

FAIS NEWSLETTER



Financial Services Board

1/31/2013

Volume 14

Background to Newsletter

As explained in Volume 13 of the FAIS newsletter, during November 2012 the FAIS Division conducted an industry survey in respect of the activities of the FAIS Department.

A sample of Compliance Officers (CO's) and Financial Services Providers (FSPs) was randomly selected to participate in the survey. The survey was also distributed to various industry bodies for onward communication to their members, at the discretion of the industry body.

The feedback from the survey was utilised to identify topics that may need to be addressed in the FAIS newsletter. Some of these topics were addressed in Volume 13 and some further topics will also be covered in this newsletter.

Inside this issue:

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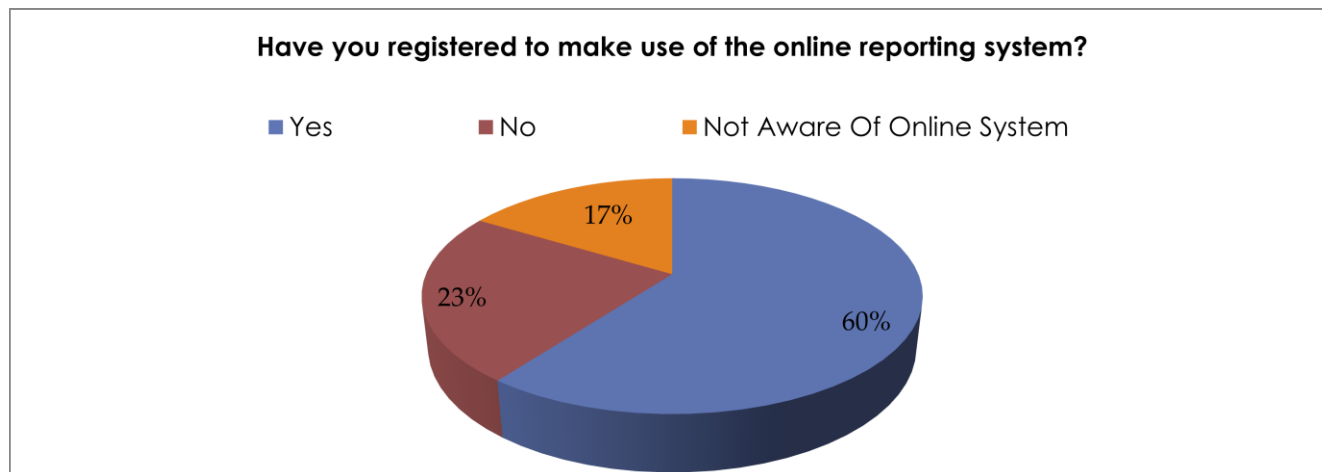
Background to newsletter	1
The FAIS online system	2
Submitting profile changes	4
Treating Customers Fairly (TCF)	5
Amendments to the financial soundness requirements	6

Disclaimer

The FAIS Newsletter must not be construed as a substitution of the FAIS Act and subordinate legislation. The newsletter is aimed at addressing specified areas and provides a quick reference to the reader. It does not take away the obligations that are imposed on FSPs, key individuals, representatives, compliance officers or any person involved in the rendering of financial services to acquaint himself or herself with the provisions of the FAIS Act.

THE FAIS ONLINE REPORTING SYSTEM

One of the questions raised in the FAIS industry survey was whether the respondents were aware of the FAIS online reporting system. The response can be depicted as follows:



From the responses received, it was evident that not all compliance officers and Financial Services Providers (FSPs) were aware of and making use of the FAIS online reporting system.

Who can register to use the FAIS online reporting system?

- The approved compliance officer for a FSP; and
- Any of the approved key individuals for a FSP.

(Only approved compliance officers and key individuals can register to use the online reporting system as confidential information in respect of the FSP is contained on the online reporting system.)

Some of the **functionalities** of the FAIS online reporting system are as follows:

- Submitting annual financial statements ;
- Submitting compliance reports ;
- Applying for an extension for the submission of financial statements ;
- Updating of contact details ;
- Obtaining copies of previous compliance reports that have already been submitted ;
- View what details the FSB has on record for a FSP ; and
- Reporting of material irregularities / contraventions of the FAIS legislation (only compliance officers will have access to this function on the online system)

How do you **register** for the FAIS online reporting system?

- Go to www.fsb.co.za
- Click on FAIS on the top right hand corner,
- Select the 5th option on the FAIS homepage which reads “FAIS web programme – online submissions”
- Click on “Online program”
- Click on Register and you will go to a new screen where you will be asked to enter your ID number
- After doing that click on “register” and the password will be e-mailed to your e-mail address that we have on record for the key individual or compliance officer.

There is a comprehensive **user guide** available for download on the FSB website that provides step by step guidance on using the online system. To download a copy of the user guide:

- Go to www.fsb.co.za
- Click on FAIS on the top right hand corner,
- Select the 5th option on the FAIS homepage which reads “FAIS web programme – online submissions”
- Click on “User guide for the FAIS online reporting system”



If you require any assistance or guidance in registering for or using the FAIS online reporting system, you are welcome to send an e-mail to Faiscompl@fsb.co.za

SUBMITTING PROFILE CHANGES

Any amendments to a FAIS license are referred to as Profile Changes. In terms of the conditions to all FAIS licenses, an authorised Financial Services Provider (FSP) is required to notify the FAIS Department of any changes to their license within 15 days of the change occurring.

Some important points to note when doing a profile change are:

- All profile change requests **may be e-mailed** to Faispfc@fsb.co.za
- The **FSP number should be clearly indicated** in the subject line of the e-mail or on the front page of the hard copy documents to assist the FAIS Registration Department in easily being able to identify which FSP the request applies/pertains to.
- Specific types of profile changes require **specific forms** to be submitted in order for the change to be processed, without the correct forms the FAIS Registration Department can't action the change on behalf of the FSP.
- Some profile change requests have **a fee that is payable** in order for the change to be processed. Where there is a fee payable, proof of payment should accompany the profile change request.

A summary of some of the more common profile changes and required documents is included below together with an indication as to whether there are fees payable for the profile change or not (please refer to the FSB website for a full list of profile changes, required documents and fees payable):

Type of change	Documents Required	Fee payable
Change in name of the FSP	<ul style="list-style-type: none"> • Letter requesting the change in name (old name and new name to be confirmed) • CIPC documents confirming the name change (for CC's and Companies) 	R480.00
Addition of a representative	<ul style="list-style-type: none"> • Form FSP 5 	None
Deletion of a representative	<ul style="list-style-type: none"> • Letter confirming that the person should be removed as a representative. • Letter should clearly reflect the name and identity number of the representative 	None
Approval of a key individual	<ul style="list-style-type: none"> • Form FSP 4 • Form FSP 5 (if the person is to act as a representative as well) • Certified copies of all relevant qualifications • Proof of experience • Proof that the person has passed the applicable first level regulatory examinations 	R935.00
Removal of a key individual	<ul style="list-style-type: none"> • A letter stating the name and identity number of the key individual to be removed as well as the reasons for their removal. 	None

Type of change	Documents Required	Fee payable
Adding additional financial products to a licence	<ul style="list-style-type: none"> Form FSP 2 Form FSP 4 for the key individual(s) List of representatives (Full name, Identity number and products) 	R1 000.00
Removal of financial products from a licence	<ul style="list-style-type: none"> A letter requesting the removal of the financial products from the license Form FSP 2 indicating which financial products should remain on the licence 	None
Application for additional category of license	<ul style="list-style-type: none"> Form FSP 2 Form FSP 4 for key individuals that will manage or oversee the financial services relating to the Category Proof that the KI has passed the applicable first level regulatory examination. Form FSP 7 Form FSP 8 List of representatives (Full name, Identity number and products) 	R1 690 (add Category I) Or R9 300 (add category II) Or R14 340 (add Category III)
Change in shareholders	<ul style="list-style-type: none"> Cover letter confirming the latest shareholding Form FSP 3 for any new shareholders 	None
Change in directors	<ul style="list-style-type: none"> Cover letter confirming the latest directors Form FSP 3 for any new directors 	None
Change in members of a close corporation	<ul style="list-style-type: none"> Cover letter confirming the latest memberships Form FSP 3 for any new members 	None
Request a new license certificate	<ul style="list-style-type: none"> Letter requesting a new licence certificate 	R400.00
Request for certified copies of a licence certificate	<ul style="list-style-type: none"> Letter confirming the number of certified copies required 	R150 per certified copy
Change in contact details	<ul style="list-style-type: none"> Form FSP 1 or Letter confirming the new contact details 	None
Change in auditor	<ul style="list-style-type: none"> Form FSP 9 for the new auditor Letter of resignation from old auditor stating the reason for their resignation. 	R250.00
Change in financial year end	<ul style="list-style-type: none"> Letter requesting the approval of the change in financial year end indicating the current financial year end and the proposed financial year end. 	None

TREATING CUSTOMERS FAIRLY (TCF)

Why TCF?

A holistic and co-ordinated consumer protection regulatory framework that applies consistently across the financial services sector and is tailored to address the specific conduct risks peculiar to the sector has been lacking.

The desired outcomes of TCF

The TCF fairness outcomes, positioned from the perspective of the customer, are the following:

- **Outcome 1:** Customers are confident that they are dealing with firms where the fair treatment of customers is central to the firm culture.
- **Outcome 2:** Products and services marketed and sold in the retail market are designed to meet the needs of identified customer groups and are targeted accordingly.⁴
- **Outcome 3:** Customers are given clear information and are kept appropriately informed before, during and after the time of contracting.
- **Outcome 4:** Where customers receive advice, the advice is suitable and takes account of their circumstances.
- **Outcome 5:** Customers are provided with products that perform as firms have led them to expect, and the associated service is both of an acceptable standard and what they have been led to expect.
- **Outcome 6:** Customers do not face unreasonable post-sale barriers to change product, switch provider, submit a claim or make a complaint.

What will the impact of TCF be on financial intermediaries, given their existing FAIS obligations?

The FAIS Act already imposes extensive obligations on authorised financial services providers and their representatives that are relevant to the TCF fairness outcomes. However, it does not follow that TCF will have no additional impact on FAIS regulated intermediaries. Where the FAIS obligations are largely compliance and rules based, the outcomes based TCF framework will require intermediaries to ensure that their adherence to FAIS is complemented by being able to demonstrate that they have embedded the broader TCF culture framework within their organisations (TCF fairness outcome 1).

From a risk-based perspective, the culture and governance dimensions will require particular attention by larger financial services providers. Intermediaries will however also be expected to consider their role in delivering the TCF fairness outcomes related to appropriate product and service design, product performance and service levels, and post-sale barriers. Although the primary responsibility for these outcomes will rest on product suppliers themselves, financial intermediaries can and should bring greater pressure to bear on product suppliers to ensure that inappropriately designed and marketed products, poor post-sale service practices, and unreasonable post-sale barriers are challenged.

TCF will require product suppliers and intermediaries to share accountability for fair treatment of their mutual customers.

Possible self-assessment questions for financial advisors to determine their TCF readiness:

The following questions provide some guidance on questions financial advisors should consider when determining whether they do deliver the six TCF outcomes:

- Who is responsible for TCF in your firm?
- How do you measure TCF delivery?
- Have your staff been trained on TCF?
- How do you take TCF into account when deciding whether to contract with a product supplier? Or whether to market a particular product?
- How do you confirm which target market a product is designed for and then ensure you market accordingly?
- Do you test the clarity and appropriateness of product material before giving it to customers? What do you do if it isn't up to standard?
- How do you ensure customers get post-sale information when they need it (not only an annual statement)?
- Do you insist that product suppliers give you and your reps specific product training?
- What level of feedback do you give product suppliers on their products and service?
- What controls do you have in place to monitor risk of poor advice by your representatives? Do you monitor their complaints, claims, replacements, portfolio switches?
- What do you do to mitigate risks for customers when you discover a problem with the advice?
- Have you communicated your service standards to your customers?
- How do you support your customers at claims stage?
- Do you analyse and act on complaints for TCF purposes?

TCF self-assessment tool and additional information on TCF

The TCF section of the FSB's website hosts the TCF self-assessment tool which could be used as guidance to develop your own self-assessment methods taking into account your specific strategies, business model etc.

Additional information on TCF is also available on the FSB's website.

AMENDMENTS TO THE FINANCIAL SOUNDNESS REQUIREMENTS

The financial soundness requirements that all authorised Financial Services Providers (FSPs) must comply with can be found in the Determination of Fit and Proper Requirements, 2008 (the Fit and Proper).

On 11 December 2012 certain of the definitions in respect of the financial soundness requirements were amended under Board Notice 202 of 2012.

The following key amendments were made:

- The definition of annual expenditure was amended;
- The definition of liquid assets was amended
- A definition of "management accounts" was inserted
- Paragraph 9 of the Fit and Proper was amended in that subparagraphs (2), (3)(a) and (4)(a) were substituted.

The major amendment to subparagraphs (2), (3)(a) and (4)(a) of Paragraph 9 of the Fit and Proper was to do with what is specifically **excluded** from the total assets of the FSP when calculating whether the FSP satisfies the financial soundness requirements or not. The following is now excluded from the total assets calculation:

- Goodwill;
- Intangible assets;
- Investments in related parties;
- Loans to related parties;
- Investments with persons to whom the FSP renders financial services; and
- Loans to persons to whom the FSP renders financial services.

These amendments came into effect on the date of publication i.e. **with effect from 11 December 2012.**

Amended definition of liquid assets:

"Liquid assets means cash and other assets equivalent to cash that can be liquidated without realizing a loss on liquidation provided that –

- (a) 25% percent of such assets must be capable of being liquidated in 7 days;*
- (b) A further 25% of such assets must be capable of being liquidated in 30 days; and*
- (c) The remaining 50% of such assets must be capable of being liquidated in 60 days;."*

Amended definition of annual expenditure:

"Annual expenditure means the expenditure set out in –

- (a) The latest financial statements of the FSP; or*
- (b) The budgeted expenditure as expressed in the budget or financial accounts in the case of an applicant commencing business,*

Less-

- *Staff bonuses;*
- *Employees' and directors', partners' or members' share in profits;*
- *Emoluments of directors, members, partners or a sole proprietor;*
- *Other appropriation of profits to directors, members and partners;*
- *Fifty percent of the commissions or fees paid to representatives for the rendering of services that did not form part of their part of their remuneration;*
- *Depreciation;*
- *Bad debts; and*
- *Any loss resulting from the sale of assets"*

IMPORTANT FAIS CONTACT DETAILS

General FAIS related queries	Faisinfo@fsb.co.za
Extensions on the submission of annual financial statements	Faisfins2@fsb.co.za Faisfins3@fsb.co.za
Queries relating to qualifications	Fitandproper@fsb.co.za
Queries on Fit and Proper requirements	Fitandproper@fsb.co.za
Updating details on a license (Profile Changes)	Faispfc@fsb.co.za
Debarment of representatives	Debarments@fsb.co.za
Queries on Date of First Appointment (DOFA)	Fais.Dofa@fsb.co.za
Submission of complaints against a FSP	FaisComplaints@fsb.co.za
Queries relating to the suspension / withdrawal of licenses	Fais.Compliance@fsb.co.za
Correspondence relating to specific exemptions	Fais.Exemptions@fsb.co.za
Queries on the FAIS online reporting system	Faiscomp1@fsb.co.za
Queries relating to compliance reports	Faiscomp2@fsb.co.za Faiscomp3@fsb.co.za Faiscomp4@fsb.co.za

Comments and suggestions?



We invite comments on this Newsletter and suggestions as to which topics you wish us to address in the coming publications. Any person who wishes to be included in the FAIS Newsletter circulation must forward an e-mail to faiscomment@fsb.co.za. The FAIS Newsletter is for free.

FSB Call Centre: Are you aware that the Financial Services Board has a Call Centre / Contact Centre that is dedicated to resolving all your queries? The following toll free numbers may be used to contact the FSB Call Centre:

0800110443 or 0800202087

Per email: info@fsb.co.za

Website : All the important information applicable to financial services business is posted on our website. You are encouraged to frequently visit our website for latest information and updates. Our website address is www.fsb.co.za.

On the homepage click on the word “*FAIS*” in the top right hand corner.