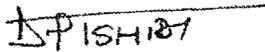


**BOARD NOTICE 106 OF 2008****FINANCIAL SERVICES BOARD****FINANCIAL ADVISORY AND INTERMEDIARY SERVICES ACT, 2002  
(ACT NO 37 OF 2002)****DETERMINATION OF FIT AND PROPER REQUIREMENTS FOR FINANCIAL  
SERVICES PROVIDERS, 2008**

I, DUBE PHINEAS TSHIDI, the Registrar of Financial Services Providers, after consultation with the Advisory Committee on Financial Services Providers, hereby under section 8(1) of the Financial Advisory and Intermediary Services Act, 2002 (Act No. 37 of 2002), determine the fit and proper requirements for financial services providers as set out in the Schedule.



**D P TSHIDI**  
*Registrar of Financial Services Providers*

## SCHEDULE

### DETERMINATION OF FIT AND PROPER REQUIREMENTS FOR FINANCIAL SERVICES PROVIDERS, 2008

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This Determination should be read in conjunction with the Determination of Qualifying Criteria and Qualifications for Financial Services Providers, 2008, the Exemption in respect of Services under Supervision in terms of Requirements and Conditions, 2008, the Determination of Continuous Professional Development Requirements for Financial Services Providers, 2008, and the Determination of Examination Body Requirements, 2008.

#### PART I        DEFINITIONS

1. (1) In this Schedule-

“**the Act**” means the Financial Advisory and Intermediary Services Act, 2002, including, unless the context indicates otherwise, any measure referred to in the definition of “this Act” in section 1(1) of the Act; and

any word or expression shall have the meaning that it was assigned in the Act, and, unless the context indicates otherwise –

“**ABET level 1**” means Adult Basic Education and Training which is aimed at adults learning to read, write and calculate, and is equivalent to grade 3 (standard 1) in public schools;

“**administration of assistance policies**” means the range of activities connected with the organising of all activities relating to assistance policies, as defined in the Long-term Insurance Act, 1998, including work in connection with maintaining administrative records and the offsetting of claims or the processing of claims on behalf of the Insurer to the extent agreed to in terms of a written mandate between the insurer and the funeral business administrator;

“**administrative FSP**” means an administrative FSP as defined in the Notice of Codes of Conduct for Administrative and Discretionary FSPs, 2003, as amended;

“**annual expenditure**” means the expenditure set out in the latest set of financial statements of the provider for the year in question or, in the case of an applicant commencing business, the budgeted expenditure as expressed in its budget or other accounts, less staff bonuses, employees’ and directors’ or member’s shares in profits, other appropriation of profits to

the directors or members and emoluments of directors, members, partners or sole proprietor;

**“applicant”** means the person who has submitted an application in terms of section 8(1) of the Act for authorisation to act as a financial services provider;

**“application”** means an application by an applicant submitted in the form and manner determined by the Registrar in the Application by Financial Services Providers for Authorisation by the Financial Services Board, 2008;

**“appointment date”** or **“date of appointment”** or **“appointment as a representative”** means the first date on which a representative was appointed by any financial services provider to render financial services in relation to a specific Category or subcategory;

**“approval date”** or **“date of approval”** or **“approval as a key individual”** means the first date on which a key individual was first approved by the Registrar to manage and oversee the rendering of financial services for any financial services provider in relation to a specific Category or subcategory;

**“Assistance Business FSP”** means an FSP that renders intermediary services in relation to the administration of assistance policies on behalf of the Insurer to the extent agreed to in terms of a written mandate between the Insurer and the Assistance Business FSP;

**“authorisation”** or **“date of authorisation”** means the date on which an FSP (who is a sole proprietor) was authorised by the Registrar to render financial services in relation to a specific Category or subcategory;

**“Category I”**, in relation to a financial services provider, means all persons, other than persons referred to in Categories II, IIA, III and IV, who are authorised to render the financial services (other than financial services mentioned in Categories II, IIA, III and IV) as set out in the relevant application;

**“Category II”**, in relation to a financial services provider, means all persons who are authorised as discretionary FSPs as set out in the relevant application;

**“Category IIA”**, in relation to a financial services provider, means all persons who are authorised as hedge fund FSPs as set out in the relevant application;

**“Category III”**, in relation to a financial services provider, means all persons who are authorised as administrative FSPs as set out in the relevant application;

**“Category IV”**, in relation to a financial services provider, means all persons who require licences as Assistance Business FSP;

**“continuous professional development”** or **“CPD”** means a process of learning and development, with the aim to enable the applicant, key individual or representative to maintain capabilities to perform competently within the Categories or subcategories they render financial services in;

“**discretionary FSP**” means a discretionary FSP as defined in the Notice of Codes of Conduct for Administrative and Discretionary FSPs, 2003;

“**examination body**” means a body that has been delegated, in terms of section 6 of the Act, the function of setting, administering and conducting regulatory examinations on behalf of the Registrar;

“**forex investment business**” means forex investment business as defined in the Code of Conduct for Authorised Financial Services Providers and their Representatives, involved in Forex Investment Business, 2004;

“**friendly society benefits**” means a benefit provided by a friendly society contemplated in paragraph (d)(ii) of the definition of “financial product” in section 1(1) of the Act;

“**FSP**” or “**provider**” means an authorised financial services provider as defined in section 1(1) of the Act or an applicant;

“**grade**” means the level of education obtained in the course of attending formal schooling, or adult basic education and training provided by a registered or recognised education institution in the Republic, or the equivalent school leaving level obtained outside the Republic and the equivalence to the South African requirement can be established;

“**hedge fund FSP**” means a hedge fund FSP as defined in the Notice of Codes of Conduct for Administrative and Discretionary FSPs, 2003, as amended;

“**health service benefit**” means a benefit referred to in paragraph (g) of the definition of ‘financial product’ in section 1(1) of the Act;

“**Higher Education Institution**” or “**Institution of Higher Education**” means a registered Higher Education Institution as defined in the Higher Education Act, 1997;

“**industry association**” means a voluntary body, recognised by the Registrar, that is constituted to enable business or individuals with similar trades, occupations or services, to promote issues of common concern;

“**Long-term Deposits**” means deposits as defined in section 1(1) of the Banks Act, 1990, including foreign currency deposits, with a term exceeding 12 months;

“**Long-term Insurance subcategory A**” means assistance policies as defined in the Long-term Insurance Act, 1998, but excludes such policies mentioned in Long-term Insurance subcategories B and C below;

“**Long-term Insurance subcategory B**” means long-term insurance policies as defined in the Long-term Insurance Act, 1998, which have the following features:

- (a) Risk policies which provide cover in respect of death, disability and health events, and which are not marketed as investment policies, as defined in the Regulations to the Long-term Insurance Act, 1998, or savings policies;
- (b) investment policies (excluding fund member policies), as defined in the Regulations to the Long-term Insurance Act, 1998, and savings

policies which guarantee a minimum return of capital invested at a specified future date or dates, and where such minimum is ascertainable in Rand terms at inception;

- (c) annuities which guarantee a minimum annuity for the term of the policy which is ascertainable in Rand terms at inception; and
- (d) any policy which combines the policy features included in paragraphs (a), (b) or (c),

but excludes policies mentioned in Long-term Insurance subcategory A and C;

**“Long-term Insurance subcategory C”** means policies as defined in the Long-term Insurance Act, 1998, excluding fund member policies and retirement annuity policies, and policies issued to and/or in respect of preservation funds but excludes policies mentioned in Long-term Insurance subcategory A and B;

**“liquid assets”** means cash or cash equivalents that can be liquidated within seven (7) days without realising a loss on liquidation;

**“National Learner Record Database (NLRD)”** means an information system used and managed by SAQA to record the achievement of individuals in terms of qualifications, unit standards, professional designations and other information in order to manage the National Qualifications Framework;

**“National Qualifications Framework”** or **“NQF”** means the National Qualifications Framework of SAQA;

**“offsetting of claims”** means the payment of policyholders' claims and the offsetting of such claims against premium received from policyholders for remittance to the long-term insurer;

**“pension fund benefits”** means financial products contemplated in paragraph (d)(i) of the definition of “financial product” in section 1(1) of the Act, including fund policies, but excluding retail pension benefits;

**“qualification”** means a qualification that is—

- (a) registered by SAQA;
- (b) an extracurricular specialist programme offered at a post-graduate level by an Institution of Higher Education;
- (c) an industry or professional programme offered through a professional body recognised by the Registrar or accredited training provider; or
- (d) a foreign qualification similar to qualifications in (a) to (c) above,

and has been evaluated against the qualifying criteria and is recognised by the Registrar, after consultation with the Advisory Committee;

**“qualifying criteria”** means the criteria set by the Registrar, after consultation with the Advisory Committee, by notice in the *Gazette* against which regulatory examinations will be set and qualifications will be evaluated and recognised for inclusion on the list of recognised qualifications; to ensure that it will enable the applicants, key individuals and representatives concerned to meet the competency requirements for the applicable categories or subcategories;

**“qualification list”** or **“list of recognised qualifications”** means the list of qualifications that have been evaluated against the qualifying criteria and recognised as appropriate by the Registrar, after consultation with the Advisory Committee, by notice in the Gazette;

**“quality assurance”** means the process of ensuring that the degree of excellence specified is achieved;

**“regulatory examinations”** means examinations prescribed by the Registrar, set in accordance with the qualifying criteria for the purpose of meeting the competency requirements of this Determination;

**“related parties”** means related parties as defined in International Accounting Standard (IAS 24) issued by the South African Institute of Chartered Accountants;

**“retail pension benefits”** means benefits provided by retirement annuity and/or preservation pension and/or preservation provident funds, as defined by the Income Tax Act, 1962, and includes such benefits provided by fund member policies, as defined in the Regulations to the Long-term Insurance Act, 1998, but excluding pension fund benefits;

**“SAQA Act”** means the South African Qualifications Authority Act, 1995, including any regulations promulgated thereunder;

**“SAQA”** means the South African Qualifications Authority established in terms of the provisions of the SAQA Act;

**“services under supervision”** means financial services rendered by a representative who does not meet the prescribed experience, qualification and/or regulatory examination requirements and which services are rendered under the guidance, instruction and supervision of a supervisor in terms of an exemption granted by the Registrar under section 44 of the Act;

**“Short-term Deposits”** means deposits as defined in section 1(1) of the Banks Act, 1990, including foreign currency deposits, with a term not exceeding 12 months;

**“Short-term Insurance Commercial Lines”** means short-term insurance contracts or policies referred to in the Short-term Insurance Act, 1998, purchased by juristic persons and natural persons acting in a business capacity;

**“Short-term Insurance Personal Lines”** means short-term insurance contracts or policies referred to in the Short-term Insurance Act, 1998, purchased by natural persons acting otherwise than in a business capacity;

**“sole proprietor”** means an FSP who is a natural person;

**“statutory professional body”** means a statutory body that governs a specific profession, and is registered as such in terms of the legislation applicable to such bodies;

**“subcategory”** means, in relation to-

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- (a) Category I, a subcategory of financial products as it appears in Table A in paragraph 4(1) of this Determination; and/or
- (b) Category II and III, subcategories referred to in Table B in paragraph 4(2) of this Determination;

“supervisor” means –

- (a) an authorised financial services provider that is a natural person;
- (b) a representative of the provider who meets, to the satisfaction of the provider, the relevant requirements of this Determination; or
- (c) a key individual of the financial services provider who meets, to the satisfaction of the provider, the relevant requirements of this Determination;

“training provider” means a training provider as defined in the SAQA Act;

“voluntary professional body” means a body, recognised by the Registrar, that governs a profession in a similar manner to a statutory professional body, but in respect of which membership is voluntary and not prescribed by legislation.

- (2) Unless the context indicates otherwise, a reference in this Determination to Category I, II, IIA, III or IV, or to any subcategory, shall not be construed as preventing an applicant from applying for a licence in respect of one or more Categories or subcategories, subject to compliance with the requirements of this Determination as regards each such Category or subcategory.
- (3) A reference in this Determination to any key individual or any representative of a financial services provider will include any new key individual and representative appointed after the date of the provider’s authorisation.

## PART II PERSONAL CHARACTER QUALITIES OF HONESTY AND INTEGRITY

- 2. (1) An FSP, key individual or representative must be a person who is honest and has integrity.
- (2) In determining whether an FSP, key individual or representative complies with subparagraph (1), the Registrar may refer to any information in possession of the Registrar or brought to the Registrar’s attention.
- (3) Without prejudice to the generality of subparagraphs (1), (2) and (4), any of the following factors constitutes *prima facie* evidence that an FSP, key individual or representative does not qualify in terms of subparagraph (1), namely that the FSP, key individual or representative-
  - (a) has within a period of five years preceding the date of application or the proposed date of appointment or approval, as the case may be, been found guilty in any criminal proceedings or liable in any civil proceedings by a court of law (whether in the Republic or elsewhere) of having acted fraudulently, dishonestly, unprofessionally, dishonourably or in breach of a fiduciary duty;
  - (b) has within a period of five years preceding the date of application or the proposed date of appointment or approval, as the case may be,

- been found guilty by any statutory professional body or voluntary professional body (whether in the Republic or elsewhere) recognised by the Board, of an act of dishonesty, negligence, incompetence or mismanagement, sufficiently serious to impugn the honesty and integrity of the FSP, key individual or representative;
- (c) has within a period of five years preceding the date of application or the proposed date of appointment or approval, as the case may be, been denied membership of any body referred to in subparagraph (b) on account of an act of dishonesty, negligence, incompetence or mismanagement, sufficiently serious to impugn the honesty and integrity of the FSP, key individual or representative;
  - (d) has within a period of five years preceding the date of application, or the proposed date of appointment or approval, as the case may be –
    - (i) been found guilty by any regulatory or supervisory body (whether in the Republic or elsewhere), recognised by the Board; or
    - (ii) had its authorisation to carry on business refused, suspended or withdrawn by any such body, on account of an act of dishonesty, negligence, incompetence or mismanagement sufficiently serious to impugn the honesty and integrity of the FSP, key individual or representative;
  - (e) has within a period of five years preceding the date of application, appointment or approval, as the case may be, had any licence granted to the financial services provider by any regulatory or supervisory body referred to in subparagraph (d) suspended or withdrawn by such body on account of an act of dishonesty, negligence, incompetence or mismanagement, sufficiently serious to impugn the honesty and integrity of the FSP, key individual or representative; or
  - (f) has at any time prior to the date of application, appointment or approval, as the case may be, been disqualified or prohibited by any court of law (whether in the Republic or elsewhere) from taking part in the management of any company or other statutorily created, recognised or regulated body, irrespective whether such disqualification has since been lifted or not.
- (4) An FSP and key individual must in the application to the Registrar, and a representative must at appointment by the FSP, be candid and accurate and must of own accord disclose all facts or information at the disposal of, or which may be accessible to, the FSP, key individual or representative, and which may be relevant for purposes of a decision by the Registrar, or in the case of a representative, by the FSP, that the FSP, key individual or representative complies or does not comply with subparagraph (1).

**PART III COMPETENCY REQUIREMENTS**

3. (1) Subject to the provisions of the Act, and after consultation with the Advisory Committee, the Registrar must by notice in the *Gazette* publish qualifying criteria against which-
- (a) regulatory examinations will be set; and
  - (b) the Registrar will evaluate and recognise qualifications for inclusion on the list of recognised qualifications.
- (2) Subject to paragraphs (3) to (7) below, an FSP of any Category and, where applicable, any key individual and/or representative of such FSP must-
- (a) comply with the applicable minimum experience requirements referred to in Part IV below;
  - (b) have the relevant qualification referred to in Part V below;
  - (c) have successfully passed the relevant first and/or second level Regulatory Examination(s), as may from time to time be set by the Registrar and as set out in Part VI below; and
  - (d) comply with the CPD requirements as set out in Part VII below.
- (3) An FSP (who is a sole proprietor) must meet the minimum experience and all applicable qualification requirements, and must have completed the relevant regulatory examinations as required for an FSP and key individual for the specific Categories or subcategories before a licence will be granted.
- (4) A key individual must meet the minimum experience and all applicable qualification requirements and must have completed the relevant regulatory examination before the Registrar will approve the appointment.
- (5) An FSP must at all times ensure that at least one or more of the key individuals approved by the Registrar meet the same experience, qualifications and regulatory examination requirements as would apply to an FSP (who is a sole proprietor), in relation to any one or more Categories or subcategories the provider is authorised for, and in respect of which that key individual will manage or oversee the provider's activities.
- (6) An FSP must ensure that each juristic representative must at all times have at least one key individual responsible for the managing and overseeing of the juristic representative who meets the same experience, qualifications and regulatory examination requirements as would apply to the key individual of the provider.
- (7) A representative must at the date of appointment by an FSP comply with the applicable minimum experience and all applicable qualification requirements, and must have completed the relevant regulatory examination(s), provided that the Registrar may exempt representatives from these requirements while rendering financial services under supervision.
- (8) An FSP or any representative that renders financial services in respect of health service benefits must be accredited as a broker, and a representative that renders financial services under supervision in respect

of health services benefits must be accredited as an apprentice broker, in terms of the provisions of Regulation 28 B under the Medical Schemes Act, 1998.

- (9) An FSP, who is a sole proprietor, a Key individual and a representative must, after completion of all relevant qualification, experience and regulator examinations, meet the requirements relating to CPD as set out in Part VII of this Determination.

#### **PART IV EXPERIENCE REQUIREMENTS**

##### **4. (1) Experience Requirements for Category I:**

- (a) Subject to the provisions of the Act, an FSP (who is a sole proprietor) in respect of Category I must meet the minimum experience applicable to the subcategories as described in either column two and/or three of Table A below. The experience must be practical experience gained in the rendering of financial services in respect of Category I and the subcategories concerned: Provided that-
- (i) such experience involved the active and ongoing gaining of knowledge, skills and expertise required in terms of the Act;
  - (ii) such experience was obtained through the active involvement of in rendering such financial services, irrespective of whether the experience was gained in the course of rendering such services under supervision
  - (iii) such experience could have been gained either within or outside the Republic of South Africa;
  - (iv) such experience could have been gained during intermittent periods, not more than 5 years prior to the application and includes experience gained prior to the date envisaged in section 7(1) of the Act;
  - (v) such experience may have been gained simultaneously in multiple subcategories, provided that proof of such experience can be provided.
  - (vi) where an FSP changes its licence restrictions to include additional financial services or renders services in relation to additional subcategories, the FSP is required to meet the experience requirements relating to the additional subcategories with the proviso that where the change in restriction will include-
    - (aa) additional financial service (advice or the rendering of intermediary services, as applicable), the FSP is required to obtain 50% of the experience requirements applicable to the additional financial services;
    - (bb) an additional subcategory, the FSP is required to gain 100% of the experience requirements relation to the additional subcategory.
- (b) A representative of a FSP in respect of Category I at the date of appointment by the FSP comply with the same relevant experience requirements as referred to in subparagraph 1(a), provided that a representative who does not meet such requirement on date of authorisation, may be exempted by the Registrar to acquire the required minimum experience while working under supervision.

- (c) A key individual of an FSP in respect of Category I, must, on the date of approval by the Registrar, have at least one (1) year's practical experience in the management or oversight of the activities of a business or part thereof. Provided that such experience -
- (i) could have been gained either within or outside the Republic of South Africa;
  - (ii) could have been gained during intermittent periods, not more than 5 years prior to the application for approval and includes experience gained prior to the date envisaged in section 7(1) of the Act;
  - (iii) may have been gained in the management or oversight of services similar to or corresponding to the financial services rendered by the FSP.

<b>TABLE A: CATEGORY I EXPERIENCE REQUIREMENTS FOR AN FSP AND REPRESENTATIVE</b>			
	<b>COLUMN ONE SUBCATEGORY</b>	<b>COLUMN TWO ADVICE: MINIMUM EXPERIENCE</b>	<b>COLUMN THREE INTERMEDIARY SERVICES: MINIMUM EXPERIENCE</b>
1.1	Long-term Insurance Category A	1 year	6 months
1.2	Short-term Insurance Personal Lines	1 years	6 months
1.3	Long-term Insurance Category B	1 years	6 months
1.4	Long-term Insurance Category C	1 years	6 months
1.5	Retail Pension Benefits	1 years	6 months
1.6	Short-term Insurance Commercial Lines	1 years	6 months
1.7	Pension Fund Benefits	1 years	6 months
1.8	Securities and instruments: Shares	2 years	1 year
1.9	Securities and Instruments: Money market instruments	2 years	1 year
1.10	Securities and Instruments: Debentures and securitised debt	2 years	1 year
1.11	Securities and Instruments: Warrants, certificates and other instruments acknowledging debt	2 years	1 year
1.12	Securities and Instruments: Bonds	2 years	1 year
1.13	Securities and Instruments: Derivative instruments excluding warrants	2 years	1 year
1.14	Participatory Interests in one or more collective Investment schemes	1 years	1 year
1.15	Forex Investment Business	2 years	1 year
1.16	Health Service Benefits	2 years	2 years
1.17	Long-term Deposits	6 months	3 months
1.18	Short-term Deposits	6 months	3 months
1.19	Friendly Society Benefits	6 months	2 months

**(2) Category II - Experience Requirements:**

- (a) Subject to the provisions of the Act, an FSP (who is a sole proprietor) in respect of Category II must meet the minimum experience applicable to the subcategories as described in column two of Table B below. The experience must be practical experience gained in the rendering of financial services in respect of Category II and the subcategories concerned: Provided that -

- (i) such experience involved the active and ongoing gaining of knowledge, skills and expertise required in terms of the Act;
  - (ii) such experience was obtained through the active involvement in rendering such financial services, irrespective of whether the experience was gained in the course of undergoing services under supervision;
  - (iii) the experience could have been gained either within or outside the Republic of South Africa;
  - (iv) the experience could have been gained during intermittent periods, not more than 5 years prior to the application and includes experience gained prior to the date envisaged in section 7(1) of the Act;
  - (v) the experience may have been gained simultaneously in multiple subcategories, provided that proof of such experience can be provided;
  - (vi) may have been gained in a team environment where the person participated in the process of making investment decisions whilst working under supervision;
  - (vii) where a Category II FSP applies for the amendment of the restrictions on its licence to allow such FSP to render the financial services referred to in subparagraph (a) in additional subcategories, the FSP must comply with the experience requirements applicable to the additional subcategories.
- (b) A representative of an FSP in respect of Category II, must at appointment by the FSP comply with the same relevant experience requirements as referred to in subparagraph 2(a) above, as the FSP with authorisation, provided that a representative who does not meet such requirement on date of authorisation, may be exempted by the Registrar to acquire the required minimum experience while working under supervision.
- (c) A key individual of a provider in respect of Category II, must have at least one (1) year's practical experience in the management and oversight of services similar to or corresponding to the financial services rendered by the provider and must have actually provided the financial services in relation to the subcategories or part thereof on date of approval. Provided that-
- (i) the experience could have been gained either within or outside the Republic of South Africa;
  - (ii) the experience could have been gained during intermittent periods, not more than 5 years prior to the application and includes experience gained prior to the date envisaged in section 7(1) of the Act;
  - (iii) the experience may have been gained in the management and oversight of services similar to or corresponding to the financial services rendered by the provider.

<b>TABLE B: CATEGORY II EXPERIENCE REQUIREMENTS FOR FSP AND REPRESENTATIVE</b>		
	<b>COLUMN ONE SUBCATEGORY</b>	<b>COLUMN TWO ADVICE: MINIMUM EXPERIENCE</b>
2.1	Long-term Insurance Category B	2 years
2.2	Long-term Insurance Category C	2 years

<b>TABLE B: CATEGORY II EXPERIENCE REQUIREMENTS FOR FSP AND REPRESENTATIVE</b>		
	<b>COLUMN ONE SUBCATEGORY</b>	<b>COLUMN TWO ADVICE: MINIMUM EXPERIENCE</b>
2.3	Retail Pension Benefits	2 years
2.4	Pension Fund Benefits	2 years
2.5	Securities and instruments: Shares	3 years
2.6	Securities and Instruments: Money market instruments	3 years
2.7	Securities and Instruments: Debentures and securitised debt	3 years
2.8	Securities and Instruments: Warrants, certificates and other instruments acknowledging debt	3 years
2.9	Securities and Instruments: Bonds	3 years
2.10	Securities and Instruments: Derivative instruments excluding warrants	3 years
2.11	Participatory Interests in one or more collective Investment schemes	2 years
2.12	Forex Investment Business	3 years
2.13	Long-term Deposits	1 year
2.14	Short-term Deposits	1 year

**(3) Category IIA - Experience Requirements:**

- (a) Subject to the provisions of the Act, an FSP (who is a sole proprietor) in respect of Category IIA must have 3 years experience. The experience must be practical experience gained in the rendering of financial services in respect of Category IIA: Provided that -
- (i) such experience involved the active and ongoing gaining of knowledge, skills and expertise required in terms of the Act;
  - (ii) such experience was obtained through the active involvement in rendering such financial services, irrespective of whether the experience was gained in the course of undergoing services under supervision;
  - (iii) the experience could have been gained either within or outside the Republic of South Africa;
  - (iv) the experience could have been gained during intermittent periods, not more than 5 years prior to the application and includes experience gained prior to the date envisaged in section 7(1) of the Act.
- (b) A representative of an FSP in respect of Category II, must at appointment by the FSP comply with the same relevant experience requirements as referred to in subparagraph 3(a) above, as the FSP with authorisation, provided that a representative who does not meet such requirement on date of authorisation, may be exempted by the Registrar to acquire the required minimum experience while working under supervision.
- (c) may have been gained in the management and/or oversight of services similar to or corresponding to the financial services rendered by the provider. A key individual of a provider in respect of Category IIA, must have at least one (1) year's practical experience in the management and oversight of services similar to or corresponding to the financial services rendered by the provider and must have actually provided the financial services in relation to Category IIA on date of approval. Provided that-

- (i) the experience could have been gained either within or outside the Republic of South Africa;
- (ii) the experience could have been gained during intermittent periods, not more than 5 years prior to the application and includes experience gained prior to the date envisaged in section 7(1) of the Act;
- (iii) the experience may have been gained in the management and oversight of services similar to or corresponding to the financial services rendered by the provider.

**(4) Category III - Experience Requirements:**

- (a) Subject to the provisions of the Act, the key individual of a Category III FSP must have 3 year's practical experience gained in the rendering of financial services as referred to in the definition of "administrative FSP": and must have at least one (1) year's practical experience in the management and/or oversight of services similar to or corresponding to the financial services rendered by the FSP: Provided that such practical experience-
  - (i) involved the active and ongoing gaining of knowledge, skills and expertise required in terms of the Act;
  - (ii) was obtained through the active involvement in the rendering of such financial services
  - (iii) could have been gained either within or outside the Republic of South Africa;
  - (iv) could have been gained during intermittent periods, not more than 5 years prior to the application and includes experience gained prior to the date envisaged in section 7(1) of the Act;
  - (v) may have been gained simultaneously in multiple subcategories provided that proof of such experience can be provided and irrespective of whether the experience was gained whilst rendering such services under supervision.
- (b) A representative of a Category III FSP must, unless exempted, at the date of appointment by the FSP comply with the same relevant experience requirement as referred to in subparagraph 4(a), excluding the requirement to have at least one year's practical experience in the management and/or oversight of services similar to or corresponding to the financial services rendered by the FSP.

**(5) Experience Requirements for Category IV:**

- (a) Subject to the provisions of the Act, a Category IV FSP (who is a sole proprietor), must have one (1) year's experience gained in the rendering of financial services as referred to in the definition of "administration of assistance policies": Provided that such practical experience-
  - (i) involved the active and ongoing gaining of knowledge, skills and expertise required in terms of the Act;
  - (ii) was obtained through the active involvement in the rendering of such intermediary services and irrespective of whether the experience was gained whilst rendering such services under supervision: provided that proof of such experience can be provided;

- (iii) could have been gained either within or outside the Republic of South Africa;
  - (iv) could have been gained during intermittent periods, not more than 5 years prior to the application and includes experience gained prior to the date envisaged in section 7(1) of the Act;
- (b) A representative of an FSP in respect of Category IV must with authorisation by the FSP meet the same relevant practical experience requirement, mentioned in subparagraph 1(a) above, as an FSP (who is a sole proprietor) on authorisation, provided that a representative who does not meet such requirement on date of authorisation by the FSP, may be exempted by the Registrar to acquire the required minimum experience while working under supervision for the minimum experience period.
- (c) A key individual of an FSP in respect of Category IV must, on the date of approval by the Registrar, have at least one (1) year's practical experience in the management and/or oversight of services similar to or corresponding to the financial services rendered by the FSP: Provided that such practical experience-
  - (i) could have been gained within or outside the Republic of South Africa;
  - (ii) could have been gained during intermittent periods, not more than 5 years prior to the application and includes experience gained prior to the date envisaged in section 7(1) of the Act;
  - (iii) may have been gained in the management and/or oversight of services similar to or corresponding to the financial services rendered by the provider.

## PART V QUALIFICATIONS

### 5. (1) Categories I and IV – Qualifications:

- (a) Subject to the qualifying criteria, the Registrar must, after consultation with the Advisory Committee, publish a list of recognised qualifications in the *Gazette* in respect of Category I and the subcategories listed in Table A above and Category IV.
- (b) An FSP (who is a sole proprietor) in respect of Category I or IV must have a recognised qualification, as determined by the Registrar by notice in the *Gazette*, as it applies to the applicable Categories or subcategories the FSP is authorised for.
- (c) A key individual of a Category I FSP must, at approval, have a recognised qualification, as determined by the Registrar by notice in the *Gazette*, as it applies to the applicable Categories or subcategories of the FSP.
- (d) A representative of a Category I provider must, on appointment, have a recognised qualification as determined by the Registrar by notice in the *Gazette*, as it applies to the applicable Categories or subcategories he or she is appointed for: Provided that the Registrar may, by notice in the *Gazette*, exempt representatives that on appointment only meet the following entry level qualifications while working under supervision until the recognised qualification is obtained:

- (i) Matric;
- (ii) Grade 12; or
- (iii) an equivalent school leaving certificate at NQF Level 4,

with the proviso that in respect of representatives in subcategory 1.1 Long Term Insurance Category A and/or 1.19 Friendly Society Benefits, the entry level qualification requirement is either ABET level 1, or the proven ability to read, write and calculate to the satisfaction of the provider.

- (e) Subject to subparagraphs (a) to (d) above, an FSP (who is a sole proprietor), key individual and/or a representative only need to have the most onerous qualification required in respect of all subcategories he or she is authorised, approved or appointed for.

**(2) Categories II, IIA and III – Qualifications:**

- (a) Subject to the qualifying criteria, the Registrar must, after consultation with the Advisory Committee, publish in the *Gazette* a list of recognised qualifications in respect of Category II and the subcategories listed in Table B above, as well as Categories IIA and III.
- (b) A FSP (who is a sole proprietor) in respect of Categories II and IIA must have a recognised qualification, as determined by the Registrar by notice in the *Gazette*, as it applies to the applicable Categories or subcategories the FSP is authorised for.
- (c) A key individual of a FSP in respect of Category II, IIA and/or III must, on date of appointment, have a recognised qualification as determined by the Registrar by notice in the *Gazette*, as it applies to the applicable Categories or subcategories the FSP is authorised for.
- (d) A representative of a Category II, IIA or III provider must on appointment by the FSP have a recognised qualification as determined by the Registrar by notice in the *Gazette*, applicable to the Categories or subcategories he or she is authorised for: Provided that the Registrar may, by notice in the *Gazette*, exempt representatives that with authorisation only meet the entry level qualification requirements as published by the Registrar by notice in the *Gazette*, as they apply to the Categories or subcategories he or she is authorised for, while the representative works under supervision.

**PART VI REGULATORY EXAMINATIONS**

**6. (1) Principles applicable to the regulatory examinations**

Subject to the provisions of this Act, the qualifying criteria referred to in section 3(1) determines the scope and content of the regulatory examination(s) as it applies to an FSP (who is a sole proprietor), key individuals and/or representatives of providers in accordance with the following principles:

- (a) An FSP (who is a sole proprietor) applying for a licence of any Category and, where applicable, any key individual and representative of a

provider must take and successfully pass such regulatory examinations as may from time to time be set by the Registrar.

- (b) The Registrar may approve examination bodies, in accordance with the criteria as published by the Registrar after consultation with the Advisory Committee by notice in the *Gazette*.
- (c) The regulatory examinations include a set of core examinations (referred to as first level regulatory examinations) dealing in particular with legislation directly binding on an FSP, its key individuals and representatives in terms of the Act (particularly the provisions of the Act and the Financial Services Board Act, 1990, and of all measures promulgated there under), and specific examinations (referred to as second level regulatory examinations) relating to the Category or subcategories thereof in respect of which an FSP is authorised to render financial services.
- (d) The regulatory examinations will focus in particular on testing the application of factual knowledge of the examinees in relation to-
  - (i) the rendering of financial services applicable to specific Categories or subcategories to clients; and
  - (ii) the relevant legal provisions, particularly of the rights and duties which they vest in providers and clients, their appreciation of the legal meaning and implications of these provisions, and their competence to apply correctly these provisions.
- (e) The Registrar, after consultation with the Advisory Committee, determines by notice in the *Gazette* all required necessary and incidental matters relating to the setting and taking of such examinations, including the curricula to be covered, the drafting of the examination papers, the criteria to be applied in the determination of whether an examinee has passed the examination successfully, the persons or bodies, if any, appointed to apply such criteria as examiners, the time, place and date set for the examinations, the carrying out of supervision powers during the taking of the examinations, the evaluation and marking of the completed examinations, the moderation of examinations and the communications to examinees and the Financial Services Board of the results achieved.

## (2) Categories I and IV: Regulatory Examinations

- (a) Subject to paragraph 3(3) of Part III, an FSP (who is a sole proprietor) in respect of Category I or IV must meet the first and second level regulatory examination requirements, as determined by the Registrar by notice in the *Gazette*, as applicable to the Categories or subcategories the provider is authorised for:
  - (i) In relation to the first level regulatory examination, the FSP must meet the requirements as determined in column two of Table C below;
  - (ii) in relation to the second level regulatory examination, the FSP must meet the requirements as determined in column three of Table C, below;

- (b) Subject to paragraph 3(4) of Part III, a key individual in respect of Category I or IV must meet the first level regulatory examination requirements, as determined by the Registrar by notice in the *Gazette* as applicable to the Categories or subcategories the provider is authorised for.
- (c) Subject to paragraph 3(7) of Part III, a representative in respect of Category I or IV must meet the first and second level regulatory examination requirements, as determined by the Registrar by notice in the *Gazette*, as applicable to the subcategory or subcategories he or she is authorised for, as required in column two and three of Table C below: Provided that a representative in respect of subcategory 1.1 Long-term Insurance Category A and/or 1.19 Friendly Society Benefits does not need to meet the first level regulatory examination requirements as referred to in respect of column two of Table C below.

TABLE C: CATEGORIES I and IV: REGULATORY EXAMINATIONS			
	COLUMN ONE SUBCATEGORY	COLUMN TWO FIRST LEVEL	COLUMN THREE SECOND LEVEL
	Category I		
1.1	Long-term Insurance Category A	Applies	Not applicable
1.2	Short-term Insurance Personal Lines	Applies	Applies
1.3	Long-term Insurance Category B	Applies	Applies
1.4	Long-term Insurance Category C	Applies	Applies
1.5	Retail Pension Benefits	Applies	Applies
1.6	Short-term Insurance Commercial Lines	Applies	Applies
1.7	Pension Fund Benefits	Applies	Applies
1.8	Securities and instruments: Shares	Applies	Applies
1.9	Securities and Instruments: Money market instruments	Applies	Applies
1.10	Securities and Instruments: Debentures and securitised debt	Applies	Applies
1.11	Securities and Instruments: Warrants, certificates and other instruments acknowledging debt	Applies	Applies
1.12	Securities and Instruments: Bonds	Applies	Applies
1.13	Securities and Instruments: Derivative instruments excluding warrants	Applies	Applies
1.14	Participatory Interests in one or more collective Investment schemes	Applies	Applies
1.15	Forex Investment Business	Applies	Applies
1.16	Health Service Benefits	Applies	Applies
1.17	Long-term Deposits	Applies	Not applicable
1.18	Short-term Deposits	Applies	Not applicable
1.19	Friendly Society Benefits	Applies	Not applicable
	Category IV: Assistance Business FSP	Applies	Not applicable

(3) **Categories II, IIA and III: Regulatory Examinations**

- (a) Subject to paragraph 3(3) of Part III, an FSP (who is a sole proprietor) must meet the first and second level regulatory examination requirements, as determined by the Registrar by notice in the *Gazette*, as applicable to the Categories or subcategories the provider is authorised for.
- (b) Subject to paragraph 3(4) of Part III, a key individual must meet the first level regulatory examination requirements, as determined by the

Registrar by notice in the *Gazette*, as applicable to the FSP in respect of the Categories the provider is authorised for, and in respect of which that key individual will manage or oversee the provider's activities.

- (c) Subject to paragraph 3(7) of Part III, a representative must meet the first and second level regulatory examination requirements, as determined by the Registrar by notice in the *Gazette*, as applicable to the Categories or subcategories he or she is authorised for.

## PART VII CONTINUOUS PROFESSIONAL DEVELOPMENT

7. Subject to paragraph 3(2) of Part III, the Registrar may determine, after consultation with the Advisory Committee, by notice in the *Gazette*, the requirements for continuous professional development in accordance with the following principles:

- (1) An FSP (who is a sole proprietor), a key individual and/or a representative, must meet the continuous professional development requirements, as determined by the Registrar, as applicable to the Categories and subcategories he or she is authorised, approved or appointed for:
- (a) Continuous professional development will require fifteen (15) to sixty (60) notional hours of development over a three year cycle as provided for in Table D below;
  - (b) the three year cycle will start upon completion of the highest level (first or second level) of regulatory examination(s) as it applies to either the FSP (who is a sole proprietor), the key individual or the representative, as the case may be, and will not start later than on the completion of a six year period from date of authorisation, approval or appointment;
  - (c) where an FSP (who is a sole proprietor), key individual or representative is authorised, approved or appointed to provide financial services for a specific Category and subcategory, and already complies with the qualifications and regulatory examinations requirements, and is required to meet the continuous professional development requirements, such requirements will not be affected should the licensing restrictions or appointment requirements be amended to include additional subcategories that may require additional qualification and/or regulatory examinations to be achieved;
  - (d) where an FSP (who is a sole proprietor), key individual or representative is authorised, approved or appointed to provide financial services in respect of multiple Categories and subcategories, the highest requirement in terms of notional hours will apply;
  - (e) the FSP (who is a sole proprietor), key individual and representative, as the case may be, must record the outcomes of any continuous professional development activities with the Registrar's office, in the form and manner as determined by the Registrar from time to time.

- (f) a representative is required to meet the requirements in column two of Table D as it would apply to the FSP in the Categories or subcategories concerned: Provided that a representative is not required to meet the requirements in respect of subcategory 1.1 Long-term Insurance Category A, 1.17 Long-term Deposits, 1.18 Short-term Deposits and 1.19 Friendly Society Benefits.
- (2) The Registrar will maintain a list of programmes that is suitable for purposes of CPD. Industry associations, statutory professional bodies, voluntary professional bodies, employers, Higher Education Institutions and training providers may apply to the Registrar, in the prescribed format, for recognition of their programmes for the purposes of CPD, which will, upon such approval, be added to the Registrar's reporting mechanism for recording purposes.
- (3) The Registrar may, after consultation with the Advisory Committee, by notice in the *Gazette*, exempt any group of persons from meeting the prescribed CPD requirements, if such person(s) holds membership in a statutory or voluntary professional body that must comply with similar CPD requirements, provided that the professional body records its membership on the Registrar's reporting mechanism and satisfies the Registrar on an annual basis that CPD requirements are monitored and enforced as a condition of membership of the professional body.

TABLE D: CONTINUOUS PROFESSIONAL DEVELOPMENT REQUIREMENTS		
	COLUMN ONE CATEGORY	COLUMN TWO NOTIONAL HOURS: THREE YEAR CYCLE
	<b>Category I</b>	
1.1	Long-term Insurance Category A	15
1.2	Short-term Insurance Personal Lines	30
1.3	Long-term Insurance Category B	60
1.4	Long-term Insurance Category C	60
1.5	Retail Pension Benefits	60
1.6	Short-term Insurance Commercial Lines	45
1.7	Pension Fund Benefits	60
1.8	Securities and Instruments: Shares	60
1.9	Securities and Instruments: Money market instruments	60
1.10	Securities and Instruments: Debentures and securitised debt	60
1.11	Securities and Instruments: Warrants, certificates and other instruments acknowledging debt	60
1.12	Securities and Instruments: Bonds	60
1.13	Securities and Instruments: Derivative instruments, excluding warrants	60
1.14	Participatory Interests in one or more collective Investment schemes	60
1.15	Forex Investment Business	60
1.16	Health Service Benefits	45
1.17	Long-term Deposits	15
1.18	Short-term Deposits	15
1.19	Friendly Society Benefits	15
	<b>Category II, IIA and III</b>	60
	Category IV	15

**PART VIII OPERATIONAL ABILITY**

8. (1) An FSP must have and be able to maintain the operational ability to fulfill the responsibilities imposed by the Act on authorised financial services providers, including but not limited to the following:
- (a) A fixed business address;
  - (b) adequate access to communication facilities including at least a full-time telephone or cell phone service, and typing and document duplication facilities;
  - (c) adequate storage and filing systems for the safe-keeping of records, business communications and correspondence;
  - (d) an account with a registered bank including, where required by the Act, a separate bank account for client funds; and
  - (e) an FSP who is an accountable institution as defined in the Financial Intelligence Centre Act, 2001, must have in place all the necessary policies, procedures and systems to ensure full compliance with that Act and other applicable anti-money laundering or terrorist financing legislation.
- (2) An FSP that utilises any third party to render administrative or system functions in relation to the rendering of financial services on its behalf must have in place a detailed service level agreement, specifying the agreed services, time standards, roles and responsibilities and any penalties that might be applicable.
- (3) An FSP must ensure that internal control structures, procedures and controls are in place which include at the least the following-
- (a) segregation of duties and roles and responsibilities where such segregation is appropriate from an operational risk mitigation perspective;
  - (b) application of logical access security;
  - (c) access rights and data security on electronic data, where applicable;
  - (d) physical security of the providers assets and records, where applicable;
  - (e) documentation relating to business processes, policies and controls, and technical requirements;
  - (f) system application testing, where applicable;
  - (g) disaster recovery and back-up procedures on electronic data, where applicable;
  - (h) appropriate training for all key individuals and/or representatives regarding the requirements of the Act;
  - (i) training for all key individuals and/or representatives regarding the giving of advice and/or rendering of intermediary services by the provider; and
  - (j) a business continuity plan.
- (4) An FSP must ensure that the necessary system controls and compliance measures are in place to manage and monitor the relevant system(s) in use.
- (5) An FSP must record all financial and system procedures to ensure that the FSP is able to report in terms of applicable accounting requirements.
- (6) An FSP must have general administration processing, accounting transactions and risk control measurements in place to ensure accurate,

complete and timeous processing of data, information reporting and the assurance of data integrity.

- (7) An applicant must, if and to the extent required by the Registrar, maintain in force suitable guarantees or professional indemnity insurance or fidelity insurance cover to cover the risks of losses due to fraud, dishonesty or negligence.
- (8) A key individual, in respect of an FSP, must have and be able to maintain the operational ability to fulfill the responsibilities imposed by the Act on FSPs, including oversight of the financial services (regarding the giving of advice and rendering of intermediary services) provided by the representatives of the FSP.

#### **PART IX FINANCIAL SOUNDNESS**

9. (1) An FSP must not be an unrehabilitated insolvent or under liquidation or in provisional liquidation.
- (2) An FSP in respect of category I that does not hold client assets or receive premiums or money must comply with the following requirement, namely, that the assets of the FSP (excluding goodwill, other intangible assets and investments in related parties) must at all times exceed the FSP's liabilities (excluding loans validly subordinated in favour of all other creditors).
- (3) An FSP in respect of Category I that holds client assets or receive premiums or money must at all times comply with the following requirements:
  - (a) The assets of the FSP (excluding goodwill, other intangible assets and investments in related parties) must exceed the FSP's liabilities (excluding loans validly subordinated in favour of all other creditors);
  - (b) the FSP must maintain current assets which are at least sufficient to meet current liabilities; and
  - (c) the FSP shall at all times maintain liquid assets equal to or greater than 4/52 weeks of annual expenditure.
- (4) An FSP in respect of Category II must at all times comply with the following requirements:
  - (a) The assets of the FSP (excluding goodwill, other intangible assets and investments in related parties) must exceed the FSP's liabilities (excluding loans validly subordinated in favour of all other creditors);
  - (b) the FSP must maintain current assets which are at least sufficient to meet current liabilities; and
  - (c) the FSP shall at all times maintain liquid assets equal to or greater than 8/52 weeks of annual expenditure.
- (5) An FSP in respect of Categories IIA and III must at all times comply with the following requirements:
  - (a) The assets of the FSP (excluding goodwill, other intangible assets and investments in related parties) must exceed the FSP's

- liabilities (excluding loans validly subordinated in favour of all other creditors) by at least R3 million;
- (b) the FSP must maintain current assets which are at least sufficient to meet current liabilities; and
  - (c) the FSP shall at all times maintain liquid assets equal to or greater than 13/52 weeks of annual expenditure.

## PART X TRANSITIONAL PROVISIONS

10. (1) Subject to the provisions of the Act and Parts I to IX above, the transitional requirements will be applicable to all FSPs, key individuals and representatives that was authorised, approved or appointed in relation to a specific Category or subcategory on 31 December 2009 and provides for the transitional arrangements until 31 December 2014 as applicable.
- (2) For purposes of this Part-
- (a) **"foreign qualification recognised by the Registrar"** means an appropriate qualification recognised by notice in the *Gazette* for purposes of this Determination by the Registrar, after consultation with the Advisory Committee;
  - (b) **"foreign qualification evaluated by SAQA"** means an appropriate qualification recommended by SAQA as being equivalent to a South African qualification;
  - (c) **"qualification"** includes-
    - (i) an appropriate qualification registered by SAQA which can be either a certificate, diploma or degree at undergraduate or postgraduate level;
    - (ii) an appropriate foreign qualification recognised by the Registrar or evaluated by SAQA;
    - (iii) an appropriate skills programme registered by a registered training provider with a SETA ETQA which must be based on core or elective unit standards: Provided that a reference to "a skills programme consisting of a minimum of" can be interpreted to refer to one or more skills programmes, provided that the cumulative number of credits, and the level are at the same level or higher than is required;
    - (iv) a fully completed appropriate qualification obtained prior to the promulgation of the South African Qualifications Act, 1995, or before the implementation of the National Qualifications Framework in 2001, that does not consist of unit standards registered by SAQA: Provided that-
      - (aa) such qualification was obtained through a South African educational institution or training provider and recorded by the Human Sciences Research Council; and
      - (bb) the modules or subjects are clearly identified on the learner record provided by the educational institution or training provider;

- (v) a partially completed appropriate qualification that does not consist of unit standards registered by SAQA: Provided that-
  - (aa) such qualification is registered on the National Qualifications Framework;
  - (bb) the level and credits assigned to the completed modules or completed subjects are clearly identified on the learner record provided by the educational institution;
  - (cc) the completed subjects or completed modules meet the requirements regarding "appropriate";
  - (dd) the level and credits of the completed modules or completed subjects are equivalent to the level and credits required for the skills programmes in respect of the subcategories of financial products in Column Two of Table E below in respect of which the person intends to render financial services;
  - (ee) such qualification is recognised by the Registrar, after Consultation with the Advisory Committee, by notice in the *Gazette*; and
  - (ff) such qualification must be completed by 31 December 2011; or
- (vi) an appropriate credit-bearing short course registered by an accredited institution of higher education in accordance with the prescriptions of the Council for Higher Education is acceptable: Provided that-
  - (aa) the level and credits of such short course is clearly identified; and
  - (bb) such course is recognised by the Registrar, after consultation with the Advisory Committee, by notice in the *Gazette*:

Provided further that all qualifications or skills programmes must meet the requirements of appropriateness, which means-

- (A) that an "appropriate" certificate, diploma, skills programme or degree, refers to such qualifications obtained in the fields of commerce and/or commercial law which includes modules on financial accounting, financial markets, commercial law, insurance law, estate and trust law, economics, insurance, investments and similar subjects; or
  - (B) other particular fields of study which equip such person to render a financial service in a specialised class of financial product, registered by SAQA and provided by a registered higher institution whether local or foreign.
- (3) The provisions of this Schedule apply to all FSPs (who are sole proprietors), key individuals and representatives of providers that have

been authorised, approved or appointed before or on the date of coming into operation of this Schedule as follows:

- (a) All FSPs (who are sole proprietors), key individuals and representatives authorised, approved or appointed during the period 30 September 2004 and 31 December 2007 must comply with the qualification requirements in column two requirements of Table E by 31 December 2009, as applicable to the Categories or subcategories they are authorised, approved or appointed for.
- (b) All FSPs (who are sole proprietors) authorised during the period 30 September 2004 to 31 December 2007, that changed their licensing restrictions during this period to include additional Categories or subcategories must comply with the qualification requirements in column two of Table E by 31 December 2009, as applicable to the additional Categories or subcategories they are authorised for.
- (c) All key individuals and representatives appointed during the period 30 September 2004 to 31 December 2007, whose approval and/or appointment conditions were amended during this period to include additional Categories and/or subcategories, must comply with the qualification requirements in column two of Table E by 31 December 2009, applicable to the additional Categories or subcategories they are approved or appointed for.
- (d) All FSPs (who are sole proprietors), key individuals and representatives authorised, approved or appointed during the period 30 September 2004 to 31 December 2007 must comply with the first level of Regulatory Examinations requirements in column three of Table E, applicable to the Categories or subcategories they are authorised, approved or appointed for, by the date stated.
- (e) All FSPs (who are sole proprietors), key individuals and representatives authorised, approved or appointed during the period 30 September 2004 to 31 December 2007 must, unless exempted by the Registrar, comply with the second level of Regulatory Examinations requirements in column four of Table E, applicable to the Categories or subcategories they are authorised, approved or appointed for, by 31 December 2013.

<b>TABLE E: TRANSITIONAL PROVISIONS FOR CATEGORIES I, II, IIA AND III</b>				
	<b>COLUMN ONE CATEGORY</b>	<b>COLUMN TWO QUALIFICATION REQUIREMENTS</b>	<b>COLUMN THREE FIRST LEVEL REGULATORY EXAMINATION</b>	<b>COLUMN FOUR SECOND LEVEL REGULATORY EXAMINATION</b>
	Category I			
1.1	Long-term Insurance Category A	ABET Level 1 or the proven ability to read and write to the satisfaction of the provider.	31/12/2014	Not applicable
1.2	Short-term Insurance	An appropriate NQF level 4 skills programme consisting of a	31/12/2011	31/12/2013

<b>TABLE E: TRANSITIONAL PROVISIONS FOR CATEGORIES I, II, IIA AND III</b>				
	<b>COLUMN ONE CATEGORY</b>	<b>COLUMN TWO QUALIFICATION REQUIREMENTS</b>	<b>COLUMN THREE FIRST LEVEL REGULATORY EXAMINATION</b>	<b>COLUMN FOUR SECOND LEVEL REGULATORY EXAMINATION</b>
	Personal Lines	minimum of 30 credits; or an appropriate at NQF level 4 qualification; or		
1.3	Long-term Insurance Category B	An appropriate NQF level 4 skills programme consisting of a minimum of 30 credits; or an appropriate NQF level 4 qualification; or	31/12/2011	31/12/2013
1.4	Long-term Insurance Category C	An appropriate NQF level 5 skills programme consisting of a minimum of 60 credits; or an appropriate qualification at NQF level 5.	31/12/2011	31/12/2013
1.5	Retail pension benefits	An appropriate NQF level 5 skills programme consisting of a minimum of 60 credits; or an appropriate qualification at NQF level 5.	31/12/2011	31/12/2013
1.6	Short-term Insurance Commercial Lines	An appropriate NQF level 4 skills programme consisting of a minimum of 60 credits; or an appropriate qualification at NQF level 4.	31/12/2011	31/12/2013
1.7	Pension Fund Benefits	An appropriate NQF level 5 skills programme consisting of a minimum 60 credits; or an appropriate qualification at NQF level 5.	31/12/2011	31/12/2013
1.8 to 1.13	Securities and Instruments	An appropriate NQF level 6 skills programme consisting of a minimum 60 credits; or an appropriate qualification at NQF level 6.	31/12/2011	31/12/2013
1.14	Participatory Interests in one or more collective Investment schemes	An appropriate NQF level 5 skills programme consisting a minimum of 60 credits; or an appropriate qualification at NQF level 5.	31/12/2011	31/12/2013
1.15	Forex Investment Business	An appropriate NQF level 6 skills programme consisting of a minimum of 60 credits; or an appropriate qualification at NQF level 6.	31/12/2011	31/12/2013
1.16	Health Service Benefits	An appropriate NQF level 5 skills programme consisting of a minimum of 60 credits; or an appropriate certificate at NQF level 5.	31/12/2011	31/12/2013
1.17	Long-term Deposits	An appropriate NQF level 4 skills programme consisting of a minimum of 30 credits; or an appropriate qualification NQF level 4.	31/12/2011	Not applicable
1.18	Short-term	An appropriate NQF level 2	31/12/2011	Not applicable

TABLE E: TRANSITIONAL PROVISIONS FOR CATEGORIES I, II, IIA AND III				
	COLUMN ONE CATEGORY	COLUMN TWO QUALIFICATION REQUIREMENTS	COLUMN THREE FIRST LEVEL REGULATORY EXAMINATION	COLUMN FOUR SECOND LEVEL REGULATORY EXAMINATION
	Deposits	consisting of a minimum of 30 credits; or an appropriate qualification at NQF level 2.		
1.19	Friendly Society Benefits	ABET Level 1 or the proven ability to read and write to the satisfaction of the provider.	31/12/2013	Not applicable
	Category II	An appropriate qualification at NQF level 5 or NQF level 6.	31/12/2011	31/12/2013
	Category IIA	An appropriate qualification at NQF 6 consisting of a minimum of 360 credits (full business honours degree).	31/12/2012	31/12/2013
	Category III	An appropriate NQF level 6 skills programme or an appropriate NQF level 6 qualification.	31/12/2011	31/12/2013
	Category IV	A minimum of an appropriate NQF level 2 skills programme consisting of a minimum of 30 credits; or an appropriate NQF level 2 qualification	31/12/2011	Not applicable

- (f) All FSPs (who are sole proprietors), key individuals and representatives authorised, approved or appointed during the period 1 January 2008 to 31 December 2008 are required to-
- (aa) comply with the qualification requirements in column two of Table E by 31 December 2011, as applicable to the Categories or subcategories they are authorised, approved or appointed for; or
  - (bb) complete a qualification, from the list of recognised qualifications, in accordance with Part V of this Determination, as applicable to the Categories or subcategories they are authorised, approved or appointed for, by 31 December 2013.
- (g) All FSPs (who are sole proprietors) authorised during the period 30 September 2004 to 31 December 2008, that changed their licensing restrictions during the period 1 December 2008 to 31 December 2008 to include additional Categories or subcategories are, in relation to the additional Categories or subcategories they are authorised for, required to-
- (aa) comply with the qualification requirements in column two of Table E by 31 December 2011, as applicable to the Categories or subcategories they are authorised, approved or appointed for; or
  - (bb) complete a qualification, from the list of recognised qualifications, in accordance with Part V of this Determination, as applicable to the Categories or subcategories they are authorised, approved or appointed for, by 31 December 2013.

- (h) All key individuals and representatives appointed during the period 30 September 2004 to 31 December 2008, whose approval and/or appointment conditions were amended during the period 1 December 2008 to 31 December 2008 to include additional Categories or subcategories, are, in relation to the additional Categories or subcategories they are approved, required to-
  - (aa) meet the column two requirements of Table E by 31 December 2011, as applicable to the Categories or subcategories they are authorised, approved or appointed for; or
  - (bb) complete a qualification, from the list of recognised qualifications, in accordance with Part V of this Determination, as applicable to the Categories or subcategories they are authorised, approved or appointed for, by 31 December 2013.
- (i) All FSPs (who are sole proprietors), key individuals and representatives authorised, approved or appointed during the period 1 January 2008 to 31 December 2008 must meet the requirements relating to the first level of Regulatory Examinations, as applicable to the Categories or subcategories they are authorised, approved or appointed for by the date stated in column three of Table E.
- (j) All FSPs (who are sole proprietors), key individuals and representatives authorised, approved or appointed during the period 1 January 2008 to 31 December 2008 must meet the requirements relating to the second level of Regulatory Examinations, as they apply to the Categories or subcategories they are authorised, approved or appointed for, by 31 December 2013, unless exempted by the Registrar by notice in the *Gazette*.
- (3) All FSPs (who are sole proprietors), key individuals and representatives authorised, approved or appointed during the period 1 January 2009 to 31 December 2009 must comply as follows:
  - (a) All FSPs (who are sole proprietors), key individuals and representatives authorised, approved or appointed during the period 1 January 2009 to 31 December 2009 are required to complete a qualification, from the list of recognised qualifications, in accordance with Part V of this Determination, as applicable to the Category or subcategory they are authorised, approved and/or appointed for, by 31 December 2013.
  - (b) All FSPs (who are sole proprietors), key individuals and representatives authorised, approved or appointed during the period 1 January 2009 to 31 December 2009 must meet the requirements relating to the first level of Regulatory Examinations, as applicable to the Categories or subcategories they are authorised, approved or appointed for, by the date stated in column three of Table E.

- (c) All FSPs (who are sole proprietors), key individuals and representatives authorised, approved or appointed during the period 1 January 2008 to 31 December 2008 must meet the requirements relating to the second level of Regulatory Examinations, applicable to the Categories or subcategories they are authorised, approved or appointed for, by 31 December 2013.
- (4) All FSPs (who are sole proprietors), key individuals and representatives authorised, approved or appointed during the period 30 September 2004 to 31 December 2009 must comply with the Continuous Professional Development requirements, as described in Part VIII of this Determination, from the date of completion the applicable requirements as set out in paragraphs 2 and 3 above.
- (5) All FSPs (who are sole proprietors), key individuals and representatives authorised, approved or appointed during the period 30 September 2004 to 31 December 2009 that have met the applicable experience requirements as provided for in the Determination of Fit and Proper Requirements for Financial Services Providers, 2006, are not required to render financial services under supervision while they complete their qualifications or obtain the relevant regulatory examinations.
- (6) This Part X (Transitional Arrangements) does not apply to any applicants, key individuals or representatives authorised, approved or appointed on or after 1 January 2010 in respect of the experience and qualification requirements. All FSPs (who are sole proprietors), and key individuals authorised or approved during the period 1 January 2010 to 31 December 2010-
- (a) have until 31 December 2012 to meet the requirements for the relevant first level regulatory examination and until 31 December 2014 to meet the requirements for the relevant second level regulatory examination as applicable to the Categories or subcategories they are authorised or approved; and
- (b) must comply with the Continuous Professional Development Requirements, as described in Part VIII of this Determination, from the date of completion the applicable requirements as set out in paragraphs (a) above
- (7) All FSPs and key individuals that have been authorised or approved before the coming into operation of this Schedule must meet the operational ability requirement in paragraph 8(3) to (8) within 12 months from such date.
- (8) All FSPs that have been authorised before the coming into operation of this Schedule must meet the financial soundness requirements as required in paragraph 9(2), (3)(b) and (c), (4)(b) and (c), and (5)(b) and (c) within 24 months from such date.

## **PART XI MISCELLANEOUS**

### **11. Repeals**

The following are hereby repealed:

- (a) The Determination of Fit and Proper Requirements for Financial Services Providers, 2006, promulgated in Board Notice 91 of 16 August 2006;
- (b) the Exemption Regarding Certain Minimum Qualifications, Board Notice 104 of 29 September 2004;
- (c) the Amendment of Determination of Fit and Proper Requirements For Financial Services Providers, 2006, and Exemption Regarding Certain Minimum Qualifications, 2004, published in Board Notice 68 of 2007 in *Gazette* 29997 of 19 June 2007;
- (d) the Determination of Fit and Proper Requirements for Financial Services. Amendment Determination, 2006 published in Board Notice 87 of 2007 in *Gazette* 30228 of 29 August 2007;
- (e) paragraph 3.2 of the Exemption of certain Authorised Financial Services Providers from Requirements pertaining to Audited Financial Statements and Financial Soundness, No. 1 of 2003, published in Board Notice 96 of 2003 in *Gazette* 25514 of 30 September 2003.

**12. Short title and commencement**

This Determination is called the Determination of Fit and Proper Requirements for Financial Services Providers, 2008, and comes into operation on 31 December 2008.

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