

## **REGULATORY EXAMS – ARE YOU PREPARED?**

At time of writing this article the industry still awaits the publication of the cost of the regulatory exams – it is literally in the hands of the Minister of Finance. It therefore makes sense that the starting date of the official exams has not yet been made known by the FSB. At a recent meeting with the FSB it was also confirmed that the official exams will not proceed until such time that the FSB, being the owner and custodian of the regulatory exams, is completely satisfied that all IT and security systems of the examination bodies are in place and have withstood rigorous testing.

Rumors will have it that the first round of pilot exams that were conducted was above the knowledge levels of most participants. This is not good news at all, but comments received from participants have been brought to the attention of the examination body responsible for setting the exams and on their part they informed the FSB about the outcomes of the pilot exams.

The above should then be a blessing in disguise for many who have not made appropriate preparation for the first set of exams about the regulatory environment. If there is one warning that must be heeded in the meantime, it is to believe that it will not be necessary to study the FAIS Act, its regulations, determinations and codes of conduct. People who will rely only on study material and training being offered may be unpleasantly surprised when they do not pass the exams first time. We have no doubt that such offerings can be of great value in preparing for the exams, but recommend that a thorough study of the applicable legislation itself be done beforehand. The obvious place to start would then be Board Notice 105 of 2008 where all the qualifying criteria can be found on which the exams are based. The next logical step would be to look for the answers to the qualifying criteria in the Act and sub-ordinate legislation.

The following should be noted:

1. The authorization of a financial services provider encapsulates a wide range of rights, duties and obligations in terms of the FAIS Act. It can basically be seen as an open authorization with few limitations to operate in terms of the Act. The authorization does not merely mean you are allowed to give advice on and render intermediary services in respect of certain financial products, but brings with it the obligation to have a complete understanding of all measures in respect of complying with the spirit of the law. As a result it will not be good enough to focus only on those areas of legislation that you feel are applicable to you when preparing for the exams. Authorization as a provider also entails that you must have knowledge of, *inter alia*, the following, should you decide to exercise such rights in terms of the Act:
  - Understand the definitions in the Act;
  - Know what the authorization of a provider is all about and the powers of the registrar to suspend, withdraw or lapse a license;
  - Know all about the criteria to appoint a representative, supervision measures and debarment procedures;

- Understand the accounting and financial soundness requirements related to collection of premiums or holding of clients' funds;
  - Understand the functioning of the Office of the FAIS Ombud;
  - Be aware of civil remedies, undesirable practices, offences and other enforcement measures.
2. Also understand the whole of the General Code of Conduct for Authorized Financial Services Providers and Representatives, including –
- Information about a financial service and relevant disclosure duties;
  - Custody of financial products and funds;
  - Advertising and direct marketing.
3. It will not be a bad idea at all to study the annual compliance report to ensure that you fully understand what issues the FAIS Supervision Department focus on. Alongside this you must understand what the Determination of Fit and Proper Requirements stipulates in Board Notice 106 of 2008. Don't forget about the amendments to these requirements and the General Code of Conduct, especially the recent broadening of the conflict of interest stipulations in Board Notice 58 of 2010.
4. Accountable institutions must know what the anti-money laundering legislation is all about and providers who are authorized only for short-term insurance or medical products must understand the purpose of this legislation as well as their reporting duties in terms of section 29 of FICA – suspicious and unusual transactions.

By now you will know that the format of all exams will be multiple choice questions – you won't have to do any writing, only tick the correct answer. Questions will not only test your knowledge but will also be based on comprehension, application and evaluation of case studies. If you are prepared sufficiently the correct answer should jump right out because there will be no ambiguous answers or more than one correct answer to a question. All questions will be fair and exams will be consistent, in line with the strict requirements of the Independent Examination Board of South Africa.

Keep in mind that the idea behind the exams was never for you to memorize legislation by heart but merely to comprehend what affects you in your daily rendering of financial services. The ultimate goal is to professionalize the industry and make you even more successful in your business – embrace the fact.

Make sure you keep abreast of developments about the exams and study material by regularly visiting the websites of the FSB, INSETA and the examination bodies:

- FSB – [www.fsb.co.za](http://www.fsb.co.za)
- INSETA – [www.inseta.org.za](http://www.inseta.org.za)
- Moonstone Information Refinery – [www.moonstoneinfo.com](http://www.moonstoneinfo.com)
- Financial Planning Institute – [www.fpi.co.za](http://www.fpi.co.za)
- The South African Institute of Financial Markets – [www.regulatoryexams.co.za](http://www.regulatoryexams.co.za)
- Institute of Bankers (Leselo) – [www.iob.co.za](http://www.iob.co.za)

Lastly, don't procrastinate. You should already feel it because it is nearly here!

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