
BOARD NOTICE

BOARD NOTICE 91 OF 2003

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, 2003**

I, Jeffrey van Rooyen, 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.

J. VAN ROOYEN,

Registrar of Financial Services Providers:

SCHEDULE

DETERMINATION OF FIT AND PROPER REQUIREMENTS FOR FINANCIAL SERVICES PROVIDERS, 2003

PART I

Definitions

1. (1) In this Schedule-

- (a) "the Act" means the Financial Advisory and Intermediary Services Act, 2002 (Act No. 37 of 2002), including any measure referred to in the definition of "this Act" in section 1(1) of the Act;
- (b) "the SAQA Act" means the South African Qualifications Authority Act, 1995 (Act No. 58 of 1995), including any regulations promulgated there under, and

any word or expression to which a meaning has been assigned in the Act or in the SAQA Act, shall have that meaning and, unless the context otherwise indicates –

"administrative FSP" means an administrative FSP as defined in the Notice of Codes of Conduct for Administrative and Discretionary FSPs, 2003, as published by Board Notice 79 of 2003 in *Gazette* No. 25299 of 8 August 2003;

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

"application" means an application by an applicant submitted in the form and manner determined by the Registrar by Notice in the *Gazette* ;

"BANKSETA" means the Banking Sector Education and Training Authority;

"BANKSETA ETQA" means the Banking Sector Education and Training Quality Assurance Body;

"Category I", in relation to a financial services provider, means all persons, other than persons referred to in Category II and III, who require licences to render the financial services (other than financial services mentioned in Categories II and III) as set out in the relevant application;

"Category II", in relation to a financial services provider, means all persons who require licences as discretionary FSPs as set out in the relevant application;

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

“core unit standards” means unit standards classified as the core portion of a qualification quality assured by INSQA, BANKSETA ETQA or FassetQA and registered on the NQF;

“discretionary FSP” means a discretionary FSP as defined in the Notice of Codes of Conduct for Administrative and Discretionary FSPs, 2003, as published by Board Notice 79 of 2003 in *Gazette* No. 25299 of 8 August 2003;

“experience”, in relation to an applicant, means practical experience gained in the rendering of services similar or corresponding to financial services and where-

- (a) such experience involves the active and ongoing gaining of knowledge, skills and expertise required in terms of the Act;
- (b) at least 6 months of such experience is relevant to the subcategory as regards financial products, in respect of which the applicant requires an authorisation; and
- (c) with regard to providers of Category II, at least 50% of such minimum prescribed experience relates directly to the financial products in respect of which financial services are to be rendered,

irrespective of whether the experience is gained-

- (i) in the capacity as owner, trustee, associate, director, member, partner, employee, consultant or otherwise, of the business involved; or
- (ii) in the course of undergoing practical training or a learnership:

Provided that any experience referred to in this definition may have been gained outside the Republic, and may so be, or have been, gained during intermittent periods, and includes experience gained prior to the date envisaged in section 7(1) of the Act;

“FassetQA” means the Finance, Accounting, Management Consulting and other Financial Services Education and Training Quality Assurance Body;

“FETC” means the Further Education and Training Certificate;

“foreign qualification approved by the registrar or SAQA” means a qualification approved by notice in the *Gazette* for purposes of this

Determination by SAQA or the Registrar, after consultation with the Advisory Committee;

"health services benefit" means a benefit referred to in paragraph (g) of the definition of 'financial product' in section 1(1) of the Act;

"INSETA" means the Insurance Sector Education and Training Authority;

"INSQA" means the Insurance Sector Education and Training Quality Assurance Body;

"learnership" means a learnership as contemplated in the Skills Development Act, 1998 (Act No. 97 of 1998);

"Long-Term Insurance Category A" means assistance policies as defined in the Long-term Insurance Act, 1998 (Act No. 52 of 1998), but excludes policies mentioned in Long-term Insurance Categories B and C;

"Long-Term Insurance Category B" means the following long-term insurance contracts as defined in the Long-term Insurance Act, 1998 (Act No. 52 of 1998):

- (a) risk policies which provide cover in respect of death, disability and health events, and which are not marketed as investment or savings policies;
- (b) investment/savings policies (including recurring premium retirement annuity policies, but excluding single premium retirement annuity policies and policies issued to and/or in respect of preservation funds) 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 Category C;

"Long-Term Insurance Category C" means single premium retirement annuity policies, policies issued to and/or in respect of preservation funds and other long-term insurance contracts or policies as defined in the Long-term Insurance Act, 1998 (Act No. 52 of 1998), and not specified in Long-term Insurance Categories A and B;

"National Learner Record Database (NLRD)" means an information system to assist the SAQA to manage the National Qualifications Framework;

"National Qualifications Framework" or "NQF" means the National Qualifications Framework of the SAQA as set out in the SAQA Regulations published in *Regulation Gazette* No. 6140 of 28 March 1998;

"pension fund benefits" means financial products contemplated in paragraph (d)(i) of the definition of "financial product" in section 1(1) of the Act;

"retail pension benefits" means pension fund benefits provided by retirement annuity and/or preservation pension and/or preservation provident funds;

"recognition of prior learning (RPL)" means the assessment, by an assessor accredited by SAQA, of evidence of previous learning and experience against registered unit standards or qualifications registered on the NQF;

"SAQA" means the South African Qualifications Authority established in terms of the provisions of the South African Qualifications Authority Act, 1995 (Act No. 58 of 1995);

"short-term insurance commercial lines" means short-term insurance contracts or policies referred to in the Short-term Insurance Act, 1998 (Act No. 53 of 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 (Act No. 53 of 1998), purchased by natural persons acting otherwise than in a business capacity;

"skills programme" means a skills programme referred to in the Skills Development Act, 1998 (Act No. 97 of 1998);

"subcategory" means, depending on the relevant context, either-

- (a) a subcategory of financial products as appears from Table A in paragraph 3(1) of this Determination; or
- (b) a subcategory of minimum experience as appears from Tables B and C in paragraphs 3(2) and 3(3) of this Determination, respectively, as the case may be;

(2) Unless the context indicates otherwise, a reference in this Determination to-