

# FAIS REGULATORY EXAMINATIONS

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## 1. OVERVIEW

### 1.1. Purpose of this document

The purpose of this document is to provide the context, background and all the relevant information regarding the regulatory examinations. The regulatory examinations cannot be discussed, criticised or questioned without understanding or at least being aware of the factual information regarding the origin and purpose of the examinations.

### 1.2. Background of the regulatory examinations

The Financial Advisory and Intermediary Services Act, 37 of 2002, (“the FAIS Act”), came into effect on 30 September 2004. The objective of the FAIS Act is to:

1. Protect consumers, and
2. Professionalise the financial services industry.

The Act requires all financial advisors and intermediaries (providers) to meet specific competence requirements. At the time, the competence requirements consisted of experience and qualifications.

To assist industry participants, the initial qualification requirements required to obtain a licence to act as a provider were “reduced” from full qualification requirements to skills programmes (or credit requirements) to assist those in the industry that did not have any formal qualification and who had to commence with studies as a result of the promulgation of the FAIS Act. However, the intention was always to gradually increase the qualification requirements to the requirement that providers must have full qualifications.

As a result thereof, the Determination for Fit and Proper Requirements for Financial Services Providers, 2003, had to be reviewed. The FSB embarked on a very intensive consultation process with the industry regarding the competency requirements. A “blank slate” approach was followed. In other words, the existing Fit and Proper requirements were set aside completely and industry stakeholders were invited to provide input as to what requirements would be appropriate, reasonable and “workable for them”. Input was also obtained as to what would be a practical and effective way in which to implement the requirements, and what those requirements should be?

The consultation process with stakeholders commenced in October 2006 and continued until September 2008. The consultation was open to any provider, individual, industry associations, professional body etc. Participants were mostly product experts, professional bodies, industry associations, providers, representatives from larger corporate companies, and even training providers that specialised within the financial services industry.

Seven work groups were created to focus on specific competence requirements:

1. Work group 1: Services under Supervision
2. Work group 2: Assistance Business
3. Work group 3: Short-term Insurance
4. Work group 4: Category I (Other products)
5. Work group 5: Category II and III
6. Work group 6: Compliance Officers
7. Work group 7: Health Care Benefits

In addition to the work groups, a Fit and Proper Forum was established to oversee and discuss progress of the various work groups and to review all the work performed on a consolidated basis.

Early in 2008, the various work groups completed a draft set of competency requirements for consultation with and review by the Advisory Committee on Financial Services Providers (FAIS Advisory Committee). The proposed competency requirements were:

1. Experience – the experience required must fit the financial product, i.e. the more complex the product the more experience would be required.
2. Qualification – Based on the principle of fairness, a distinction should be made between persons that have been in the industry for a long time (“existing providers”) and new entrants to the industry. The existing providers must only meet the credit requirements, and should not be required to complete a full qualification. This means that a skills programme of 30 or 60 credits should be seen as sufficient. All new entrants into the industry must obtain a “full” qualification.
3. Regulatory examination – It is accepted international practice and standard to set professional examinations for professions. The FAIS regulatory examinations are, therefore, not unique. The purpose of the regulatory examination is to set a minimum standard in terms of the following:
  - Knowledge and understanding regarding the role and responsibilities of a key individual or a representative under the FAIS Act. Although the FAIS Act has been in operation since 2004, it was generally accepted that the level of knowledge, awareness and understanding of the responsibilities imposed by the FAIS Act on providers was lacking. This led to non-compliance with the provisions of the FAIS Act for example, providers did not furnish clients with the necessary information as required by the FAIS Act.
  - Providers are further under the misconception that ensuring compliance with the legislation is the responsibility of the compliance officer. This is not the case – the key individual is responsible to ensure compliance with the FAIS Act and representatives also have specific responsibilities in respect thereof. The compliance officer is responsible for the monitoring of compliance only.
  - It was agreed that a once-off regulatory examination should address the problems referred to above, and would ensure that all providers have a proper understanding of their specific regulatory roles. The exams would be compulsory for everyone rendering financial services to clients. This was also seen as part of the objective to professionalise stakeholders in the

industry and to have confidence that providers know and understand the legislation that governs their industry.

- In addition, there were many inconsistencies where qualifications were concerned. Some qualifications included an in-depth learning of financial products, and others did not. Skills programmes also did not include the same volume and standard of information than that of full qualifications. Therefore a “second” level of examination was required that focussed specifically on financial products. However, agreement was reached that exemption from this examination would be possible if the qualification that a person had already acquired covered the financial product information in depth. In addition, existing providers who did not want to obtain a full qualification only had to pass the applicable second level examination. A full qualification would then not be required. It was therefore the choice of each existing provider whether he/she wanted to complete a full qualification, or a skills programme with the relevant examination(s).

The Fit and Proper requirements were extensively consulted on and debated with industry which resulted in various amendments to the draft requirements submitted to the FAIS Advisory Committee for committee members’ input and guidance.

Subsequent to the process followed above the Fit and Proper requirements were published on 15 October 2008 in the Notice on the Determination of Fit and Proper Requirements for Financial Services Providers (Board Notice 106).

Board Notice 106 should be read in conjunction with the following board notices, as these documents provide additional in-depth information to the competence requirements:

- Board Notice 103 of 2008 – Determination of Continuous Professional Development
- Board Notice 104 of 2008 – Exemption of Services under Supervision in terms of Requirements and Conditions
- Board Notice 105 of 2008 – Determination of Qualifying Criteria and Qualifications for Financial Services Providers

At the time that the competency requirements were published in 2008, and specifically the requirement that providers must write certain exams, concerns regarding the examinations were raised.

Now that the examinations have become a reality, allegations are being made that the consultation process was not adequate. This is refuted by the FSB as it has kept record of all the meetings and workshops with industry stakeholders during the 2 year consultation period.

### **1.3. Purpose of the regulatory examinations**

There are many people in the financial services industry with a significant number of years of experience. The importance of experience is not being questioned or discounted in any way.

However, from experience we have learned that persons who have been in the industry for an extended time, do not necessarily know what the FAIS Act requires of them. In fact, the FSB has encountered countless examples where key individuals and representatives do not understand their regulatory roles and responsibilities.

A general perception exists that the compliance officer is responsible to ensure compliance by the provider with the FAIS Act. This is not correct. The key individual of a provider is responsible for overseeing and ensuring compliance by the provider with the FAIS Act and each representative must know and understand his/her duties relating to compliance with the Act.

The intention of the Fit and Proper Requirements has always been to increase the competency requirements over a period of time. This is exactly what occurred with the introduction of the new requirements, including the regulatory examinations, in 2008.

Regulatory examinations are not unique to South Africa, and are in line with international practice.

The purpose of the regulatory examination level 1 is to ensure that all key individuals and representatives fully understand their regulatory role, and the accountability and responsibility they have in terms of this role. For example, it requires providers to know and understand the General Code of Conduct that, *inter alia*, requires providers to furnish clients with adequate and correct information.

In future, if any key individual and/or representative is in breach of the FAIS Act, he should not be able to argue that he did not know what the requirements were or what his responsibilities under the FAIS Act were.

Experience, therefore, does not equate to sufficient knowledge regarding the FAIS Act and its requirements. As such, all providers are expected to complete the level 1 regulatory examinations, regardless of the number of years experience gained in the industry.

The regulatory level 2 examinations are product specific. A person's experience in dealing with the relevant financial product may assist him/her in successfully completing these examinations. In addition, if person has a "specifically" recognised qualification, then such qualification can exempt this person from having to write the level 2 regulatory examination.

## **2. APPOINTMENT OF THE EXAMINATION BODIES**

### **2.1. Approval process**

After the publication of the new Fit and Proper Requirements the process of appointing / recognising representative bodies to conduct these examinations on behalf of the Financial Services Board commenced.

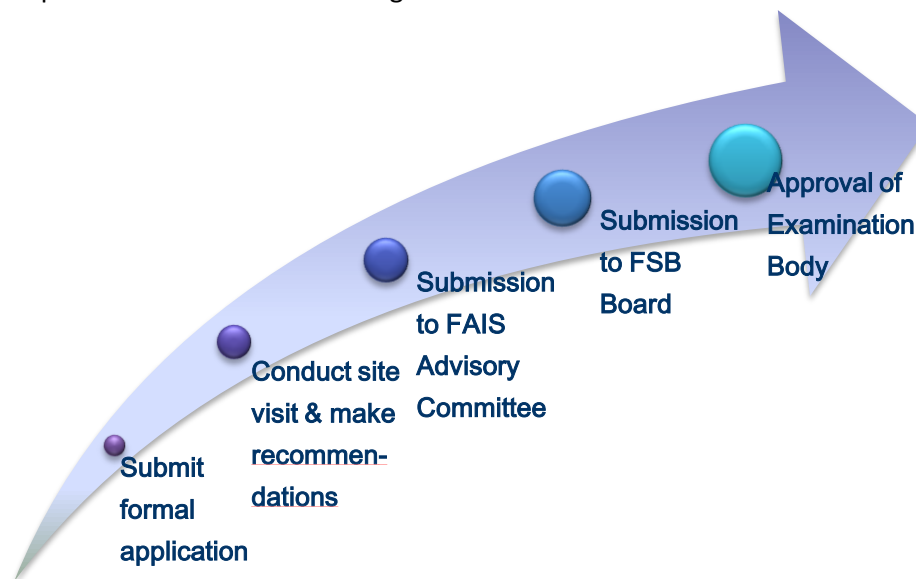
The intended purpose of the Examination Bodies is:

1. To develop the regulatory examinations questions, and
2. To deliver the regulatory examinations on a national and international basis.

The approval criteria that were used can be found in the following legislation:

- FAIS Act Section 6(3)
- FAIS Act Section 6(4)
- Board Notice 153 of 29 December 2008 Annexure B (Application by Representative Bodies for Recognition by the Financial Services Board.)

The approval process included the following activities:



The four examination bodies that were recognised were:

1. South African Institute of Financial Markets (SAIFM)
2. Financial Planning Institute (FPI)
3. Moonstone Information Refinery
4. Institute of Bankers / Leselo

## 2.2. Development of examinations

Each examination body was allocated specific examinations to develop based on their specific areas of expertise:

| RE No | Description  | Examination body developing the exam |     |        |       |
|-------|--|--------------------------------------|-----|--------|-------|
|       |  | Moon stone                           | FPI | Leselo | SAIFM |
| 1     | KI Level 1: Cat I, II, IIA, III and IV (General)           | X                                    |     |        |       |
| 2     | KI Level 1: Cat 1.1 & 1.19                                 | X                                    |     |        |       |
| 3     | KI Level 1: Cat II & IIA                                   | X                                    |     |        |       |
| 4     | KI Level 1: Cat III  | X                                    |     |        |       |
| 5     | Representatives  | X                                    |     |        |       |
| 6     | Category IV level 2 exam                                   | X                                    |     |        |       |
| 7     | Long-term insurance category B1 (risk)                     |                                      | X   |        |       |
| 8     | Long-term insurance category B2 (Investment)               |                                      | X   |        |       |
| 9     | Long-term insurance category C and retail pension benefits |                                      | X   |        |       |
| 10    | Collective Investment Schemes                              |                                      | X   |        |       |
| 11    | Health Care Benefits                                       |                                      | X   |        |       |
| 12    | Short-term insurance: Personal lines                       |                                      |     | X      |       |
| 13    | Short-term insurance: Commercial lines                     |                                      |     | X      |       |
| 14    | Pension Fund Benefits                                      |                                      |     | X      |       |
| 15    | Deposits   |                                      |     | X      |       |
| 16    | S & I: Shares Cat I & III                                  |                                      |     |        | X     |
| 17    | S & I: Money markets Cat I & III                           |                                      |     |        | X     |
| 18    | S & I: Debentures Cat I & III                              |                                      |     |        | X     |
| 19    | S & I: Warrants Cat I & III                                |                                      |     |        | X     |
| 20    | S & I: Bonds I & III                                       |                                      |     |        | X     |
| 21    | S & I: Derivatives I & III                                 |                                      |     |        | X     |
| 22    | Forex Investment business I & III                          |                                      |     |        | X     |
| 23    | Long Term Insurance category A                             | X                                    |     |        |       |
| 24    | S&I - General exam - Cat I & II & III                      |                                      |     |        | X     |
| 25    | S & I: Shares Cat II                                       |                                      |     |        | X     |
| 26    | S & I: Money markets Cat II                                |                                      |     |        | X     |
| 27    | S & I: Debentures Cat II                                   |                                      |     |        | X     |
| 28    | S & I: Warrants Cat II                                     |                                      |     |        | X     |
| 29    | S & I: Bonds Cat II  |                                      |     |        | X     |
| 30    | S & I: Derivatives Cat II                                  |                                      |     |        | X     |
| 31    | Forex Investment business Cat II                           |                                      |     |        | X     |

The scope of examinations approved for any of the regulatory examinations, can be extended.

### 3. DEVELOPMENT OF THE REGULATORY EXAMINATIONS

#### 3.1. Appointment of question developers

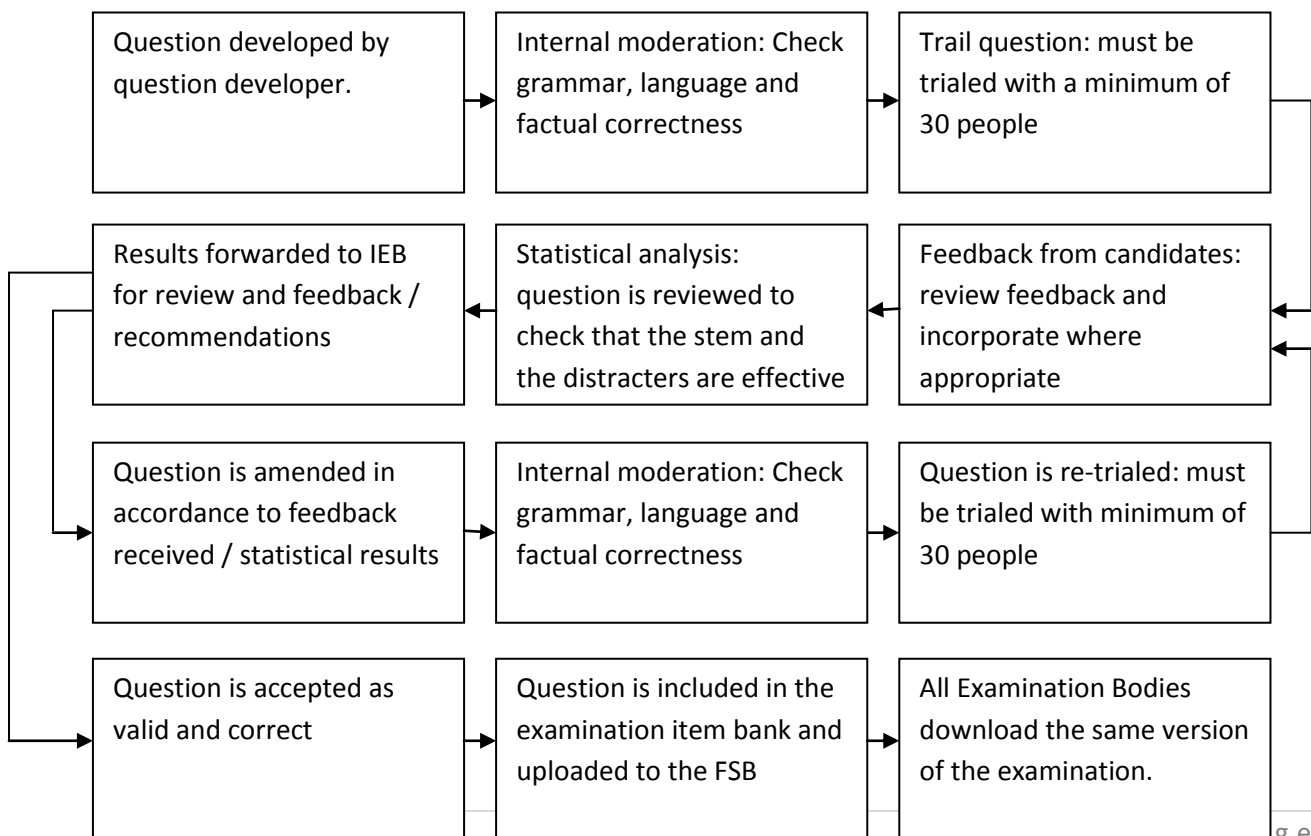
The Examination Bodies appointed subject matter experts to develop the multiple-choice questions for the examinations. The question developers were not required to hold any specific qualification(s), but it was a requirement that they had to be regarded as subject matter experts in the field for which they were required to develop questions.

The Independent Examination Board (IEB) is an assessment body that is accredited by Umalusi, the South African statutory body responsible for quality assurance for school and adult assessments. The IEB training section, ASSET, provides training in assessment. They conducted training for all of the question developers of the various Examination Bodies. The purpose of this training was to ensure that the question developers used the same correct methodology when developing the multiple-choice questions.

#### 3.2. Quality assurance of questions

The IEB provided guidance in terms of the quality assurance processes that would be required when developing an examination. They were also appointed as the external moderator by the FSB.

Below is a schematic overview of the quality assurance process that all questions must undergo before being approved and accepted into the examination item bank:



### 3.3. Qualifying criteria

The qualifying criteria were developed during the consultation period and the industry participated in workshops where the criteria for each examination were discussed and developed. After finalisation, the qualifying criteria were then published in Board Notice 105 of 2008, Annexure 1.

The qualifying criteria provide the basis of knowledge and skills against which the regulatory examinations are set. Only questions based on these criteria will be included in the examinations.

An example of the criteria is included below:

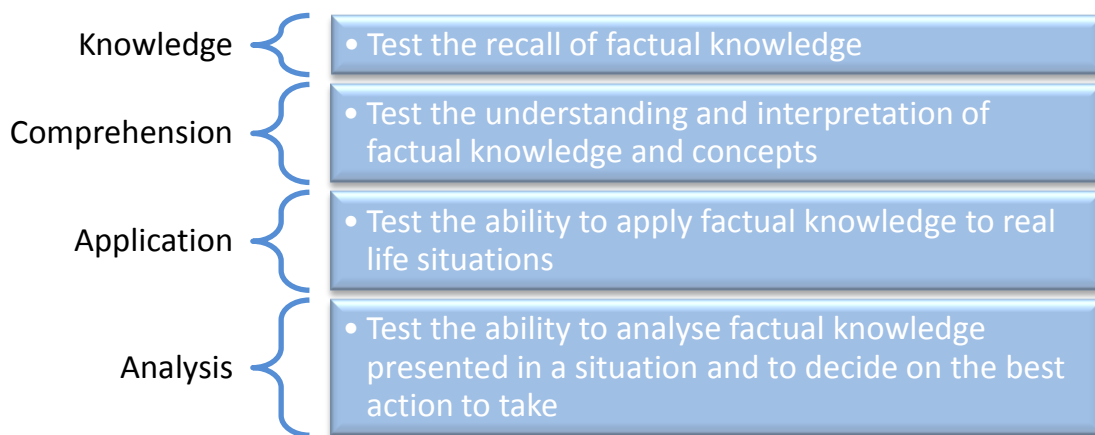
| No. | Task  | Knowledge Criteria   | Skill Criteria  |
|-----|---|--|---|
| 3   | <i>Manage and oversee the appointment of representatives.</i> | <i>Describe the Fit and Proper requirements that apply to representatives in terms of the legislation.</i>         | <i>Verify that the necessary HR processes are developed/ amended to enable the FSP to check, at recruitment stage, whether a potential representative meets at least the entry level Fit and Proper requirements.</i> |
|     |   | <i>Explain what recruitment and appointment procedures have to be implemented when appointing representatives.</i> |   |

### 3.4. Development of questions

Individual questions are based on one or more knowledge criteria, also taking into account the applicable skill. Every task will be covered at least once in an examination.

The Examination Bodies are required to keep an electronic record of each question developed, and to which criteria the question is linked to. No questions will be accepted if they do not link to specific qualifying criterion. In addition the record must reflect who the question developer was, who the internal moderator(s) are, when the question was trialed, whether the question was amended, what the amendments was, etc. In short, there is an audit trail for each question developed.

Each exam will contain questions at 4 different levels of complexity. These four levels deal with:



Examples of questions:

#### Example of a knowledge question

Within how many days must a financial services provider inform the Registrar of the debarment of its representative?

- A. 14 days
- B. 7 days
- C. 30 days
- D. 15 days

#### Example of a comprehension question:

Jane Chetty is a sole proprietor and has no representatives. What are the requirements regarding the compliance function of the FSP?

- A. Jane must appoint an external Compliance Officer
- B. Jane doesn't need to appoint a Compliance Officer
- C. Jane must appoint an internal Compliance Officer
- D. Jane must be appointed as the Compliance Officer

Example of an application question:

Jean Hill, the representative of DCB Investments must advise a client that is retiring on specific investments. Which of the following aspects is Jean NOT obliged to disclose about a recommended financial product unless enquired about by the client?

- A. The risk of possible capital loss in future due to fluctuations in the financial markets
- B. Information and graphs to illustrate the product's performance at intervals over a period of time
- C. Any income and other relevant tax issues of a material nature that need to be considered
- D. Any material illustrations about the product provided by the product supplier

Example of analysis question

Consider the following events that occurred on the same day. Each of these events has, in terms of the relevant legislation, varying periods of time during which the FSP must respond to the event, or otherwise adhere to the legislation. Arrange the events in order of shortest to longest applicable period and select the CORRECT option.

- i) The FSP uses a new postal address and must inform the Registrar of the change
  - ii) The FSP received cash funds, exceeding the cash threshold reporting requirement, and must inform the Financial Intelligence Centre
  - iii) The Registrar has requested that the FSP provide certain documents pertaining to a client's advice record
  - iv) A client terminated a financial product and the FSP is now required to maintain records of advice associated with this client's purchase for an additional period
  - v) The FSP received client funds and must pay the funds into the bank account designated for client funds
  - vi) During an office meeting, the FSP provided a client with the details of the product supplier, and must now provide the details to the client in writing
- 
- A. (i) then (iii) then (ii) then (vi) then (v) then (iv)
  - B. (v) then (ii) then (iii) then (i) then (vi) then (iv)
  - C. (ii) then (vi) then (v) then (i) then (iii) then (iv)
  - D. (iii) then (v) then (ii) then (i) then (iv) then (vi)

### 3.5. Layout of examination (complexity)

As the purpose of the level 1 regulatory examination is to ensure that financial advisors and representatives understand their regulatory role and responsibilities, the emphasis was placed on the “comprehension” or understanding and application of the legislation.

The layout of the RE 1: Key Individual Category I, II, IIA, III and IV

|                   |     |              |
|-------------------|-----|--------------|
| Level 1 questions | 28% | 22 Questions |
| Level 2 questions | 40% | 32 Questions |
| Level 3 questions | 20% | 16 Questions |
| Level 4 questions | 12% | 10 Questions |

The layout for the RE 5: Representative

|                   |     |              |
|-------------------|-----|--------------|
| Level 1 questions | 30% | 15 Questions |
| Level 2 questions | 40% | 20 Questions |
| Level 3 questions | 20% | 10 Questions |
| Level 4 questions | 10% | 5 Questions  |

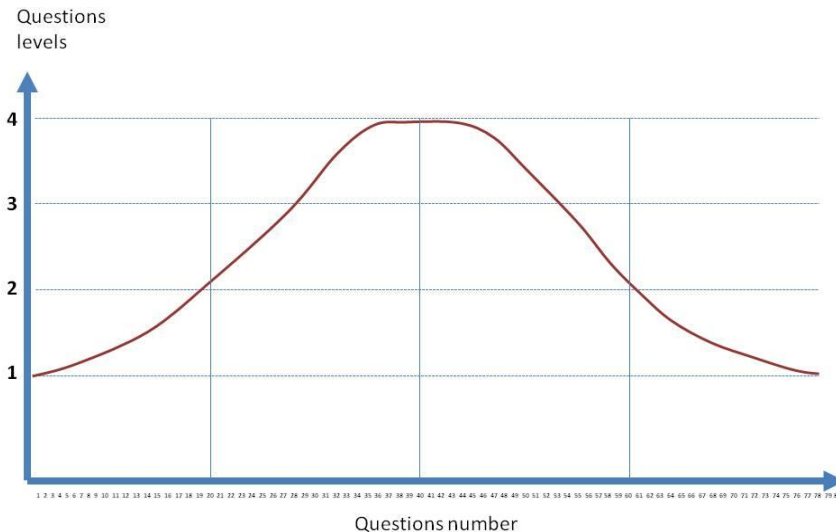
It should also be noted that random selection of questions are used. In other words two people may write the same examination, but will not receive the same questions. However, the complexity of their examinations will be the same as the layout of the examinations is exactly the same.

The reason for the random selection of questions is to limit the leakage of questions. The questions bank will therefore have a longer lifespan and as a result the cost of the examinations can be contained as ongoing question development can be limited due to questions being used for a longer period of time before retiring the questions.

### 3.6. Pilot process

The pilot process is a significant step in the quality assurance of any examination. Both the RE 1 and RE 5 were piloted three times.

After the first pilot the IEB informed us that the layout of the examination was not correct. Standard practice in examinations is to include “easier” questions at the beginning and end of each examination, and the more difficult questions should be situated more towards the middle of the examination – commonly referred to as the “bell curve”:



The rationale for the bell curve is that a person’s concentration level peaks more or less during the middle of the examination, and therefore it is appropriate to deal with the more complex questions during the middle of the examination. Starting off with easier questions and finishing with easier questions is also more positive for the candidate writing the examination.

The layout of the examinations were adjusted to obtain a bell curve effect, and an additional two pilots were scheduled for the RE1 and RE5 to also test whether the IT systems correctly selected the questions in terms of this bell curve.

### 3.7. Pilot findings

The following is a list of the findings as a result of the pilot process:

- The IT systems worked well and the on-line and paper-based examinations were delivered with no problems experienced.
- The upload of questions and results to and from the FSB system worked. Where ID numbers of candidates were captured incorrectly the system rejected these and the problem had to be resolved by the relevant examination body.
- Slight variances in the invigilation process amongst the examination bodies were identified and guidelines were issued as to what each Examination Body had to do to ensure consistency amongst the bodies and their process.
- The quality of the printing of examination papers at one examination site was identified as a problem – the font of the printing was particularly small. The relevant Examination Body was requested to correct this in future and to comply with the set standard for printing.
- The candidates participating in the pilots did not prepare for the examinations. A lack of understanding how to prepare was identified as a possible reason. The training material supplied

by the SETA was also highlighted as being a problem contributing to confusion and poor preparation. (Please refer to *“Training material”* for more specific information.)

- The pass mark should be adjusted – please refer to *“Pass mark”* below for more detailed information.
- The timeframe allocated to each examination had to be increased to allow for more time to complete the examination. The timeframe was increased with 30 minutes for each examination.

The pilot results and statistics were submitted to the IEB for their consideration, feedback and recommendation. Please refer to *“Pass mark”* below for more information in this regard.

## 4. PASS MARK

Originally the pass mark of the regulatory examinations was set at 70%. The understanding was that once the examinations were piloted the pass mark could be confirmed because the pilot process would inform the decision on whether the pass mark should be adjusted or not.

A decision had to be made as to whether the pass mark should be lowered from the 70% mark that was originally set.

In order to do this the IEB advised that the following approach should be taken:

- 1) Consider the pass rate of the pilots and whether the pass mark should be lowered. We were informed that a poor pass rate can be expected as it is a natural occurrence with the implementation of any new examination, and an increase in the pass rate should take place over a period of time after the roll out of the examination, especially if large numbers of people complete the examination.

Examinations where adult learners are involved usually show a trend where the initial pass rate is low, and then steadily increases over a period of time. The reason for this is because adult learners (unlike school going children) are not continuously studying, and often rely heavily on their experience to carry them through an examination. If the examination requires a certain level of preparation and study, then the initial pass rate is low, until such time that “the word has spread” that preparation is critical, and then the pass rate will increase.

It was also highlighted that once a pass rate has been lowered, it cannot be increased again at a later stage, so caution should be used when lowering the pass mark for the examination.

- 2) A group of experts should be requested to write the examination. After writing the examination, each expert must state what he/she thinks the pass rate would be for each question in the examination. This should then be debated and an overall pass mark should be recommended by the group of experts. A critical success factor for this particular process is the objectivity of all the experts.

The findings of (1) and (2) above were submitted to the IEB and discussed at great length. It was then agreed to amend the pass mark for the RE1 to 65% and the RE5 to 66%.

This compares favourably with the local South African JSE examinations, where the Trader examination pass mark is 70%, the Compliance examination is 65%, the Settlement examination is 65% and the Agricultural examination is 70%.

An example of international practice is the Standard Set B and Set C examinations that are a requirement for financial advisors in New Zealand as a result of the Financial Advisors Act. The pass mark for both these examinations is 70%.

Questions have been raised by industry why the pass mark cannot be lowered to 50%.

Examinations at most tertiary institutions require only 50% as a pass mark. When using multiple choice examinations candidates are dis-incentivised to guess by applying negative marking methodology. If the pass mark is reduced to say 50% and the Examination Bodies do not apply negative marking principles to prevent people from guessing, it could happen that a person who knows 35% of the content has a chance to pass and to get 51% ( $65\% \times .25 = 16.25\%$ ). It is also possible that if negative marking is used to discourage guessing, then the overall pass rate will be lower than what it is currently. It is the responsibility of the FSB to ensure that every individual in the industry meet a minimum competency.

It will be difficult, if not impossible to really say a person is competent if that person only knows 35% about their function that they are certified competent to perform. The question can be asked as to why implement examinations if one cannot confidently say that participating persons that have successfully completed the examination really know and understand their regulatory role and responsibilities? The whole examination process would have been superfluous.

## 5. PASS RATE

As predicted by the IEB, the pass rate has steadily increased since the time that the level 1 examination became available in early November 2010. (The pass rate for the RE1 has increased with 22.3% and the pass rate for the RE5 has increased with 10.72%). To date only **129** candidates have written the RE 1 examination and **667** candidates wrote the RE5 examination.

The current statistics according to our records are:

| Total number of licensed FPS's in SA | Total number of licensed KI's in SA | Total number of licensed reps in SA |
|--------------------------------------|-------------------------------------|-------------------------------------|
| 12208                                | 13744                               | 136347                              |

Taking these figures into consideration it is clear that too few candidates have written the examination to date in order to obtain reliable and meaningful statistics in terms of the pass rate.

The pass rate is being monitored continuously, and should any intervention be required, then the office of the Registrar will take appropriate action.

## 6. EXAMINATION FEE

The fee for the regulatory examination was set as follows:

In 2008 the four Examination Bodies submitted their budgets and cost estimation in terms of what it would cost to develop the regulatory examinations, as well as what it would cost to roll out with these examinations. Cost included for example direct, indirect and development costs such as invigilators, venues, courier costs, printing and stationary, travel, moderation and assessor costs, marketing costs, IT bandwidth and license fees, rent, set-up of fixed assets, setting examinations and IT development.

The number of examinations per examination category for the level 1 and level 2 examinations were also taken into consideration, and the cost for these examinations were calculated.

The fee per examination was then calculated based on the premise that the examination bodies should break even within the first 4 years. The intention was to keep the cost per examination as low as possible.

The fee was then set at R900 per examination, and the FSB receives R20 of this fee from the Examination Bodies in order to cover administrative, oversight and IT development costs.

It should also be noted that the fee was calculated on the budgets submitted in 2008, which have not taken into consideration any inflation over the last 2 years. There is also no intention to increase the fee until such time that the regulatory examination level 2 period is completed i.e. 31 December 2013.

## 7. LANGUAGE OF EXAMINATIONS

The regulatory examinations will be made available in English only. There are important practical reasons for only using one language:

- The sub-ordinate legislation issued in terms of the FAIS Act is only available in English.
- There will be a huge cost implication if the regulatory examinations are made available in all of the official languages of the Republic. In total there are 39 examinations, and if all 39 examinations are offered in the eleven official languages, there would in total be 429 examinations.
- The resources and infrastructure required to offer the examinations in English only, is already significant. The resources required, should the examinations be available in all or some of the other languages, would have to be multiplied ten-fold in order to mark, moderate, quality assure and communicate with candidates.
- The Registrar does not want to add to the financial burden of providers. As such, the fee for the examination was set as low as possible. Currently the fee per examination (including VAT) is R900.00. The fee covers the cost of development of the examination, the venue, resources and administration required for each examination. If the examinations are made available in any

language other than English, the cost of the examinations will be significantly higher to cover the additional translation costs, development costs, resources etc.

- Certain languages do not have the vocabulary to allow translation of all the legal terminologies which may result in translations where the meaning of the legislation has been changed.
- There are currently regulatory functions that providers are performing that only takes place in English, such as Compliance Reports that must be submitted to the FSB.

## 8. OPEN BOOK EXAMINATIONS

The reason why the examinations were developed as “closed book” examinations was because there was a concern regarding the security of the questions and leakage of the questions. As previously mentioned, the cost of the examinations must be contained while delivering a credible examination that sets an industry standard.

The questions included in the regulatory examination (especially the level 1 examinations) do not require financial advisors and intermediaries to know the Act “verbatim”. Where appropriate sections of the Act is provided, and then the question is based on this insert.

Should the regulatory examinations be made “open book” examinations at this late stage, then the majority of the questions that have already been developed would have to be re-developed as the same kind of question development methodology does not apply to open book and closed book examinations.

This particular issue was discussed during the FAIS Advisory Committee of 22 February 2011, and a decision was taken to maintain the status quo.

## 9. TRAINING MATERIAL

### 9.1. Using the qualifying criteria to prepare

The Office of the Registrar is of the opinion that no training material is required to prepare for the examination. The qualifying criteria should be used, and should be cross-referenced with the relevant legislation. Below is an example:

| Task   | Knowledge Criteria   | Skill Criteria  | FAIS Act   | GCOC | Board Notices, Regulations to FAIS, FIC Act (FICA) |
|--|--|---|--|------|--|
| <i>Describe the role of the key individual in terms of the FAIS Act.</i> | <i>Describe the roles and responsibilities of key individuals as defined in the FAIS Act.</i>              |   | <i>S 8, 11, 13, 14, 17<br/><br/>Definitions of Act</i> |      |  |
| <i>Manage and oversee the appointment of representatives.</i>            | <i>Describe the Fit and Proper requirements that apply to representatives in terms of the legislation.</i> | <i>Verify that the necessary HR processes are developed/ amended to enable the FSP to check, at recruitment stage, whether a potential representative meets at least the entry level Fit and Proper requirements.</i> | <i>Definitions, s13, s8, s 14</i>                      |      | <i>BN 103, 104, 106 of 2008</i>                    |

There are 16 tasks for key individuals and 8 tasks for representatives. The feedback that we have obtained from candidates that used this method to prepare is that it is a little time consuming, but they have found the exercise valuable in that they really do understand the legislation much better. These individuals have also passed the examination the first time that it was attempted.

We are currently waiting to hear whether these individuals are willing to make their names public so that they can be used as references that this method of study really works.

## 9.2. Using other training materials to prepare

It seems that most people in the industry would like a “quick fix” when it comes to the preparation for the examinations. Many are enrolling for 1 and 2 day courses, and read information given to them by training providers. It simply is not possible to work through all of the criteria in a short space of time, and then to have a meaningful understanding of the legislation.

These are the persons that are failing the examination, and they are usually enraged because they feel they did prepare and often paid money for the training and preparation.

There are various different training providers offering training courses and training materials to assist people to prepare for the regulatory examinations. Not all the training courses and materials are of the same standard and quality, and most of the materials do not make it clear which qualifying criteria is being addressed. None of the training materials and courses are endorsed by the FSB.

The problems we have identified with using training materials are:

- The legislation is simplified to such an extent that candidates cannot recognise legislative terms when they encounter these in the examination.
- The training providers / staff are not subject matter experts in terms of the legislation, and we have evidence of training personnel offering training that failed the examination themselves.
- Training materials do not address all of the qualifying criteria resulting in gaps in the knowledge and understanding of the candidate.
- Mock examinations are simplified and provide candidates with confidence in that they know the legislation, only to discover during the examination that they do not have the necessary knowledge.
- Most candidates using the training materials attempt the examination without ever having READ the legislation.
- Most candidates trust that the training materials and courses would be sufficient to prepare them for the examinations, and they are completely unaware of the existence of the qualifying criteria.

Complaints have also been received about the language of the training material and the fact that it's only available in English.

The FSB is not an accredited training provider, and can therefore not become involved in the development or delivery of training or training materials. Training providers that are offering training towards the regulatory examinations have not been mandated by the FSB to conduct training. The FSB does not have control over the language in which training providers make their training available.

It must also be stated that training is not a requirement for the regulatory examinations. If an individual uses the relevant qualifying criteria and cross-references the criteria to the Act and subordinate legislation, then this should be sufficient preparation to successfully complete the regulatory examination level 1.

## 10. CAPACITY OF THE EXAMINATION BODIES

There seems to be doubt in the industry whether the FSB / Examination Bodies have the capacity to deliver large volumes of examinations and as a result people may not be able to complete the examination successfully even if they wanted to enrol.

The maximum capacity for all four examination bodies is approximately 500 000 examinations per annum. It must be taken into consideration that if affected persons wait until the last minute to enrol, that they may not obtain a seat in the examination due to bottle-necks. This is the reason why continuous communication to the industry has indicated that candidates should enrol as soon as they are ready and have completed their preparation, and not to wait until the end of the year before enrolling.

## 11. THE DEADLINE FOR THE EXAMINATIONS

The deadlines for the examinations are as follows:

### **Transitional Period**

- Regulatory examination level 1: 31 December 2011
- Regulatory examination level 2: 31 December 2013

### **Post 2010**

- Regulatory examination level 1: Within 2 years of date of first appointment
- Regulatory examination level 2: Within 6 years of date of first appointment

The enrolment rate and the pass rate are being monitored. If appropriate, the deadline will be reviewed. However, there is no guarantee that the deadline will be extended, and therefore individuals should not delay their enrolment and preparation.

## 12. CONSEQUENCES OF THE EXAMINATIONS

The FSB is charged by the Government to administer, inter alia, the FAIS Act. The two main goals of the Act are the protection of consumers of defined financial services and the professionalisation of the intermediary/advisor.

For excellent reasons in pursuit of these goals, and after extensive consultation with representatives of all role players, it was deemed necessary to introduce the regulatory examinations as a requirement for intermediaries/advisors – a practice relevant to all professions. In any business there is a cost of doing business which include in professions ongoing learning and development,

compliance with legislation and in service orientated business also investing in employees. It is not the intention of the FSB to put any financial services providers out of business but to ensure that industry is empowered to do its business better for its own and its clients benefit.