



FSCA FAIS Notice 16 of 2022

FINANCIAL ADVISORY AND INTERMEDIARY SERVICES ACT, 2002

EXEMPTION OF PARTICULAR PERSONS FROM COMPLIANCE WITH CERTAIN COMPETENCY REQUIREMENTS, 2022

The Financial Sector Conduct Authority, under section 44(4) of the Financial Advisory and Intermediary Services Act, 2002 (“the Act”), read with section 281(3)(b) of the Financial Sector Regulation Act, 2017, hereby exempts particular persons from provisions of the Act, to the extent set out in the Schedule.

**KATHERINE GIBSON
DEPUTY COMMISSIONER
FINANCIAL SECTOR CONDUCT AUTHORITY**

Date of publication: 28 February 2022

SCHEDULE

EXEMPTION OF PARTICULAR PERSONS FROM COMPLIANCE WITH CERTAIN COMPETENCY REQUIREMENTS, 2022

1. Definitions

In this Schedule, “**the Act**” means the Financial Advisory and Intermediary Services Act, 2002 (Act No. 37 of 2002), any word or expression to which a meaning is assigned in the Act shall have that meaning, and unless the context otherwise indicates –

“**class of business training requirement**” means the requirement, as contemplated in section 29 of the Determination, to comply with the class of business training as defined in section 1 of the Determination;

“**credit life products**” means long-term policies, as defined in section 1 of the Long-term Insurance Act, 1998 (Act No. 52 of 1998), which –

- (a) are written under the Credit Life class of life insurance business as set out in Table 1 of Schedule 2 of the Insurance Act;
- (b) were categorised under short-term insurance personal lines immediately before the effective date of the Insurance Act; and
- (c) are, at the date of this Notice, categorised under long-term insurance subcategory B1, long-term insurance subcategory B1-A, long-term insurance subcategory B2 and/or long-term insurance subcategory B2-A;

“**Determination**” means the Determination of Fit and Proper Requirements for Financial Services Providers, 2017, published by Board Notice 194 of 2017 in Government Gazette No. 41321 on 15 December 2017, as amended from time to time;

“**experience requirement**” means the requirements relating to experience as set out in sections 15 and 17 to 21 of the Determination;

“**FSP**” means a financial services provider, including a sole proprietor as defined in section 1 of the Determination, that renders financial services in respect of -

- (a) credit life products and is, at the date of publication of this Notice, authorised to render financial services in respect of short-term insurance personal lines; and/or
- (b) funeral products and is, at the date of publication of this Notice, authorised to render financial services in respect of long-term insurance subcategory B1;

“**funeral products**” means long-term policies, as defined in section 1 of the Long-term Insurance Act, 1998 (Act No. 53 of 1998) which –

- (a) are written under the Funeral class of life insurance business as set out in Table 1 of Schedule 2 of the Insurance Act;
- (b) were categorised under long-term insurance subcategory B1 and/or long-term insurance subcategory B1-A immediately before the effective date of the Insurance Act; and
- (c) are at the date of this Notice, categorised under long-term insurance subcategory A;

“**Insurance Act**” means the Insurance Act, 2017 (Act No. 18 of 2017);

“**qualification requirement**” means the requirement, as contemplated in section 23 of the Determination, to have a recognised qualification as defined in section 1 of the Determination;

“**supervised representative**” has the meaning assigned to it in section 1 of the Schedule to the Notice on Exemption of Services under Supervision, No. 2 of 2018, published by FSCA FAIS Notice 86 of 2018 on 3 December 2018; and

“**Table of Fees**” means the Table of Fees in the Schedules to the Determination of Fees payable to the Registrar of Financial Services Providers, published by Government Notice No. 89 in Government Gazette 41432 of 09 February 2018.

2. Exemption of FSPs, their representatives and key individuals from class of business, experience and qualification requirements

Credit life products

- (1) An FSP and its representatives, excluding a supervised representative, approved in respect of short-term insurance personal lines, are exempted from the –
 - (a) class of business training requirements;
 - (b) experience requirements; and
 - (c) qualification requirements,applicable to long-term insurance subcategory B1 and/or long-term insurance subcategory B2, to the extent that the requirements referred to in subparagraphs (a) to (c) above relate to financial services rendered in respect of credit life products.
- (2) A key individual approved in respect of short-term insurance personal lines is exempted from the –
 - (a) class of business training requirements; and
 - (b) qualification requirements,applicable to long-term insurance subcategory B1 and/or long-term insurance subcategory B2, to the extent that the requirements referred to in subparagraphs (a) to (c) above relate to the management and oversight performed by the key individual over financial services rendered in respect of credit life products.

Funeral products

- (3) An FSP and its representatives, excluding a supervised representative, approved in respect of long-term insurance subcategory B1, is exempted from the experience requirements applicable to long-term insurance subcategory A, to the extent that it relates to financial services rendered in respect of funeral products.

Conditions of exemption

- (4) The exemptions referred to in subparagraphs (1) to (3) are subject thereto that the FSP must –
 - (a) within 6 months after publication of this Notice, submit to the Authority –
 - (i) a notification that the FSP renders financial services in respect of credit life and/or funeral products, as applicable;
 - (ii) a request for the Authority, based on the notice submitted in terms of subparagraph (a), to –
 - (aa) amend the subcategories of financial products in respect of which the FSP is authorised to render financial services to include –
 - (aA) long-term insurance subcategory B1 and/or long-term insurance subcategory B2, where the financial services are rendered in respect of credit life products; and/or

- (aB) long-term insurance subcategory A, where the financial services are rendered in respect of funeral products;
 - (bb) approve the key individuals identified by the FSP, who are already approved for –
 - (aA) short-term insurance personal lines, where the financial services are rendered in respect of credit life products; and/or
 - (aB) long-term insurance subcategory B1, where the financial services are rendered in respect of funeral products, for long-term insurance subcategory B1 and/or long-term insurance subcategory B2, and/or long-term insurance subcategory A, and remove the financial product in respect of which approval is no longer required, as applicable; and
 - (b) within 3 months after the amendment of the subcategories of financial products in respect of which the FSP is authorised in terms of subparagraph (a)(ii)(aa), submit to the Authority an updated central representative register to correctly reflect long-term insurance subcategory B1 and/or long-term insurance subcategory B2, and/or long-term insurance subcategory A, in respect of which its representatives are appointed to render financial services in relation to the credit life and/or funeral products.
- (5) An FSP that submits a request in terms of subparagraph (4)(a) is exempted from section 41(1) of the Act, insofar as it relates to the requirement to pay the fees prescribed in -
- (a) paragraphs 2.6 and 2.9 of the Table of Fees, in respect of that request; and
 - (b) paragraph 2.8 of the Table of Fees, in respect of an application for approval of an amendment to the FSP's approved mandate to reflect the products referred to in subparagraph 4(a)(ii)(aa), as applicable.

3. Exemption of supervised representatives from class of business, experience and qualification requirements

- (1) From the date on which a supervised representative complies with the –
 - (a) class of business training requirements;
 - (b) experience requirements; and
 - (c) qualification requirements,
 as applicable in respect of short-term insurance personal lines, the supervised representative is exempted from the requirements listed in subparagraphs (a), (b) and (c) above as applicable in respect of long-term insurance subcategory B1 and/or long-term insurance subcategory B2, to the extent that such supervised representative is appointed to render financial services in respect of credit life products.
- (2) From the date on which a supervised representative complies with the experience requirements as applicable in respect of long-term insurance subcategory B1, the supervised representative is exempted from the requirements listed in subparagraphs (a), (b) and (c) above as applicable in respect of long-term insurance subcategory A, to the extent that such supervised representative is appointed to render financial services in respect of funeral products.

4. Lapsing, amendment and withdrawal of Exemption

- (1) Failure by an FSP to comply with any condition referred to in this Notice will automatically result in the exemption no longer being applicable to that FSP, its key individuals or representatives.

- (2) This Exemption is subject to -
 - (a) amendment thereof, published by the Authority by notice on the web site of the Authority; and
 - (b) withdrawal in a like manner.

5. Short title and commencement

This Notice is called the Exemption of Particular Persons from compliance with Certain Competency Requirements, 2022, and is effective from 26 June 2020.