

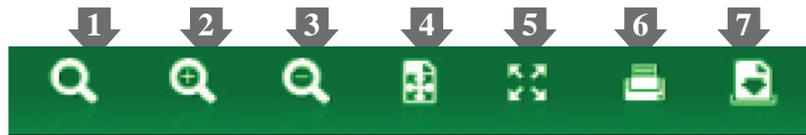


ASSOCIATED COMPLIANCE

FOR A COMMON PURPOSE

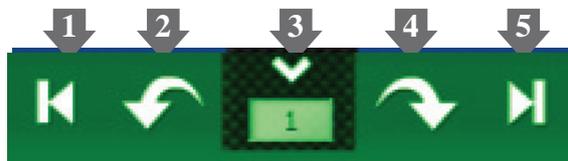
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From AC

A busy month

In May we provided clients various Guidance Notes and new and/or amended documents, primarily because of the Fit & Proper amendments. These included:

- Competency registers.
- An upgraded solvency calculation tool.
- We completed the supplementary Fit & Proper questionnaire that will be used as an addendum to the new FSCA FSP5 application form to ensure all Fit & Proper questions are asked for new Rep appointments. We will be supplying this to clients as and when FSP5 documents are needed.
- The biggest and most significant is the (Fit & Proper) Policies and Procedures Assessment Tool Part II.



ASSOCIATED COMPLIANCE

FOR A COMMON PURPOSE

The first part of our guidance on the many changes introduced by Board Notice 194 of 2017 and, in the main, implemented from 1 April 2018, was our regulatory workshop followed by a copy of the presentation and our initial Guidance Note, which was Part I of our guidance to clients.

Part II of our guidance is intended to allow you to assess how well your current documented standards meet the new requirements. They are focused on those aspects of your standards specifically affected by the Fit & Proper changes and include guidance on the practical application of TCF and Governance standards within the business and deal with:

- Staff-related matters (KIs and Reps)
- Operational ability
- Risk management
- Financial controls



This part of our guidance demands a review of our website-based AC Manual. We have reviewed, updated and in the process of adding new material to the sections of the manual, dealt with by the assessment tool. Clients are encouraged to review the new documents once the new manual has been formally released for access.

There will be a Part III once the updated FAIS General Code of Conduct standards are released (no firm timelines have been provided by the FSCA). These will deal with the following aspects:

- Conflict of Interest
- Record keeping
- Disclosure
- Complaints
- Advertising
- General Code
- Anti-Money Laundering
- Advice
- Direct Marketing

This part will deal with aspects not directly affected by the Fit & Proper standards but impacted by the general TCF and Governance standards as well as the insurer-based PPR and Insurance Act regulations.

The content of the AC Manual dealing with these sections will also be reviewed as part of the release of Part III.



Competence Registers

We supplied draft registers earlier in May. The official implementation date is 1 May 2018.

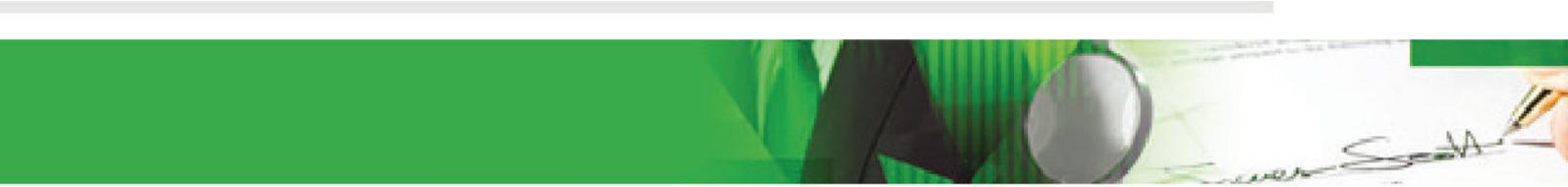
Why were there two registers?

1. A register for the individual to use as we believe that each person needs to take ownership of their own standards, specifically the need to achieve certain levels of CPD. These individual registers can be used to report to the employer.
2. A register for the FSP where the consolidated data from all affected staff will be held.

While the FAIS standard obviously applies to KIs and Reps, we would suggest that ALL staff be included in the process as the planning of training and staff development is a company-wide standard and not an exclusive one. If a formal workplace skills plan is to be developed or is already in place then such an approach will be needed anyway.

It is important to note that this new standard is an ongoing one and not an annual one. While we expect the regulator to call for a copy of your register with your 2018 annual report, it is likely that such a request will be a regular feature of future monitoring by them and indeed by ourselves at our monitoring visits. You don't want to be playing catch up all the time.

PS: We established that there was an error due to a formatting issue and we would encourage you to check with your compliance officer or the support staff to ensure you have the correct version.



CPD: Are your plans in place?

As you are reading this article, the CPD year 2018/19 has started. Whether you, or your staff, have to complete 6, 12 or 18 hours, note that if plans are not in place there is a risk that by this time next year one or more of you may be found lacking in terms of hours and hence KI or Rep status.

The kind of enquiries we are getting from clients suggests that they have not yet fully understood what is needed. We would refer you to Chapter 4 of the Fit & Proper Board Notice and specifically Section 32. This needs to drive your planning. [Click here](#) to download this specific chapter.

We encourage all clients to ensure that affected staff take ownership of their own CPD, both at planning, execution and record keeping stages. While the Key Individual has ultimate responsibility to ensure staff remain competent in all respects of competence, CPD is more of a living, breathing process that needs to be managed on an ongoing basis.

Sourcing suitable material seems to be most clients' concern. The insurer/UMA fraternity have yet to be seen as serious providers in this regard, but we do expect that they will soon get their act together and a range of options will be made available.

There will be commercial offerings as well which means that you will have to pay for them. We will also have such offerings and already have an IISA-accredited (1½ CPD hours) one for the delivery of our Interactive Newsletter and plan on hosting coffee mornings every month where we will present the most recent version as well as a discussion over issues of common interest. Details of the planned schedules will be released shortly. They will be held, as a regular feature, in Johannesburg, Pretoria, Durban and Cape Town with other areas on request. There will be a cost for these events.

Advice on CPD planning and sourcing of CPD events is available through the AC-HAS as well as identifying naturally occurring activities that need only be registered for CPD purposes.



If you are a UMA/Insurer looking to develop CPD material for delivery to your brokers, or a larger NMI looking to develop in-house CPD material, we can offer assistance in preparing the material along recognised training standards and in line with FSCA CPD requirements. Submit enquiries to bronwynn@associatedcompliance.co.za.

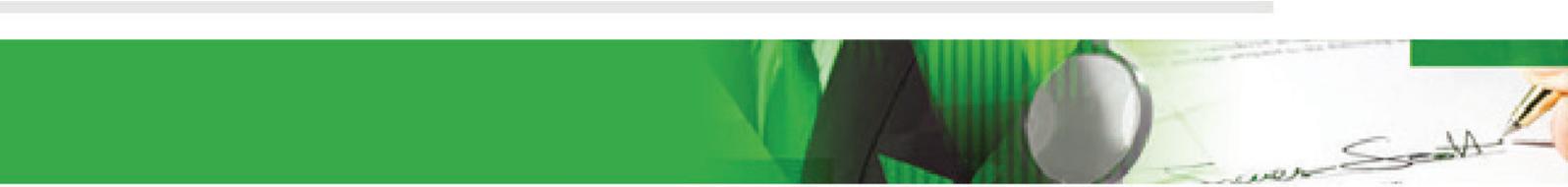
Class of Business training

We will have access to a service to deliver this level of training via an accredited training provider by the end of June 2018. Initially this will be a classroom delivery process either at our or at clients' offices. We are looking at a technology-driven option that will allow remote access to a trainer and/or training material.

Remember that all Reps under supervision as at 1 April 2018 will need to complete their Class of Business training by 31 July 2019. At the time of writing, the new supervision standards have not been released and all brand new Reps have to complete Product Specific training BEFORE they can act as Reps and Class of business training, if appointed prior to 31 July 2018, by 31 July 2019.

It should be noted that Class of Business material within a qualification will “tick the box” for this requirement. At this early stage, while many qualifications do have reference to Class of Business material, it may not cover all aspects so some additional material may be needed to top-up what the qualification provided. We would recommend that the training provider who delivered any recently completed qualification be approached to give an assessment as to the extent to which their material covered Class of Business.

Going forward, training providers will ensure that all boxes are ticked, although timing will be an issue as most Reps working through a supervision programme would normally seek to do their RE exams first given that the deadline for this is two years. If the regulator allows say six months for Class of Business training then this will be first so the training provider will need to allow a person to do the Class of Business modules first, then take a break to do the RE and then return for the balance of the qualification. This will need to be closely managed.



And still on this subject, INSETA, who seem to have been sitting on the fence on the standards required have now well and truly jumped off the fence on the side of “it’s not our problem”. [Click here](#) to see their recent circular.

Product Specific training

A reminder that all Reps under supervision as at 1 April 2018 must complete Product Specific training i.e. each product they deal with, by 31 July 2018 – now only two months away. From what we have seen so far, there are many views on how this should be achieved and how these should be assessed. One insurer we spoke to has taken the approach to train the trainer and then ask that person to train the broker’s staff. They expect an 80% pass rate.

Other insurers, or their UMAs, are being approached to assist with the training but simply don’t have a service to offer yet – nor a view on what standard that will be applied to the assessment process.

In talking to various role players, it seems the issue of the assessment standard is really a lack of a standard. This aspect was not addressed in the regulations.

Reinsurance brokers and product training

We asked the FSCA what constitutes a product for this category of FSP. There was agreement that the product would be the various contractual structures used within the reinsurance sector. The underlying products reinsured should be within the Class of Business training. However, the KI would need to ultimately decide if a mix of this approach is needed if there are specialists in a reinsurance broker that would demand more detailed knowledge of specific underlying products to function effectively.

For those looking to provide product training, either internally or to their NMI clients, we can assist in developing the material, delivery standards and assessment process. Submit enquiries to bronwynn@associatedcompliance.co.za.

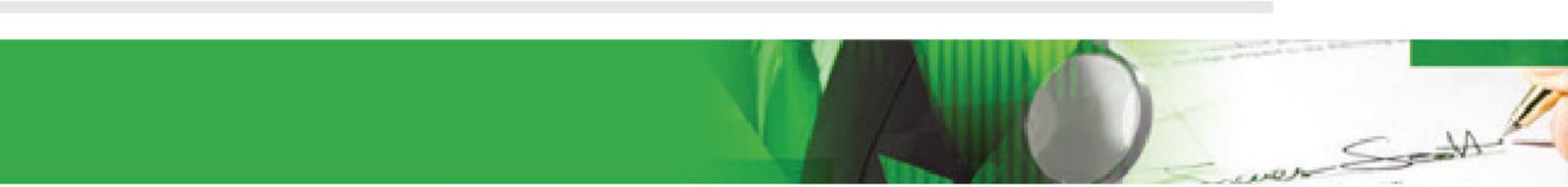


New Supervision Standards – or lack thereof. What is the impact?

The amended standards to align to the new Fit & Proper standards were expected by 31 April 2018. These were needed as the full impact of the new standards for appointing Reps took effect from 1 May 2018; with no transitional standards for Product Specific or Class of Business training and the need for ALL Reps to undertake CPD, even if under supervision, the lack of these standards is now a real practical problem. The Regulator has given no firm commitments on a release date so, for now, the Fit & Proper Board Notice wins.

New Rep appointments (i.e. those not previously appointed) are subject to the new standards:

- Need to have completed Product Specific training BEFORE any activity as a Rep can be undertaken. This effectively means that the person concerned should not be added to the register, although technically possible.
It seems clear that Product Specific training will have no transitional time periods and will need to be completed BEFORE a Rep can act as such.
- Class of Business training still has some allowance to complete if a representative is appointed prior to 31 July 2018 as they will have until 31/7/19 to complete this. We understand that proposed supervision standards will have a period in which a Rep can complete this level of training and still operate as a Rep under supervision.
- Need to have completed Product Specific and Class of Business training (if appointed after 31/7/18) BEFORE any activity as a Rep can be undertaken. This effectively means that the person concerned should not be added to the register, although technically possible.
- Reps under supervision are subject to CPD requirements. This makes no sense at all and is contrary to other input we have had from the FSCA. CPD is meant to be applied once all other standards have been met. We have no assurance that Reps under supervision will be excluded from CPD requirements. We will continue to pursue clarity as we do not want clients planning for this and then it is not needed.

- 
- The current rules on completing the RE exams and qualifications and the minimum experience periods will remain as is.

New Rep appointments in May and after (until the new supervision standards have been released) will be shrouded in confusion.

Who is going to be keeping an eye on all of the above?

These factors will now become an integral part of our monitoring programme. We are busy adapting the current report to cater for the new and amended standards.

Insurers will start to exercise their general responsibilities of oversight, especially where binder agreements have been provided and, in terms of Rule 12 of the PPR, to ensure that their various distribution channels “meet the FAIS product knowledge competency requirements in respect of the policies offered by the insurer”. Remember PPR is for personal lines and small commercial (on the short-term side) and any long-term product (as defined in the Long-term Act). This does not necessarily mean that insurers and UMAs will insist on specific training and tests, although this is one option. It also does not mean that insurers and UMAs must take on the responsibility of ensuring staff in need of product specific training as part of their competence requirements receive such training, but again some insurers may well be able to offer such a service.

One way or another, insurers will be more in your face in their attempts to exercise their responsibilities. Some have taken the responsibility a little too far and are misunderstanding what it is they must do. One insurer recently wrote to all their brokers and asked for a register of all Reps dealing with their products. We can live with that, although they inferred that this was a regulatory requirement, which is not the case. Some people are also concerned that handing out their ID numbers to be held by insurers is perhaps a step too far – but that is a debate for another day.

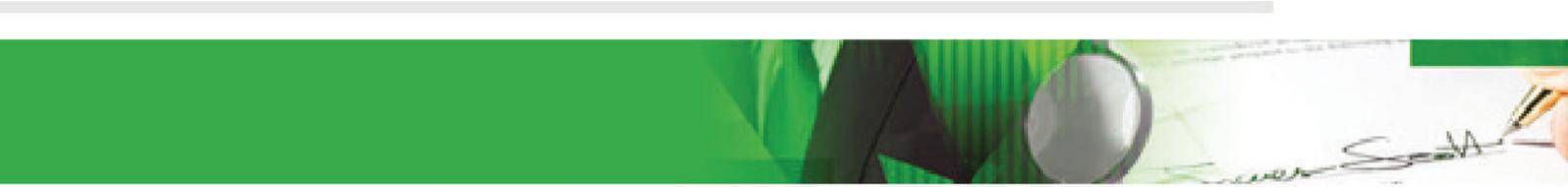


They also wanted this register to be kept up-to-date as and when changes occur – to “remain compliant” – once again inferring some regulatory standard. For example: a licence profile change you cc the insurer. Doable, but we wonder what additional admin the insurer is creating for themselves and if all insurers followed the same approach it would mean extra admin for the broker as well.

We took the matter up with the insurer’s compliance officer and suggested that they consider a more practical approach.

Solvency Assessment Calculations

We have completed the update to our solvency calculation tool in line with the new financial solvency standards within the Fit & Proper changes. We have initially supplied it to all clients with a February financial year-end who collect client funds/premiums and asked that this be completed by their auditor as part of the audit report. The reason for this is that while the liquid asset requirements have been relaxed by the regulator, the level of detail needed to complete the calculation is more complicated and best obtained via the auditor (for the annual return) and the bookkeeper/financial manager for the monthly monitoring needed by the FSP. Yes – monthly monitoring. We have long advocated that the solvency calculation become an integral part of the management accounts, with limited success. For FSPs handling client funds this process is basically now a minimum requirement as the Key Individual must follow the red flag reporting standards. If they are not checking the financial ratios of assets against liabilities how else would they know if they are in a problem area? And how else would they know that the liquid asset requirements are being maintained? Set up the required reporting and there should be no need for extra costs for completing the calculation as and when requested by ourselves.



Subordinated loans – What has changed

In the old solvency standards, even FSPs not handling client premiums or funds had a complicated set of rules to adhere to on aspects such as loans to related parties, intangible assets and goodwill not being allowed as assets in assessing solvency. The one often used accounting standard was that loans correctly subordinated could be excluded from an FSP's liabilities. As many loans are often from shareholders or related parties, obtaining such subordination was usually straightforward and thus solvency was often assured because of such a loan.

Over the years there was always a call to assess solvency from an accounting perspective, especially for the low-risk FSP not handling client funds. The Regulator did relax many aspects of the solvency requirements within the Fit & Proper changes. Those FSPs not handling client funds got the simplistic accountants-based solvency standards, i.e. that assets must exceed liabilities. However, this has done away with the subordinated loan as this is not seen in the balance sheet so FSPs must now deal with all liabilities although all assets are allowed. The problem? Those FSPs attaining solvency in the old system via a subordinated loan, specifically where there were no disallowed assets, may well now find themselves technically insolvent yet the underlying dynamics of the company have not changed – just the rules.

We have taken this up with the FSCA who assured us this was not an unintended consequence of the rule change. They also stated that it is not their intention to put FSPs out of business because of this change, however the situation will not simply be ignored. For shortfalls that “trade themselves out” in a short period, which is often the case at financial year-end with various provisions being made, proof can be supplied upon enquiry from the FSCA or AC and all will be well.



For longer-term situations e.g. a start-up operation, an exemption (from the solvency requirement) application is needed. Apart from the payment of a fee of R7,333 (it's quite ironic that a technically insolvent FSP must pay a fee from funds they don't have!) the FSCA will want to see, among other things:

- The FSP's business plan that shows how the situation will be addressed.
- The latest management accounts at the time of application.
- The projected management accounts/annual statements to see how the situation is considering the future i.e. in line with business plan projections.
- Ongoing reporting to the FSCA to ensure that plans are on track and reach fruition.

We have interacted with the FSCA on behalf of many clients affected by this situation and the response to the approach, so far, has been a positive one. It appears that the regulator has “flagged” the matter and is discussing it internally as to how to deal with the situation. In the meantime, if you see you are affected and have not raised the matter with us, please do so.

Subordinated loans are still allowed in the solvency standards for FSPs handling client funds.

We will deal with situations on their own merits as and when they arise, but in the meantime it is vital that auditors, financial managers and bookkeepers are made aware of the standards now applicable and manage the accounts accordingly. This is especially important when situations arise within a business, such as the purchase of a book of business, so that the accounting process considers the applicable solvency standards for the FSP i.e. handling client funds or not as the standards are different.



European Union General Data Protection Act (EU – GDPR), is here. What now for those who offer services to EU residents?

By the time, you read this newsletter, GDPR will have been live for seven days.

Thursday 24 May 2018 marked the end of the two-year grace period for implementing processes to comply with the GDPR.

So what's next if you are involved in services cross border or offer services to EU residents?

If you do, we would suggest that you ensure that this exposure is flagged with your compliance officer as there will be work to do over and above a local POPIA implementation plan and we can assist you with both aspects if needed.

Interesting times ahead as precedents are set which should provide South Africa with a wealth of information and best practices since the GDPR is perceived to be the global *Gold Standard* in terms of privacy legislation. Rest assured we will be watching these developments for what we can learn and apply as best practice.

From AC-HAS

We are busy with our second phase of the Fit & Proper amendments where we are reviewing all the existing Guidance Notes and developing new Guidance Notes, where applicable.



AC HUMAN ASSETS SERVICES

As you know, 30 April is the deadline by when all companies should submit their Workplace Skills Plan (WSP) and Annual Training Plan (ATR) – the mandatory grant – to their respective SETAs. The process involves reporting on all training conducted in the workplace for the previous year and submitting a training plan of all the planned training for the current year.

Why would you want to submit the WSP and ATR?

1. Employers who have an annual payroll more than R500,000 pays Skills Development Levies every month. If you submit your WSP and ATR, and the report is approved, you will receive 20% of those levies back.
2. The submission of the mandatory grant – the WSP and ATR report – opens opportunities for further funding, called discretionary grants, with your SETA.



While we are all submerged in the Fit & Proper amendments and finding our feet to start with the mandatory CPD training for all registered KIs and Reps from 1 June, it is important to be mindful of the rest of your staff complement who are not bound by FAIS regulations and training requirements. This is the reason why we are emphasising the fact that submitting your WSP and ATR reports can be beneficial to you and assist you in looking after the training needs of your entire staff complement.

The discretionary grants that INSETA (for example) make available once you have submitted your mandatory grant, gives your company the opportunity to apply for funding for related studies at public institutions, skills programmes (courses less than six months) at public and private institutions, learnerships and internships in your company that cover the skills areas of all your employees. If you therefore take a moment at the beginning of each year to look at your staff's learning requirements, you will be ready and prepared to apply for the funding once INSETA announces that the funding windows are open.

What can you apply for?

The Guidance Notes on Competence Standards and Workplace Skills Plan will have detailed information on the different grants that can be applied for, but, in a nutshell:

- Bursary funding: this can be funding up to R30,000 for qualifications/degrees at a public institution that addresses the scarce and critical skill as identified in the industry.
- Skills programmes that cater for modules and courses not longer than six months at public or private institutions.
- Learnerships that cater for unemployed youth to obtain a qualification and work experience in your company for a 12-month period.
- Internships which give unemployed graduates work experience for a 12-month period.

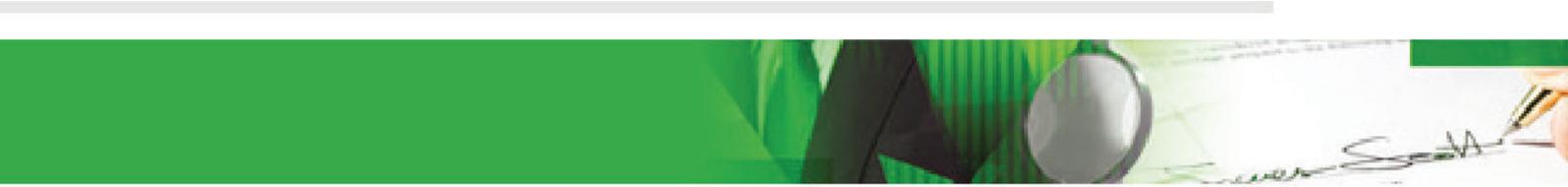


While good governance can mean different things to different companies, we at AC and HAS embrace this term in its entirety and strive to assist all our clients to run a company that is characterised by open and transparent policies, accountability, responsiveness, equity, inclusiveness, professionalism and behaving under the rule of the law.

Please let us know how we can assist you with any questions that you might have in developing an all-inclusive training plan for your whole staff complement.

Please send an email to

bronwynn@associatedcompliance.co.za or has@associatedcompliance.co.za.



From the FSCA

2018 Compliance Report

We can hardly believe that another 12 months have passed and we find ourselves planning to complete the annual reports. A good thing is that the planned new style report was postponed until 2019 (well so we've been told). A bad thing is that we will basically have the same old-style report, which generally adds no value to the Regulator's data.

Having said that, we do know one significant change will be that the FICA questions will be separated from the main FAIS report. This will allow for more focused questions relating to the new FIC standards, we assume targeted only at the Accountable and Reporting Institutions with the suspicious and unusual transaction requirement remaining in the main report. What the impact of the recently (29/5/18) released FICA questionnaire for Accountable Institutions will have on the need for this separate report section is not yet clear.

As for the balance of the report we have been advised that this will now only be released at some point during June 2018. We understand that may well be to allow specific questions to be asked around the implementation of the amended Fit & Proper standards, which as you know generally went live on 1 April 2018.

This will now impact on our and all other compliance practices/officer's plans as we all write off June and early July to draft and submit reports. We will discuss our plans for June with affected clients as we may well need to bring forward planned first quarter meetings to June to "fill the gap".



CIS Hedge funds/Structured deposits

The FSCA is now accepting applications that currently have collective investment schemes and/or short-term and/or long-term deposits in their licence profile and would like to take advantage of these new categories without the need to pay a fee to do so.

We have written to all clients who may wish to do so. The deadline for applications for these new categories is 30 June 2018.

The FSCA has made it clear that all applicants will need to show experience in related classes e.g. short-term/long-term deposits or collective investment schemes to be licenced.

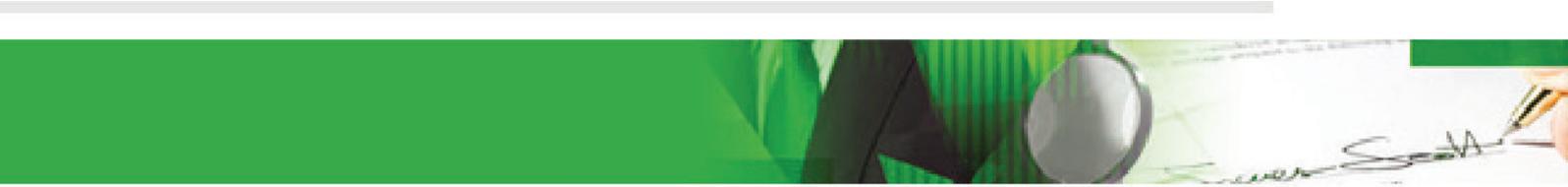
FSPs seeking to add these categories will also need to show experience in related categories.

Survey for assessing progress on implementation of the new requirements of the FIC Act

A questionnaire has been released seeking input on the task of implementing the new FIC standards. It is a 6 page document and actually well put together. Only Accountable Institutions need complete this although the FSCA chose to send it to all FSP's so we have had many queries from everyone else to deal with! The deadline for completion and return is 30 June 2018. We will be writing to all affected clients so that we can co-ordinate the completion and return as it will assist us in following up with these clients going forward. In the meantime, [click here](#) to download the questionnaire.

Latest FAIS Newsletter

The FAIS Newsletter Volume 26 was released on the 30th May. [Click here](#) to download a copy.



Tier 2 products: Long term Category B1-A and Short-term personal lines A 1

The FSCA have just started the exercise to automatically add these new categories to all FSPs that already have Category B and personal lines.

What happens next?

The FSP needs to decide whether or not they wish to retain these new categories and if so which reps and KIs will need them. This decision has to be made within three months. At this stage we have made the assumption that the official start date is 1 June, even though the exercise was started in May. This would have a D-Day of 31 August.

Our understanding is that the FSCA only expect FSPs that intend using the category/ies to confirm their retention. If an FSP does not intend using it, then they must say so and have them removed.

We plan to follow up with all affected clients towards the end of June seeking their instructions.

Tier 2, Execution of Sales and Debarment

The FSCA has been asked whether a debarment due to educational standards on current standard licence products and processes can be removed if that person is appointed to a Tier 2 and/or Execution of Sales process where there are no such educational standards. FSCA confirmed that this was in order but the standard re-appointment process must be followed by the FSP (see the Guidance Note on the reappointment of de-barred Reps recently provided).

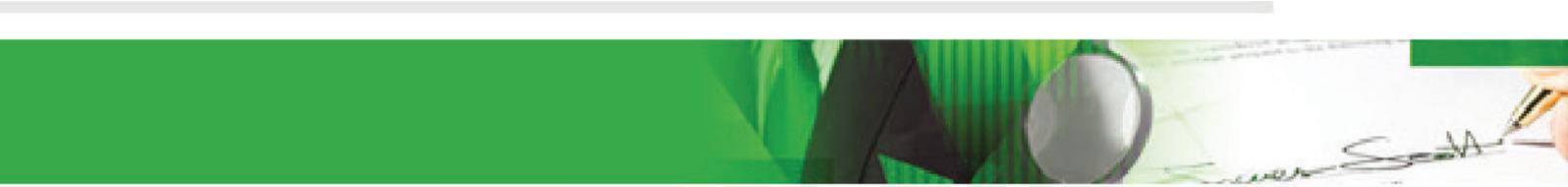


From the FIC

Queries to the FIC now via the website

The following link has now been created to allow queries to be lodged via the FIC website rather than the old email address.

[Click here](#) to view the page. Accessing this link is best done via Chrome.



From the IGF

Premium collections

On 23 March 2018 National Treasury issued a proposal to amend the regulations on premium collections for the Long- and Short-term industries. The closing date for comment was 23 April 2018. Most people within the industry accepted that the changes would be implemented and it was just a case of what feedback the industry would provide and what standards would they be looking at as an alternative to the IGF on short-term premiums.

It seems all must have been agreed, despite any feedback from Treasury or the FSCA as the IGF and subsequently SAIA have issued circulars stating that all will change from 1 July 2018 as the IGF will not offer renewal terms from that date forward. So, if you have a 30 June year-end, you will not be getting an IGF renewal and your ability to collect premiums will be dependent upon what standards your insurer will demand for an ongoing authority to collect on its behalf.

[Click here](#) for the SAIA circular and [here](#) for the IGF market circular.

What will they demand? At this stage we don't know and to be honest we don't think the insurers have got their heads around the question yet. From discussions with a couple of Compliance Officers of insurers it seems that many are talking of bank guarantees as the alternative, which if done as a 100% guarantee of monies handled will be disastrous for brokers as banks generally call for a Rand for Rand deposit of cash to issue such a guarantee, which will be far more onerous than the current IGF structures. Is premium collection by brokers almost a thing of the past?



From the FAIS Ombud

A new Ombud was announced: Mr Naresh Tulsie. [Click here](#) to download an article on the change via Insurance Gateway

From the Long-Term Ombud

The 2017 annual report has been released. [Click here](#) to download a copy.

And [click here](#) for an FANews article on the report.

From INSETA

New training material was recently released but INSETA released a statement on 16 May acknowledging some errors. [Click here](#) to download this. They recommended using the updated FSCA study Guide in the interim. [Click here](#) to download a copy.

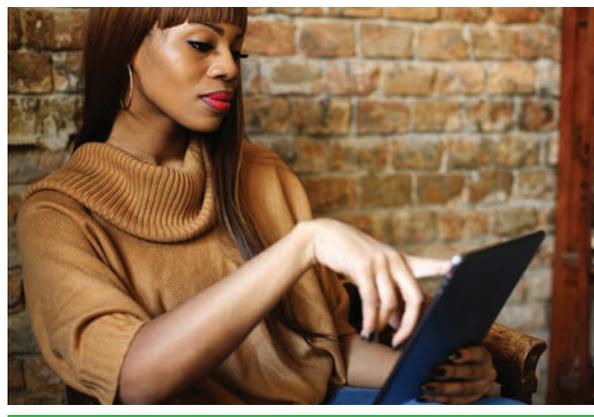
The press release provides no details of the errors in the material nor when this will be corrected.

Interesting things we have read

INSURANCE GATEWAY

Not directly a compliance matter but interesting nevertheless given the prominence of Governance in FAIS matters – an article by Donald Dinnie, now of Natmed, on the concept of Good Faith, which for some of us “old timers” still makes sense.

[Click here](#) to read the article.



FSCA Same Old Same Old

An article that highlights the need for the “new” authority to make changes.

[Click here](#) to read the article.



FANEWS

The New Insurance Act

An article on the views of some insurers on the expectations from the new Act.

[Click here](#) to read the article.

Can common ground be found between technology and the intermediated insurance model?

Interesting stuff! Will it take away the traditional need of people wanting to talk to people? We don't think so. We see people wanting to talk to people in many places – not just insurance. But maybe we are missing something! What do you think?

[Click here](#) to read the article.

A related article on the value of brokers from COVER is an initiative from Hollard that seeks to promote the role of the broker #LongLiveTheBroker

[Click here](#) to read the article.

And a related article: **Fundamentally changing the way we engage with clients.** Useful tools but can it replace people power?

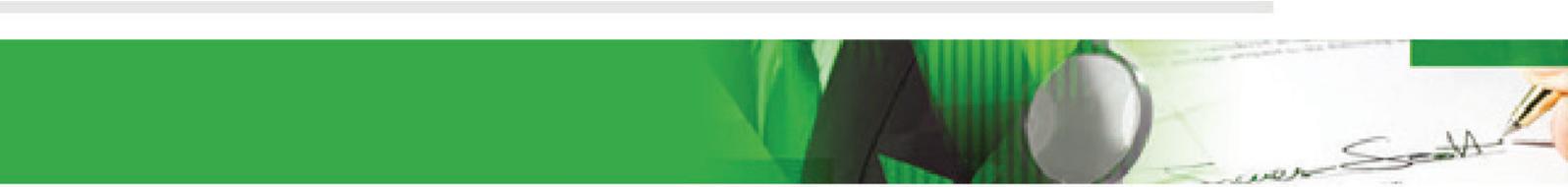
[Click here](#) to read the article.

MONEY WEB

Unlicensed foreign financial advisors

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