withdrawal or suspension of the FSP license

The FSCA may also take action under the FAIS Act (Section 18) if AML compliance failures indicate broader governance or fit and proper concerns. Before proceeding to the next module, please ensure that you meet the below task criteria as set out by the FSC

Task	Qualifying Criteria	Knowledge (K) or Skill (S)	Legislation Reference / Motivation
Manage and oversee the requirements of the FIC Act and Money Laundering and Terrorist Financing control regulations, as it applies to the FSP.	Explain the requirements specific to a FSP prescribed by the FIC Act.	K The task requires knowledge of a specific section of the legislation or regulation	FICA Schedule 1 & 3 FICA - Sec 21(1)(a) FICA - Sec 22 & 22A FICA - Sec 23 FICA - Sec 23(a) FICA - Sec 29 FICA - Sec 42
	Verify that all requirements for the Compliance Risk Management Programme as required by the FIC Act are in place.	S The task requires practical ability to perform tasks or apply knowledge in real scenarios	FICA - Sec 42
	Verify that the FSP has processes in place to ensure compliance with the identification, verification, record-keeping, and reporting obligations under the FIC Act.	S	FICA - Sec 22 FICA - Sec 23(a) FICA - Sec 28A FICA - Sec 43 FICA - Sec 43A & 43B

MODULE 11: THE FAIS OMBUDSMAN

Learning outcomes:

By the end of this module, you will be able to:

1. Explain the purpose, legal basis, and mandate of the FAIS Ombud, including its establishment under the Financial Advisory and Intermediary Services Act and its role in consumer protection.
2. Describe the core principles that guide the operations of the FAIS Ombud, including independence, impartiality, informality, equity, and accessibility.
3. Outline the jurisdiction of the FAIS Ombud, including the types of complaints it may investigate, the financial services providers and representatives it oversees, and the conditions under which it may decline to investigate a complaint.
4. Identify the roles and functions of the FAIS Ombud, particularly in resolving disputes involving negligence, misrepresentation, non-disclosure, or breaches of the FAIS Act or General Code of Conduct.
5. Explain the structured complaint process that consumers must follow, including attempting internal resolution with the FSP, Lodging a formal complaint with the FAIS Ombud, Providing supporting documentation, Participating in the Ombud's investigation process.
6. Describe the process followed by the FAIS Ombud in investigating complaints, including information gathering, engagement with the FSP and complainant, and the assessment of fairness and regulatory compliance.
7. Interpret the outcomes of Ombud investigations, including recommendations, binding determinations, and the legal or financial implications for the FSP.
8. Assess the impact of the FAIS Ombud's determinations on an FSP's regulatory obligations, reputation, and compliance framework.
9. Recognize the significance of the Ombud Council and how the FAIS Ombud interacts with other industry ombudsman offices under this broader oversight structure.
10. Demonstrate an understanding of the importance of internal complaints handling procedures for FSPs and how effective resolution at the firm level may prevent escalation to the FAIS Ombud.

The FAIS Ombud is an independent body established under the FAIS Act to provide a mechanism for the resolution of complaints against Financial Services Providers, their representatives, and other parties involved in the provision of financial services. The FAIS Ombud is specifically designed to protect the interests of consumers and ensure that financial services are rendered fairly, transparently, and in accordance with the law.

The primary function of the FAIS Ombud is to provide an accessible and impartial dispute resolution service for clients who have experienced issues with FSPs, particularly in situations where there is a perceived violation of the FAIS Act or related financial services regulations. The FAIS Ombud can intervene in cases where clients believe they have been wronged by an FSP, whether due to negligence, misrepresentation, non-disclosure, or breach of regulatory obligations.

The FAIS Ombud is appointed by the FSCA to provide a free service to resolve complaints from clients against FSPs. The FAIS Ombud, along with other industry Ombudsman, will fall under the Ombud Council, established

- Informality: Resolving complaints outside of a court environment.
- Independence and Impartiality: Remaining neutral and unbiased.
- Equity: Considering contractual and legal relationships to ensure fair outcomes.

The Ombud's goal is to provide a swift, cost-effective, and fair resolution to complaints.

JURISDICTION OF THE OMBUD

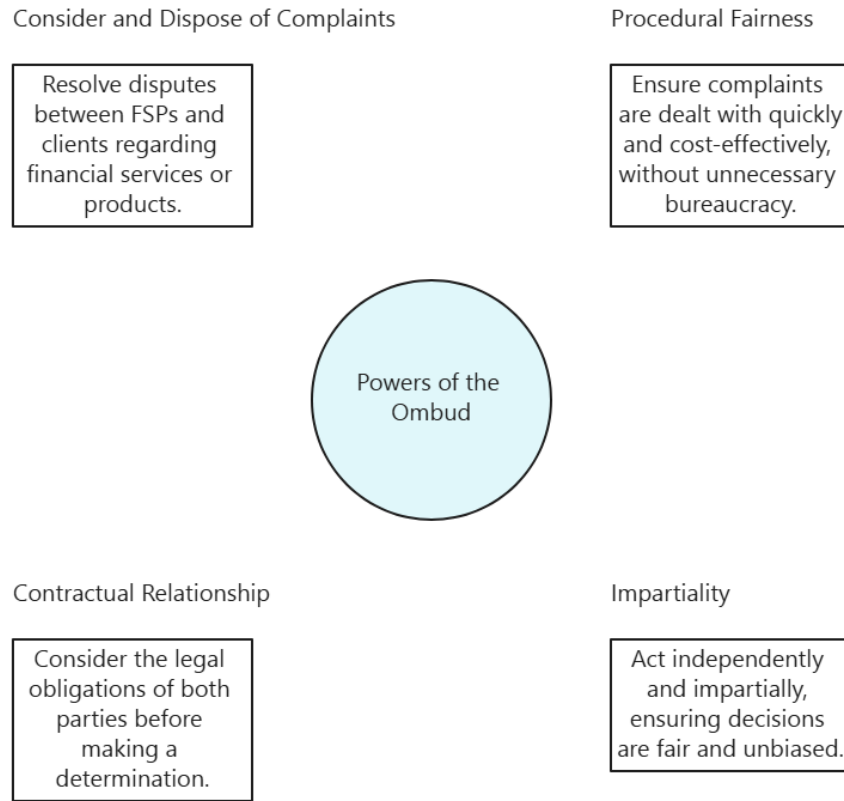
FAIS Ombud Jurisdiction	The FAIS Ombud handles complaints from consumers against Financial Service Providers (FSPs) including financial advisors, insurance brokers, and investment managers under the FAIS Act.
Jurisdiction Includes	<ul style="list-style-type: none"> • Investment products (e.g., mutual funds, retirement annuities). • Life insurance and short-term insurance policies. • Financial advice and intermediary services.
Exclusions	<ul style="list-style-type: none"> • Complaints related to non-financial services. • Matters under the jurisdiction of other regulatory bodies like the National Credit Regulator

ROLE AND FUNCTION OF THE FAIS OMBUD

The primary function of the FAIS Ombud is to provide an accessible and impartial dispute resolution service for clients who have experienced issues with FSPs, particularly in situations where there is a perceived violation of the FAIS Act or related financial services regulations. The FAIS Ombud can intervene in cases where clients believe they have been wronged by an FSP, whether due to negligence, misrepresentation, non-disclosure, or breach of regulatory obligations.

Investigating Complaints	The FAIS Ombud investigates complaints against FSPs, addressing issues like poor advice, misrepresentation, and compliance failures. It serves as an alternative to litigation, providing a cost-effective resolution.
Providing Recommendations	After investigations, the Ombud offers recommendations for remedies, which may include compensation or corrections. If disagreements arise, matters can escalate to higher forums.
Binding Determinations	The Ombud can make binding determinations if FSPs fail to comply with decisions, ensuring consumers have legally enforceable outcomes for upheld complaints.
Educating Consumers	The Ombud educates consumers about their rights under the FAIS Act and informs FSPs about their obligations, promoting compliance and awareness in the industry.
Ensuring Fair Treatment	The Ombud safeguards against unethical practices, ensuring clients are treated fairly and have a reliable avenue for seeking redress in the financial services sector.

FILING A COMPLAINT WITH THE OMBUD



Consumers who wish to lodge a complaint with the FAIS Ombud must follow a structured process:

Attempt to Resolve the Matter with the FSP:

- Before submitting a complaint to the Ombud, consumers are encouraged to first try and resolve the issue directly with the FSP or representative involved. Most issues can be resolved at this level through negotiation or mediation.

Submit a Formal Complaint to the FAIS Ombud:

- If the issue is not resolved satisfactorily with the FSP, consumers can submit a formal complaint to the FAIS Ombud. This can be done through an online form or via mail, and must include all relevant details, including the nature of the complaint, the FSP involved, and any supporting documentation (such as emails, contracts, or financial statements).

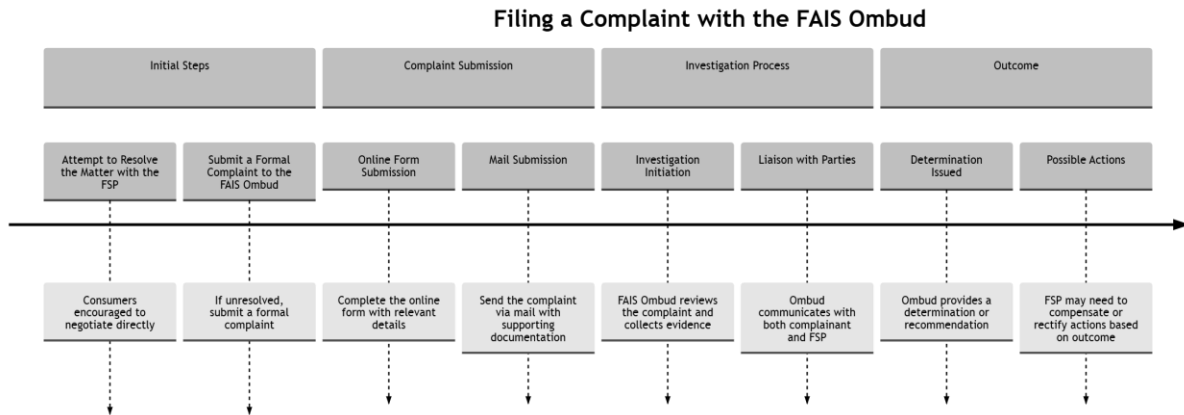
Investigation Process:

- Once a complaint is submitted, the FAIS Ombud will initiate an investigation, which involves reviewing the complaint, collecting evidence, and liaising with both the

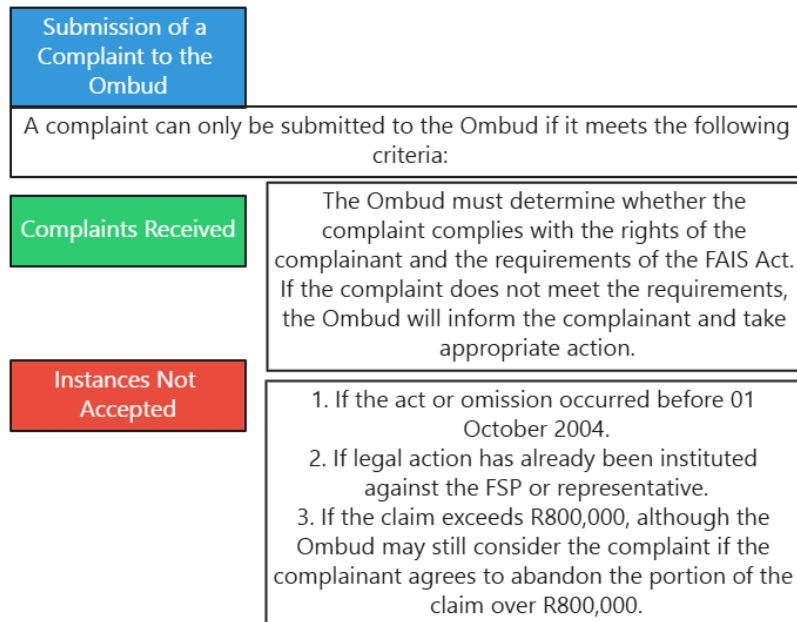
complainant and the FSP. The Ombud will work to resolve the dispute in a fair and impartial manner.

Outcome of the Investigation:

- Following the investigation, the FAIS Ombud will issue a determination or recommendation. If the determination is in favor of the consumer, the FSP may be required to provide financial compensation, rectify their actions, or take corrective steps.



SUBMITTING A COMPLAINT TO THE OMBUD



DECLINING TO INVESTIGATE

When can the Ombud decline to investigate

Complaints considered within 3 years

- Complaints related to actions within the last 3 years only.
- If harm discovered within 3 years, complaint may be considered.

Declining to Investigate

1. Court proceedings: Already taken to court.
2. Conflict with other processes: Legal action during investigation.
3. Alternative dispute resolution: Referral to another mechanism.

Important Notes

- Complaints must be relevant to recent actions.
- Awareness of issues is crucial for consideration.

INVESTIGATING A COMPLAINT

Investigation of the Complaint

The Ombud will not proceed with a complaint unless:

1. All interested parties have been informed about the complaint.
2. Particulars have been provided to all parties, allowing them to respond appropriately.
3. Opportunity to respond: All parties involved will be given an opportunity to respond to the complaint.

Procedures for Investigation

- The Ombud may use mediation or other appropriate methods to try and resolve the dispute.
Example: The Ombud may recommend mediation between the client and the FSP if both parties are open to resolving the issue without further escalation.

Matters Not Settled or Not Accepted by All Parties

If the complaint is not resolved or accepted by all parties, the Ombud may:

1. Dismiss the complaint.
2. Uphold the complaint (fully or partially).
3. Award compensation to the complainant for any financial prejudice or damages.
4. Issue a direction against the FSP, representative, or other involved party.

Monetary Awards

1. Compensation: If the Ombud upholds the complaint, they may order monetary compensation for the client. This compensation may be subject to interest.
2. Costs: The Ombud can also award costs, either for the complainant or the respondent, depending on the circumstances.

Declining to Investigate

The Ombud may decline to investigate a complaint under the following circumstances:

1. Court proceedings: If the complainant has already taken the matter to court, the Ombud will not investigate.
2. Conflict with other processes: If the complainant institutes legal action during the Ombud's investigation, the Ombud may decide to cease investigation and let the court handle it.

DETERMINATIONS AND IMPACT OF DECISIONS

Impact of FAIS Ombud's Decisions	The decisions of the FAIS Ombud are legally binding if the FSP agrees or fails to challenge them. Non-compliance may lead to legal consequences or regulatory action from the FSCA.
Appealing the Ombud's Decision	The Ombud's decision can be appealed to the Financial Services Tribunal with the Ombud's leave (approval). The complexity of the case and likelihood of a different conclusion are considered.
Example of Appeal	If the Ombud rules that an FSP must pay compensation and the FSP disagrees, they may appeal the decision. If no appeal is made within two weeks, the decision is final.
Rules of Proceedings	The Ombud has the authority to grant costs to either party in a dispute, considering factors like the nature of the complaint, time spent on resolving the complaint, inconvenience caused, and the conduct of the parties involved.
Costs Example	If the FSP delayed the investigation or acted in bad faith, the Ombud might order them to pay costs to the complainant. Note: The non-refundable case fee previously required for filing a complaint has been discontinued.
Penalties for Contempt	Anyone who interrupts or obstructs Ombud proceedings may face penalties, including a fine or imprisonment for up to 1 year.

Before proceeding to the next module, please ensure that you meet the below task criteria as set out by the FSCA

Task	Qualifying Criteria	Knowledge (K) or Skill (S)	Legislation Reference / Motivation
Deal with complaints that have been submitted to the Ombud for FSPs.	Explain the role and authority of the Ombud for FSPs.	K The task requires knowledge of a specific section of the legislation or regulation	FAIS Act - Sec 1 Definition of Complaint FAIS Act - Sec 27 FAIS Act - Sec 27(1) FAIS Act - Sec 27(2) FAIS Act - Sec 27(3) FAIS Act - Sec 27(4) FAIS Act - Sec 28 FAIS Act - Sec 28(1) FAIS Act - Sec 28(4)(a) Ombud Council Rules for the Ombud for Financial Services Providers, 2024
	Discuss the obligations of the FSP in respect of an investigation conducted by the Ombud for FSPs.	K	FAIS Act - Sec 1 Definition of Complaint FAIS Act - Sec 13(1) FAIS Act - Sec 20(3) FAIS Act - Sec 27 & 28 FAIS Act – Sec 27(3)(a)(ii) FAIS Act - Sec 31 Ombud Council Rules for the Ombud for Financial Services Providers, 2024 GCOC - Sec 18
	Check that there are processes in place to ensure that the FSP cooperates in the case of an investigation by the Ombud.	S The task requires practical ability to perform tasks or apply knowledge in real scenarios	FAIS Act - Sec 27(5) FAIS Act - Sec 27(6) FAIS Act - Sec 31 Ombud Council Rules for the Ombud for Financial Services Providers, 2024 GCOC - Sec 18

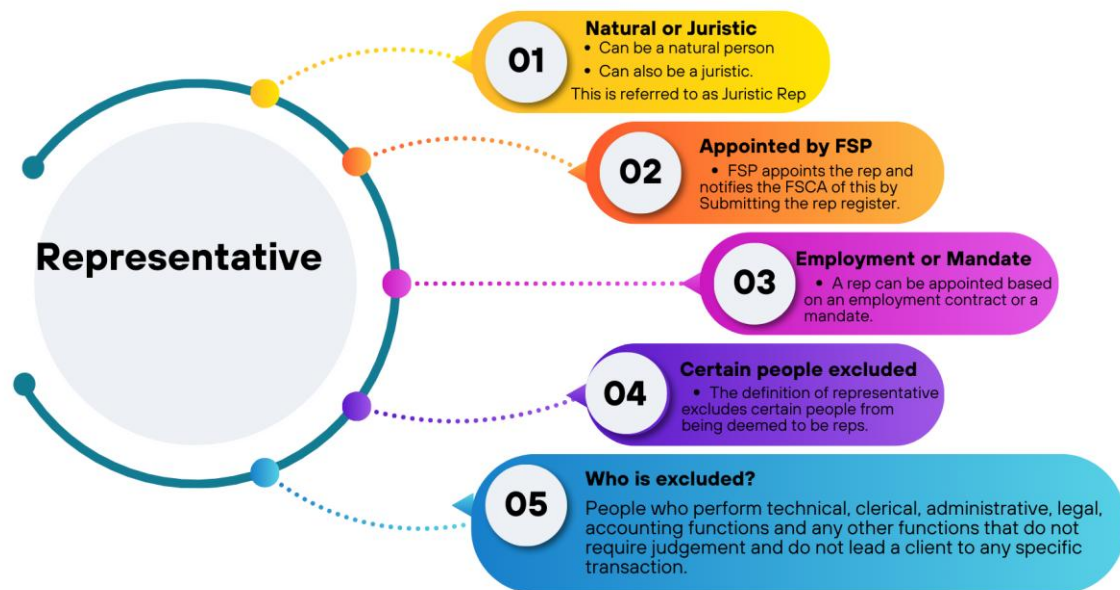
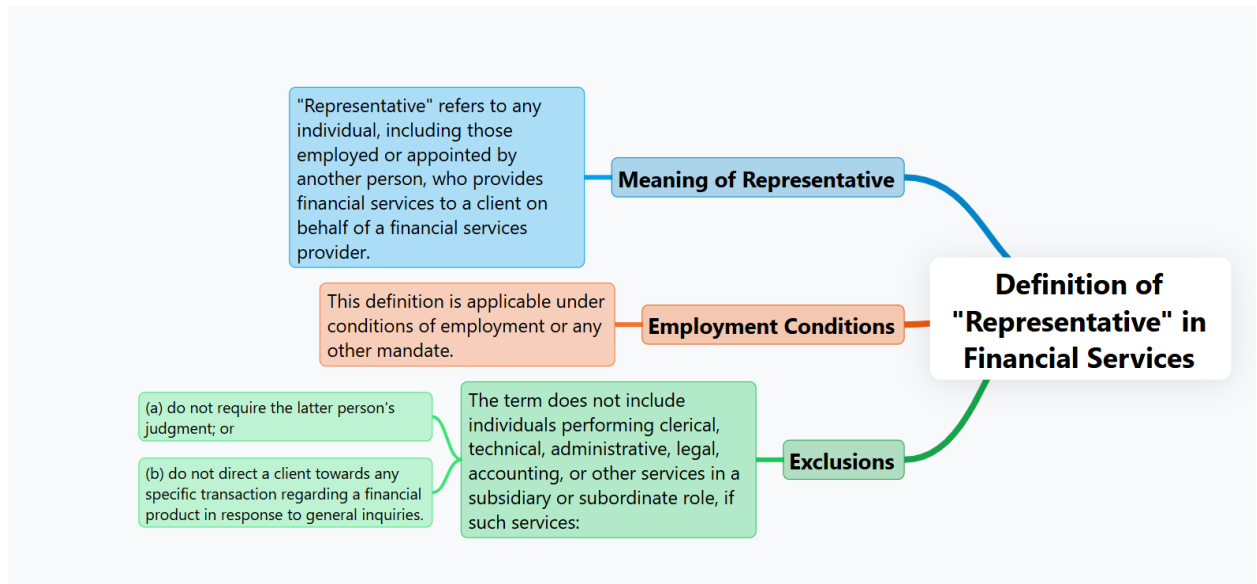
MODULE 12: THE REPRESENTATIVE

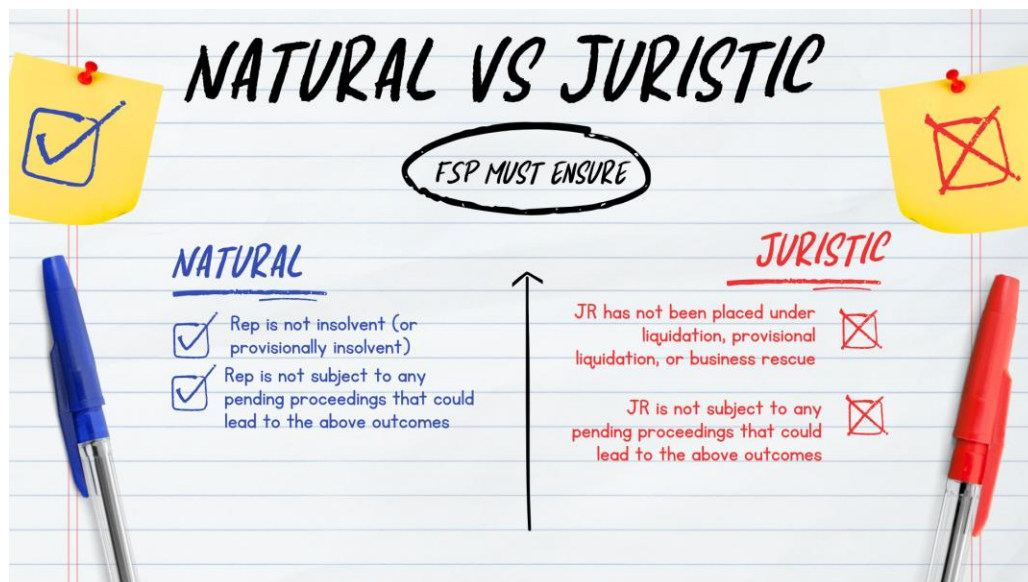
Learning outcomes

By the end of this module, learners should be able to:

1. Define the role of a representative under the Financial Advisory and Intermediary Services (FAIS) Act, including the distinction between natural and juristic representatives.
2. Describe the appointment process for representatives, including the FSP's obligation to ensure that all appointees meet the fit and proper requirements before being authorised to render financial services.
3. Explain the key responsibilities of representatives, including compliance with legislation, providing advice honestly and fairly, maintaining confidentiality, and avoiding conflicts of interest.
4. Demonstrate an understanding of the Treating Customers Fairly (TCF) principles and how these influence representative conduct and remuneration structures.
5. Outline the competency and conduct standards expected of representatives, including disclosure obligations, financial needs analysis, and the requirement to maintain professional conduct at all times.
6. Identify the restrictions placed on representatives in terms of outsourcing, sub-delegation, and operational responsibilities, and explain the requirement for FSP contingency plans in case of representative departure.
7. Discuss the additional accreditation requirements for representatives providing advice or intermediary services on medical schemes, including the role of the Council for Medical Schemes (CMS).
8. Explain the supervision framework for representatives working under supervision, including when supervision is required and what the FSP must do to comply with supervision conditions.
9. Describe the information required in the representative register, including timelines for updates, and the role of the FSCA's central register in monitoring compliance and levy calculations.
10. Assess the compliance risks associated with the appointment and conduct of representatives and explain how FSPs must manage these risks through proper oversight and accurate recordkeeping.
11. Evaluate the impact of non-compliance by a representative on both the individual and the FSP, including regulatory consequences, reputational damage, and possible legal liability.

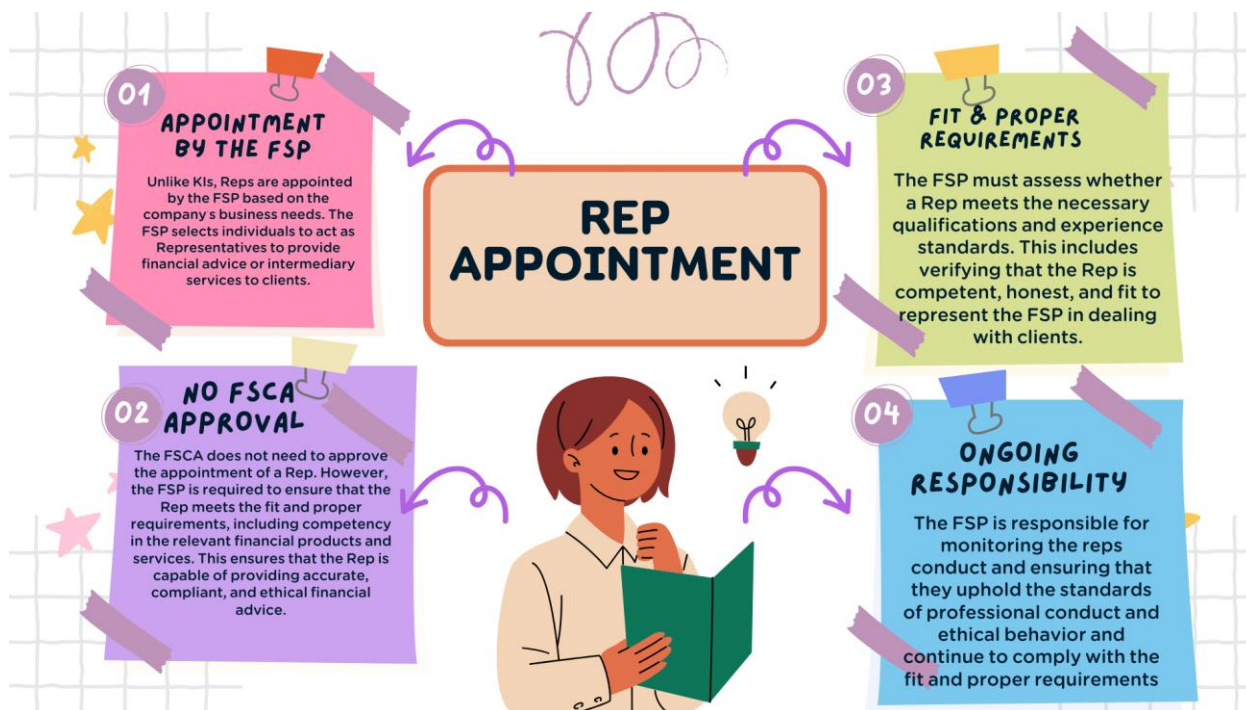
A representative is any person who provides financial services (advice and/or intermediary services), on behalf of an FSP, to a client. A representative can be a natural person or a juristic person (juristic representative).

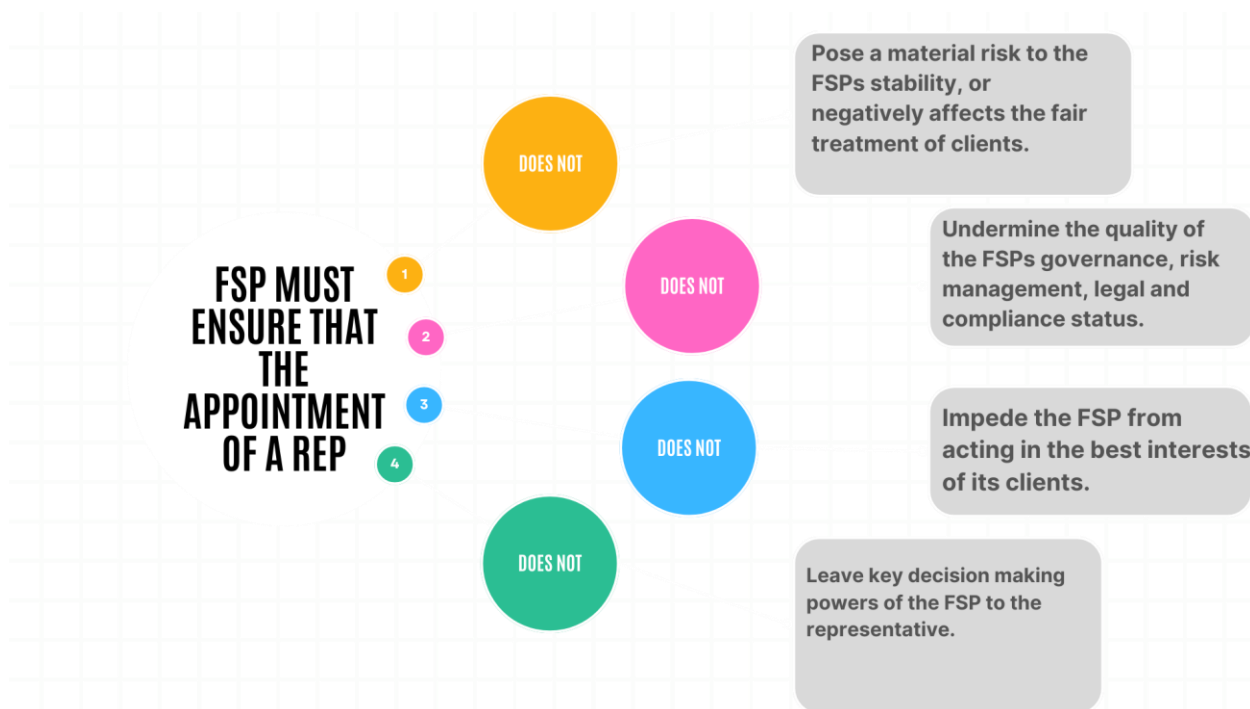




APPOINTMENT PROCESS FOR REPRESENTATIVES

Representatives are appointed by the FSP. The FSP has a responsibility to ensure that representatives meet the fit and proper requirements as outlined in the FAIS Act before appointing them to serve clients.





ROLE AND RESPONSIBILITIES OF REPRESENTATIVES

A representative plays a crucial role in the financial services industry. These are:

1. Rendering financial services: Representatives provide financial services to clients on behalf of an FSP.

2. Acting on behalf of the FSP: Representatives represent the FSP in their interactions with clients.

Responsibilities of a representative

1. Compliance with the FAIS Act: Representatives must comply with the FAIS Act, its regulations, and industry codes.

2. Rendering financial services honestly and fairly: Representatives must provide financial services in an honest and fair manner.

3. Providing full disclosure: Representatives must provide clients with full disclosure of all relevant information, including product information, fees, and commissions.

4. Conducting a financial needs analysis: Representatives must analyze a client's financial situation, needs, and goals before providing advice or rendering services.

5. Maintaining confidentiality: Representatives must maintain confidentiality and protect client information.

6. Avoiding conflicts of interest: Representatives must avoid conflicts of interest and disclose any potential conflicts to clients.

7. Meeting the competency requirements: Representatives must meet the competency requirements as determined by the FSCA.

8. Maintaining professional conduct: Representatives must maintain professional conduct and adhere to industry standards.

Representatives play a critical role in the financial services industry, and their responsibilities are designed to protect clients' interests and ensure fair treatment.

Remuneration Constraints

Any fee or remuneration paid to a representative must be:

- Reasonable and in line with the actual services performed
- Designed so it does not increase the risk of violating Treating Customers Fairly (TCF) principle

Contingency Planning

- The FSP must have contingency plans to continue servicing clients if a representative is terminated or leaves.

OUTSOURCING BY REPRESENTATIVES

A representative cannot outsource or sub-delegate any of their duties relating to the financial services they provide on behalf of the FSP.

OPERATIONAL ABILITY OF A REPRESENTATIVE

A representative must have sufficient operational ability to carry out their responsibilities effectively. Every juristic representative must have a Key Individual overseeing compliance and activities.

MEDICAL SCHEMES REPRESENTATIVES

Representatives who are appointed to render financial services in health service benefits must be accredited by the Council for Medical Schemes (CMS), as a broker or operate as an apprentice broker under supervision.

REQUIREMENTS FOR A REPRESENTATIVE

Regardless of supervision status, a representative must meet the following requirements:

A graphic titled "Rep Checklist" on a lined paper background. The title is in a large, orange, bubbly font with a shadow. To the left of the title is a small orange flower-like icon. Below the title, there are two small orange starburst icons on the left and a small orange crown icon on the right. The checklist consists of seven items, each with a square checkbox on the left and the text in an orange rounded rectangle on the right. At the bottom left, there are four small orange dots arranged horizontally.

- ☐ Hold a Valid Mandate or Employment Contract
- ☐ Not Be Debarred
- ☐ Adhere to All Applicable Laws
- ☐ Render Services Only for Authorized FSPs
- ☐ Be Fit and Proper
- ☐ Work Under Supervision If Necessary

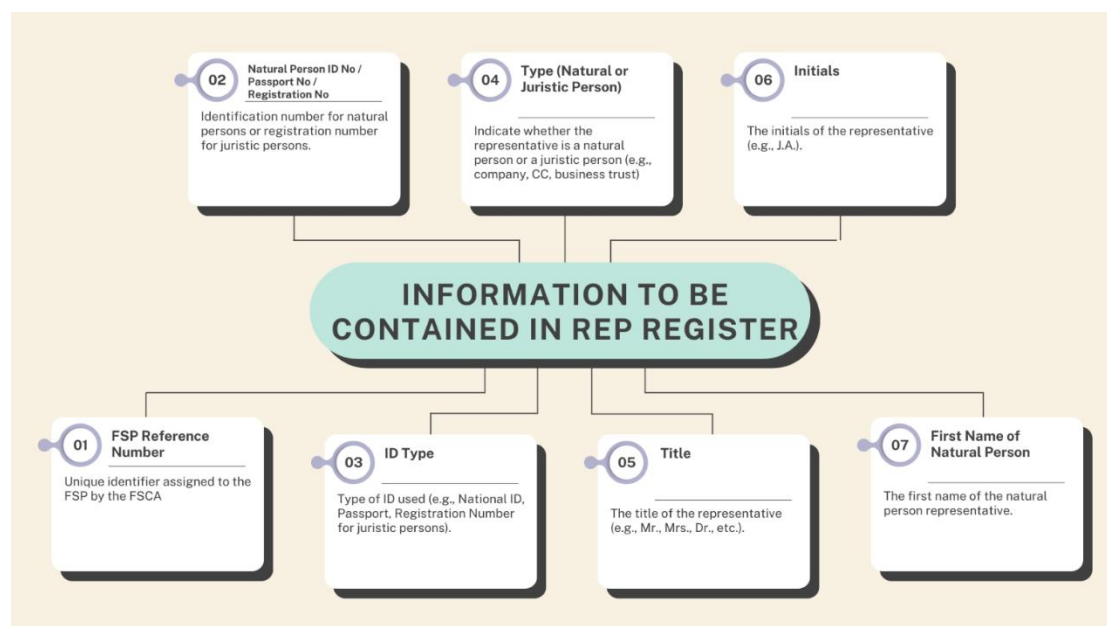
Importance of the Representative Register



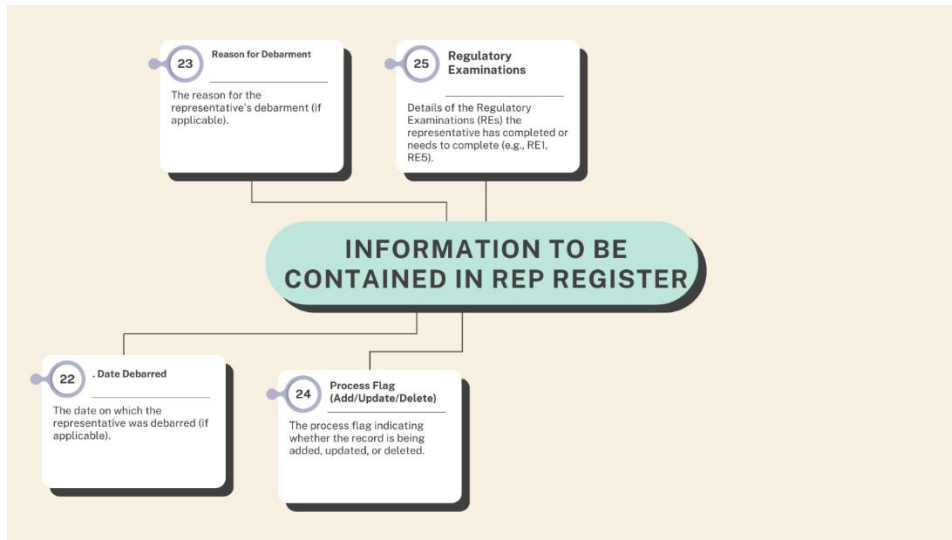
INFORMATION TO BE CONTAINED IN THE REPRESENTATIVE REGISTER

The FAIS Act requires FSPs to maintain a representative register of all their representatives, KIs, or juristic representatives. The FSCA, on the other hand, maintains a central register. This central register is used by the FSCA to track the activities of FSPs and calculate levies. The information in the central register is derived from the representative registers of all FSPs. FSPs must update their representative register **within 15 days of any updates or changes**.

Below is a detailed breakdown of the required information to be included in the register of representatives







Before proceeding to the next module, please ensure that you meet the below task criteria as set out by the FSCA

Task	Qualifying Criteria	Knowledge (K) or Skill (S)	Legislation Reference / Motivation
Define the role of the representative in terms of the FAIS Act	Describe the roles and responsibilities of representatives as defined in the FAIS Act.	K The task requires knowledge of a specific section of the legislation or regulation	FAIS Act - Sec 1 Definition of Advice FAIS Act - Sec 1 Definition of Representative FAIS Act - Sec 1 Definition of Intermediary Services FAIS Act - Sec 13 FAIS Act - Sec 13(1) FAIS Act - Sec 16 FAIS Act - Sec 16(1)
	Explain when an individual must be appointed as a representative in terms of the FAIS Act.	K	FAIS Act - Sec 1 Definition of Representative FAIS Act - Sec 1 Definition of Intermediary Services FAIS Act - Sec 1 Definition of Advice FAIS Act - Sec 1 FAIS Act - Sec 13 FSP5 Form
	Describe the purpose and requirements of the register of representatives.	K	FAIS Act - Sec 13 FAIS Act - Sec 13(3) FAIS Act - Sec 13(4) FAIS Act - Sec 13(5) FSCA FAIS Notice 86 of 2018 – Exemption of Services under Supervision FSP 5 Form Representative Import Spreadsheet
	Verify that the FSP maintains a register of representatives that meets the requirements of the FAIS Act.	S The task requires practical ability to perform tasks or apply	FAIS Act - Sec 13 FAIS Act - Sec 13(3) FAIS Act - Sec 13(4)

		knowledge in real scenarios	FAIS Act - Sec 13(5) Representative Import Spreadsheet FSCA FAIS Notice 29 of 2023 - Form 5
	Explain what needs to be in place when appointing a representative	K	FAIS Act – Sec 13 FAIS Act – Sec 13(1) FSCA FAIS Notice 86 of 2018 – Exemption of Services under Supervision BN 194 of 2017 BN 194 of 2017 – Annexure One Table 1 and 2 BN 194 of 2017 - Sec 12 BN 194 of 2017 - Sec 16 BN 194 of 2017 - Sec 22(b) BN 194 of 2017 - Sec 24(2)(e) BN 194 of 2017 - Sec 25 BN 194 of 2017 - Sec 41 BN 194 of 2017 – Chapter 2 BN 194 of 2017 - Chapter 3
	Verify that there are processes that enable the FSP to check that a representative meets the fit and proper requirements and can be appointed	S	BN 194 of 2017 BN 194 of 2017 - Sec 9 FSCA FAIS Notice 86 of 2018 – Exemption of Services under Supervision FAIS Act - Sec 1 Definition of Representative

MODULE 13: SUPERVISION OF REPRESENTATIVES

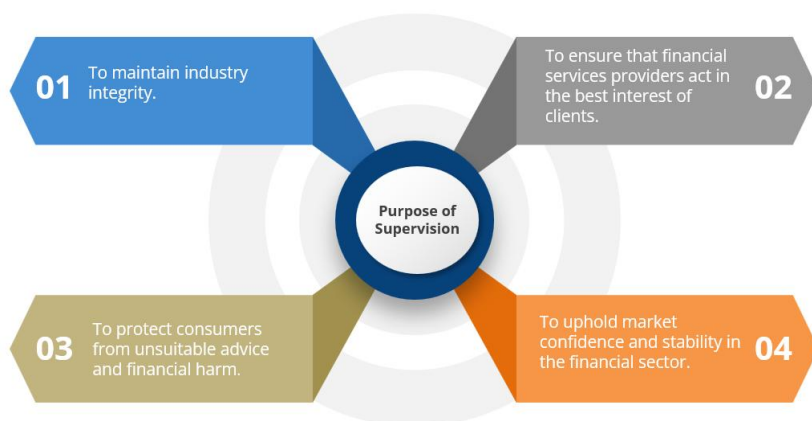
Learning outcomes

By the end of this module, learners should be able to:

1. Define the concept of supervision under the FAIS Act and explain its purpose in ensuring that representatives render financial services competently while developing their skills and meeting fit and proper requirements.
2. Identify the regulatory requirements for appointing a supervisor, as outlined in FAIS Notice 86 of 2018, including the supervisor's qualifications, experience, and fit and proper compliance.
3. Explain the importance of proximity and interaction between the supervisor and the supervised representative, and how regular contact facilitates skill transfer and oversight.
4. Describe the components of a formal supervision agreement, including the roles, responsibilities, and reporting lines of both the supervisor and the supervised representative, as well as the nature and intensity of supervision.
5. Differentiate between direct and indirect supervision and provide examples of when each form may be appropriate based on product complexity and representative experience.
6. Demonstrate understanding of the documentation and recordkeeping obligations related to supervision, including the need for evidence of monitoring frequency, review of services rendered, and compliance assessments.
7. Explain the responsibilities of the supervisor, including Overseeing the representative's interactions with clients, Ensuring compliance with the FAIS Act and General Code of Conduct, Providing ongoing feedback and development support, Identifying and correcting deficiencies in service delivery or advice.
8. Describe the obligations of the supervised representative, including Rendering services only within the scope of supervision, Cooperating with monitoring and review activities, Acting in accordance with the FAIS Act and internal policies, Progressing toward full compliance with competence and qualification requirements.
9. Assess the impact of poor supervision or non-compliance on the FSP, the representative, and client outcomes, including possible regulatory sanctions and reputational risk.
10. Evaluate the role of the FSP in ensuring effective supervision, including assigning suitable supervisors, implementing structured supervision plans, and maintaining oversight of the overall process.

When a representative operates under supervision, it means that the representative renders financial services subject to ongoing guidance and instruction from a qualified, experienced individual. This arrangement ensures that clients receive competent advice and services while the representative gains the necessary skills and meets FAIS requirements.

PURPOSE OF SUPERVISION



OPERATIONAL ABILITY REQUIREMENTS FOR SUPERVISION

Infrastructure	The FSP must have adequate office space, technology, and communication infrastructure, including IT systems for secure client record management and facilities for record storage.
Staffing	The FSP must have sufficient trained staff, including key individuals and appointed supervisors who meet competency standards, ensuring effective supervision.
Policies & Procedures	The FSP must have documented supervision policies, a compliance framework, and procedures for onboarding and tracking representatives under supervision.
Recordkeeping	The FSP must maintain accurate records of representative appointments, training progress, and performance assessments to ensure effective monitoring.
Financial Resources	The FSP must be financially sound to meet current and future obligations, complying with solvency and liquidity requirements.
Supervisory Capacity	Before assigning supervision duties, the FSP must assess the supervisor's capacity and the organization's ability to provide compliant oversight.
Conclusion	If an FSP lacks operational ability for supervision, it may not appoint representatives, leading to potential rejection or liability for non-compliance.

SELECTION OF A SUPERVISOR

The FSP is responsible for appointing a supervisor and ensuring all conditions for supervision are met.

FAIS Notice 86 of 2018 stipulates

- That the supervisor that has been selected by the FSP, to supervise the representative, must be a competent, fully qualified, and unrestricted representative or key individual, who already meets the Fit and Proper standards for the products or services being supervised.
- The notice also requires the FSP to ensure that there is sufficient proximity and interaction (regular contact) between the supervisor and the supervised representative, to allow effective skill transfer and oversight.

SUPERVISION AGREEMENT

FAIS Notice 86 of 2018 mandates that there must be a formal, written agreement between the FSP and the supervised representative. This agreement must define:

1. Nature of Supervision

The extent, type, and level of supervision that will be applied to the supervised representative.

Whether it is direct supervision (supervisor is present and monitors activities in real time) or indirect supervision (monitoring after the fact, with regular reviews).

2. Roles and Responsibilities

- The specific duties of the supervisor, including:
- Monitoring advice or intermediary services.
- Assessing performance and compliance.
- Ensuring that the representative is trained and competent.
- The responsibilities of the supervised representative.

3. Duration of Supervision

The expected start and end dates of the supervision period.

It must be aligned with the timeframes allowed for the representative to meet full Fit and Proper competency requirements (e.g., RE exams, qualifications, COB, PST).

4. Competency Requirements to Be Met

A schedule or summary of:

- Exams to be passed (e.g., RE5),
- Qualifications to be obtained,
- Class of Business (COB) training,
- Product Specific Training (PST),
- CPD requirements.

5. Monitoring and Evaluation Process

How the supervisor will review the representative's work, including:

- Frequency of file reviews or shadowing.

- Spot checks or call monitoring (if applicable).
- Use of structured assessment forms.
- How feedback will be given and documented.

6. Record Keeping

A requirement that written records be kept of:

- All supervision activities,
- Feedback sessions,
- Any breaches or concerns.

7. Termination Conditions

Conditions under which supervision may be terminated, such as:

- Completion of Fit and Proper requirements,
- Change of role or employment,
- Non-compliance or misconduct by the representative.

SCOPE AND EVIDENCE OF SUPERVISION

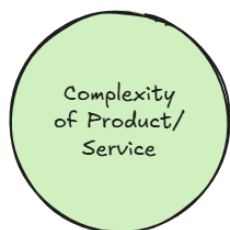
FAIS Notice 86 of 2018:

- Requires an appropriate intensity of supervision to be in place, based on the complexity of the financial product and the experience of the representative.
- The notice requires the FSP to keep documentary evidence showing how supervision is conducted and how frequently it occurs.
- The notice also emphasizes that the supervisor must be able to review the advice or intermediary services rendered to ensure compliance.

INTENSITY OF SUPERVISION

The supervision must be conducted with a level of intensity and frequency which takes into account—

- (a) the complexity of the financial service rendered under supervision.
- (b) the risk to clients and the financial services provider.
- (c) the competency of the person rendering the financial service under supervision; and
- (d) the quality of the information and documentation available to support and record the financial services rendered.”



Higher complexity = closer supervision. Simpler products may allow reduced intensity.



Higher client impact = more intense supervision. Compliance risk requires frequent reviews.



Inexperienced representatives need daily reviews. Competence allows reduced oversight.



Accurate records allow retrospective reviews. Poor documentation requires stricter oversight.

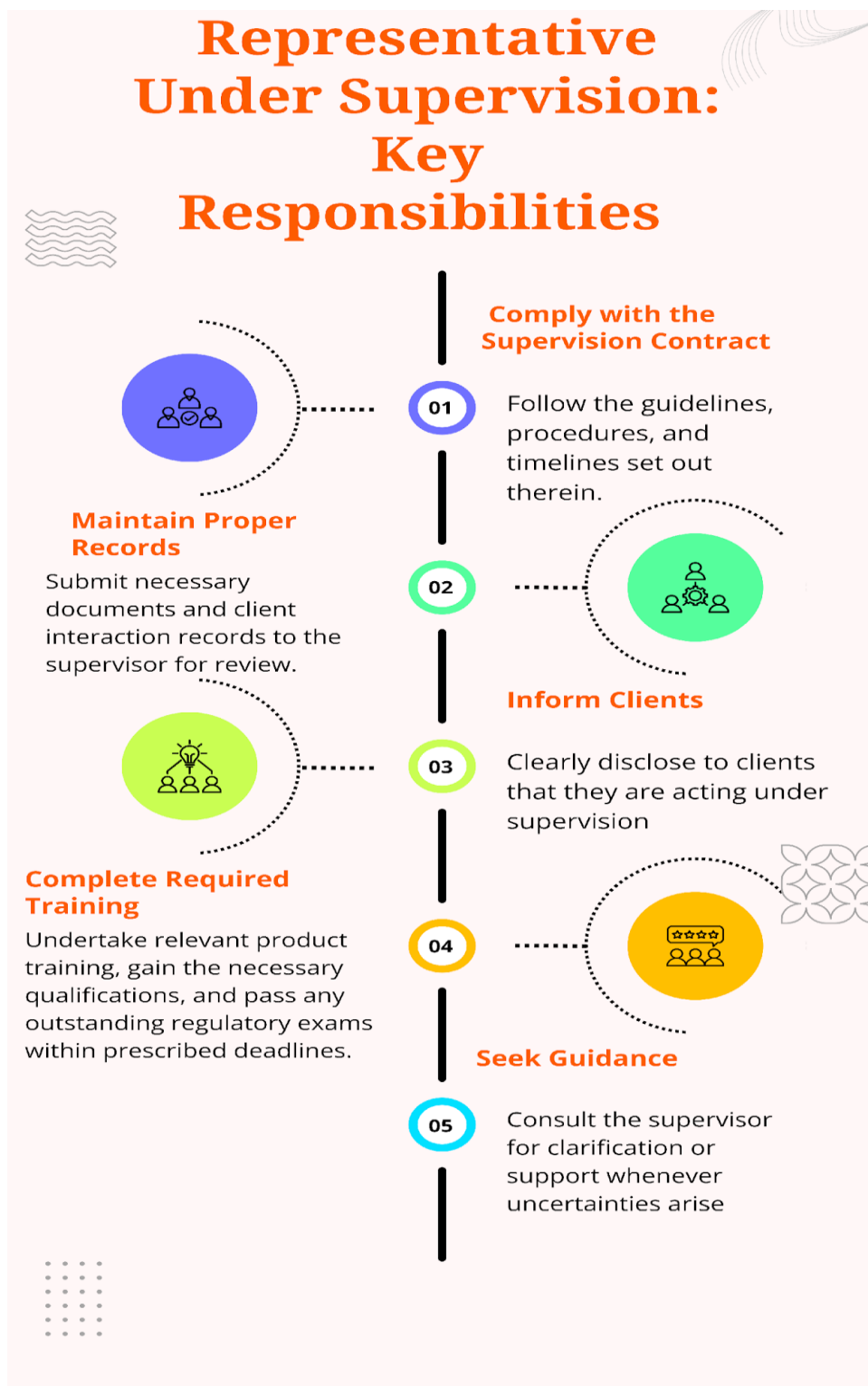
⚠ Supervision is not a 'tick-box' exercise. FSCA expects substance over form.

SUPERVISOR RESPONSIBILITIES

Under the FAIS Act, the FSP and supervisor must ensure:



SUPERVISED REPRESENTATIVE RESPONSIBILITIES



Before proceeding to the next module, please ensure that you meet the below task criteria as set out by the FSCA.

Task	Qualifying Criteria (what you must know for the exam)	Knowledge or skill	Legislative References
Manage the rendering of services under supervision.	Explain when representatives can act under supervision	K The task requires knowledge of a specific section of the legislation or regulation	FSCA FAIS Notice 86 of 2018 – Exemption of Services under Supervision BN 194 of 2017 - Sec 12 BN 194 of 2017 - Sec 24(2)(e)
	Confirm that there are sufficient qualified individuals to act in the role of supervisor.	S The task requires practical ability to perform tasks or apply knowledge in real scenarios	FSCA FAIS Notice 86 of 2018 – Exemption of Services under Supervision
	Describe the requirements that must be in place when representatives act under supervision.	K	FSCA FAIS Notice 86 of 2018 – Exemption of Services under Supervision
	Ensure that the supervisors understand their role and have the capacity for the number of supervisees	S	FSCA FAIS Notice 86 of 2018 – Exemption of Services under Supervision
	Verify that there is supervision in place to oversee representatives	S	FSCA FAIS Notice 86 of 2018 – Exemption of Services under Supervision

	Perform the necessary supervision functions on representatives.	S	FSCA FAIS Notice 86 of 2018 – Exemption of Services under Supervision
	Explain the disclosure requirements for a representative under supervision	K	FAIS Act – Sec 13(1)(b) FSCA FAIS Notice 86 of 2018 – Exemption of Services under Supervision GCOC - Sec 5(f)

MODULE 14: DEBARMENT OF REPRESENTATIVES

Learning outcomes:

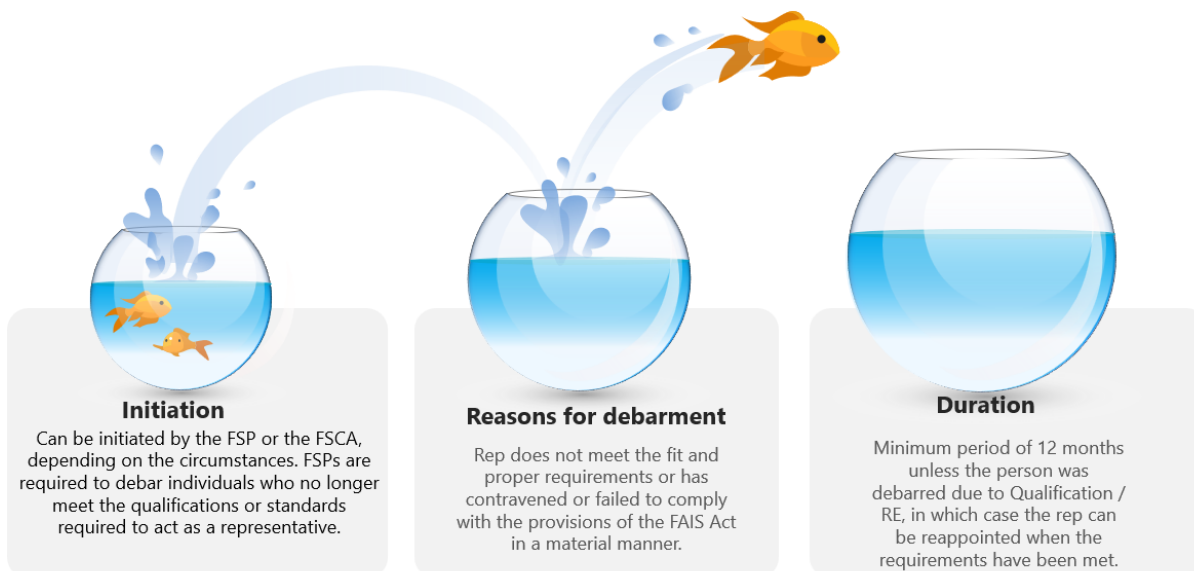
By the end of this module, you will be able to:

1. Define the concept of debarment in the context of the FAIS Act and explain its purpose in maintaining the integrity of the financial services sector.
2. Describe the legal basis and objectives of the debarment process, including the removal of individuals who are no longer fit and proper to render financial services or who have contravened regulatory requirements.
3. Differentiate between debarment by the FSP and debarment under the instruction of the FSCA and explain the implications of the repeal of Section 14A through the Financial Sector Regulation Act.
4. Identify the grounds for debarment, including breaches of the FAIS Act, ethical misconduct, or failure to comply with fit and proper requirements.
5. Explain the procedural requirements for lawful, reasonable, and procedurally fair debarment as prescribed by FAIS, including the obligation to give notice and allow for representations by the affected individual.
6. Describe the responsibilities of the FSP following the debarment of a representative, including protecting clients, concluding unfinished business, and updating the FSCA register.
7. Explain the process and limitations surrounding debarment after resignation, including the 6-month statutory window for initiating debarment proceedings after an individual resigns.
8. Interpret the rights of individuals to appeal a debarment decision, including the right to lodge an appeal with the Financial Services Tribunal.
9. Describe the conditions and requirements for reappointment or reinstatement of a debarred representative, including compliance with all fit and proper standards at the time of reappointment.
10. Assess the impact of debarment on an FSP's operations and reputation and explain how proper debarment procedures help safeguard client interests and regulatory compliance.

Debarment refers to the formal process by which an FSP, a key individual or a representative is prohibited from rendering financial services or acting as a representative for an FSP. The debarment process is implemented when an individual is found to be in breach of the FAIS Act, such as engaging in misconduct, violating regulatory requirements, or failing to comply with professional and ethical standards.

The purpose of debarment is to stop a representative from continuing to act on behalf of an FSP when the person no longer complies with the Fit and Proper requirements, or has contravened a provision of the FAIS Act. If a sole proprietor contravenes a provision of the FAIS Act, his or her license will be withdrawn. However, because in a sole proprietorship, the sole proprietor is also the representative, he or she must be debarred.

Key Aspects of Debarment

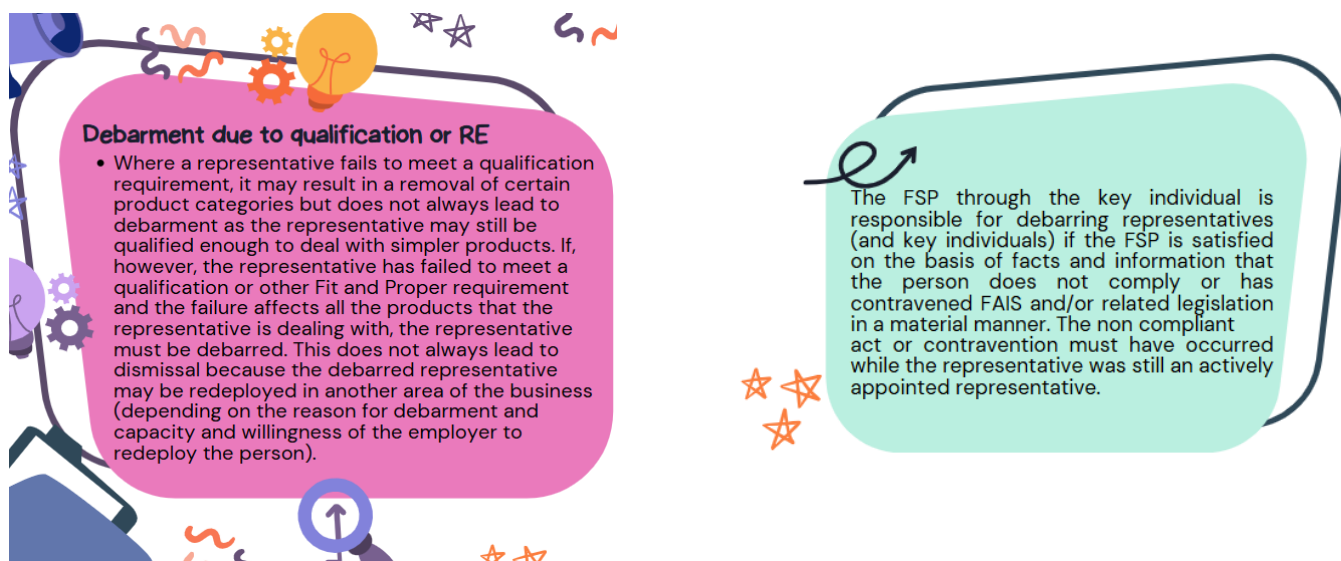


PURPOSE OF DEBARMENT

- Removing individuals from the industry who are no longer fit to provide financial services.
- To protect consumers from harmful or unethical behavior.
- To maintain the integrity of the financial services sector.
- To ensure that only qualified and trustworthy individuals are involved in delivering financial services.

DEBARMENT BY THE FSP

Debarment by the FSP occurs when a representative or key individual has not complied with one or more provisions of the FAIS Act. Debarment is initiated by the FSP, usually when it determines that the individual has failed to meet the standards required to provide financial services under the FAIS Act.



PROCESS FOR DEBARMENT BY AN FSP

Before effecting a debarment, the FSP must ensure that the debarment process is lawful, reasonable, and procedurally fair. Below is the process that must be followed by the debarring FSP.





A debarred representative or key individual's name will only be removed from the Authority's list of debarred persons once he or she has been reappointed as a representative of an FSP (subject to meeting all requirements).

THE FSPs RESPONSIBILITIES AFTER DEBARMENT

When a representative or key individual is debarred, the FSP must take immediate action to:

- Protect clients from being disadvantaged.
- Ensure unfinished business is properly concluded.

The key individual is responsible for carrying out these duties on behalf of the FSP.

DEBARMENT AFTER RESIGNATION

Debarment after Resignation

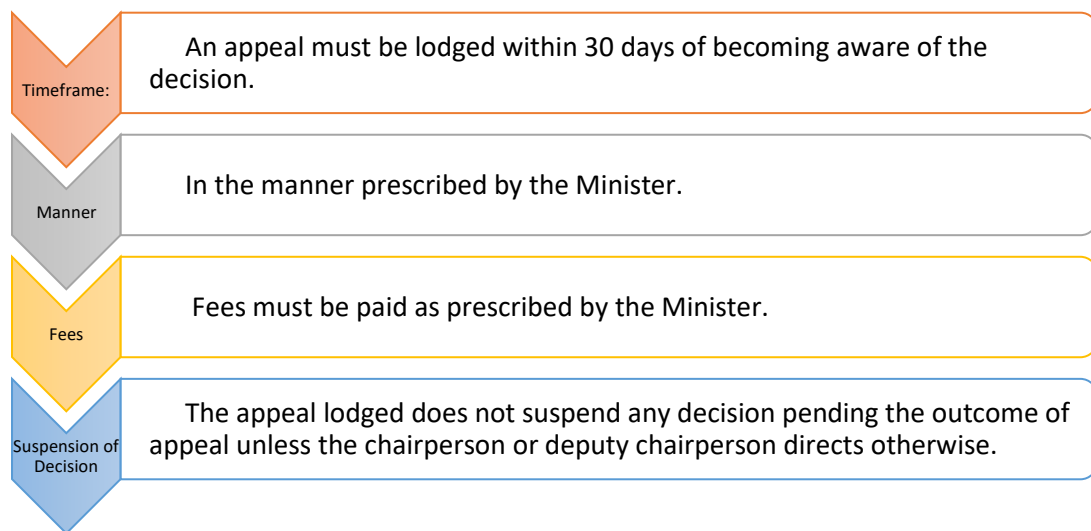
If a representative or key individual resigns before being debarred, the FSP can still initiate debarment proceedings if the incident leading to debarment occurred while the individual was appointed. However, the debarment proceedings must commence within 6 months of the resignation of the representative. If they commence any later, the FSP cannot debar the representative.

DEBARMENT BY THE COMMISSIONER

Section 14 A of FAIS was repealed through the FSR Act. The section that was repealed made provision for the Commissioner to debar representatives if the FSP had failed to take the correct action. Under the FSR Act, the Commissioner now has the authority to instruct the FSP to take remedial action if in default.

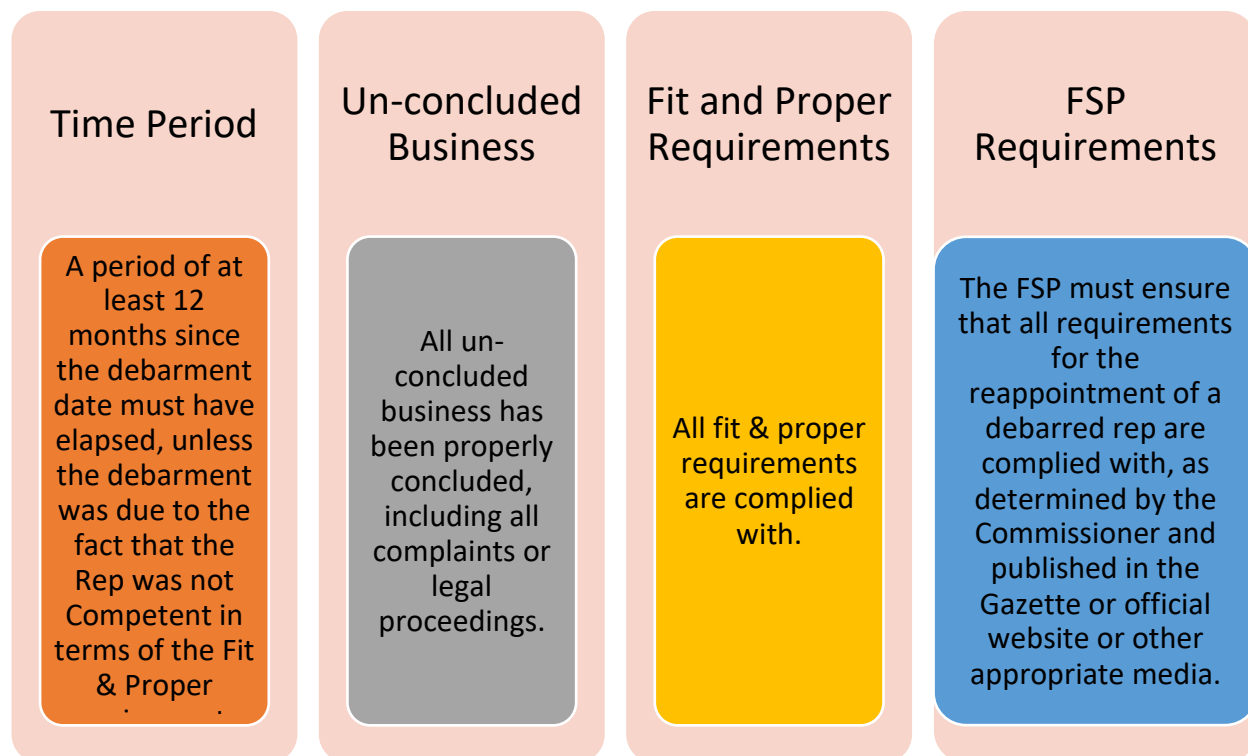
APPEALING A DEBARMENT

Any person who feels aggrieved by any decision by the Commissioner or Ombudsman May appeal to the Financial Services Tribunal (formerly known as the FSB Board of Appeal, effective 1 April 2018).



REAPPOINTMENT / REINSTATEMENT OF A DEBARRED REPRESENTATIVE

If a debarred representative is being considered for reappointment or reinstatement with the same FSP that initially debarred them or even with another FSP, specific requirements must be met before reappointment or reinstatement can occur. On the date of reappointment, the applicant must comply with the following:



In this module, we explored the concept of debarment under the FAIS Act, which aims to protect consumers and maintain the integrity of the financial services sector. We examined the purpose of debarment, the responsibilities of FSPs in the debarment process, and the procedural requirements for a lawful, reasonable, and procedurally fair debarment process.

Debarment is a critical mechanism for removing individuals who are no longer fit to provide financial services, thereby safeguarding consumers and upholding the reputation of the financial services sector. By understanding the debarment process, FSPs can ensure that they are taking the necessary steps to protect their clients and maintain the integrity of their business.

Before proceeding to the next module, please ensure that you meet the below task criteria as set out by the FSCA.

Task	Qualifying Criteria (what you must know for the exam)	Knowledge or skill	Legislative References
Debar representatives that have failed to comply with any provision of the FAIS Act in a material manner.	Define the purpose of debarment.	K The task requires knowledge of a specific section of the legislation or regulation	FAIS Act - Sec 14 FSR Act – Sec 153)
	Describe when debarment should be considered.	K	FAIS Act - Sec 13(2) FAIS Act - Sec 14 FAIS Act - Sec 44 BN 194 of 2017 - Sec 7 BN 194 of 2017 - Sec 12 FSR Act – Sec 153 Guidance Note on Debarment
	Check that the employment/mandatory agreement with representatives include scope of activities as a representative and reasons for possible debarment.	S The task requires practical ability to perform tasks or apply knowledge in real scenarios	FAIS Act - Sec 14
	Explain the debarment process that should be followed in the event of a possible contravention of the FAIS Act.	K	FAIS Act - Sec 14 FAIS Act - Sec 39 GCOC – Sec 20(c) BN 194 of 2017 - Sec 8 FSR Act – Sec 153 FSR Act – Sec 230 Guidance Note on Debarment 1 of 2019 FAIS Notice 17 of 2018 – Debarment notification form BN 82 of 2003 – Sec 2

	Confirm that all role players in the FSP are informed about the reasons why debarment would be considered, the process that would be followed and any recourse that a representative may have.	S	FAIS Act - Sec 14
	Verify that there are internal processes and procedures in place for the debarment of representatives.	S	FAIS Act - Sec 14 GCOC – Sec 20
	Explain the timeframe and process to notify the Financial Sector Conduct Authority of a debarment.	K	FAIS Act - Sec 14 FAIS Act – Sec 14(4)(d) FAIS Act - Sec 13(2) Guidance Note on Debarment 1 of 2019