

FSCA

Financial Sector  
Conduct Authority

# Requirements of Funeral Businesses

**29 November 2022**

**Compiled by:**



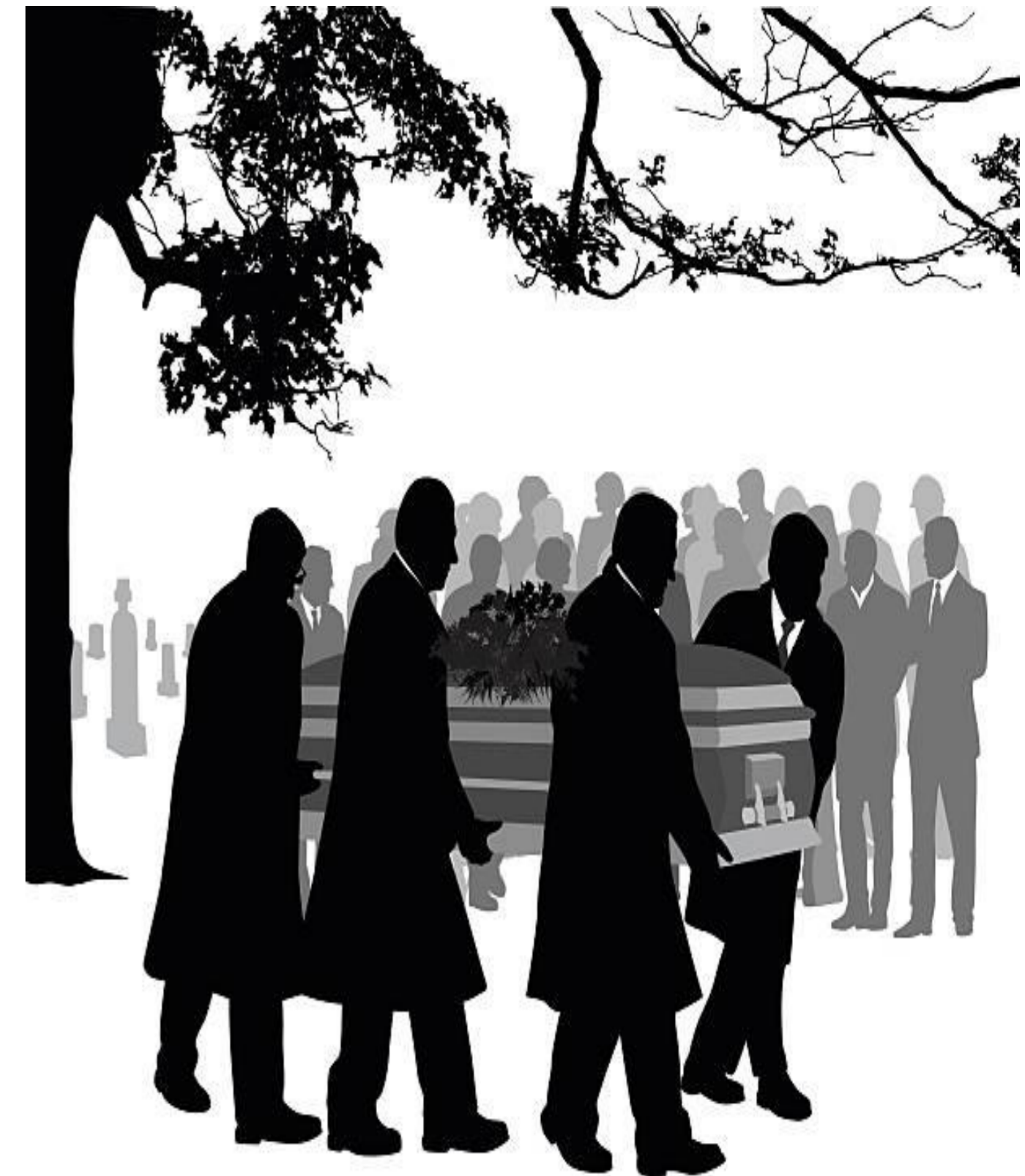
# Topics Covered

## Description

- 1. The importance of being authorised**
- 2. Specific regulations for funeral directors/business**
- 3. Compliance requirements**
- 4. How the FSCA is assisting small businesses to comply**
- 5. Underwriting requirements**
- 6. Policy Admin and data requirements**
- 7. Premium collection and remittance to the insurer**
- 8. Claims handling and payment to beneficiaries**
- 9. Record keeping**
- 10. Important Obligations**

# 1. The importance of being authorised

- ❑ The **FAIS Act** requires any person or company that provides **financial services** to register as a FSP and obtain a licence through the **FCSA**.
- ❑ The purpose of licensing is to ensure that applicants are fit and proper for business and that they operate **lawfully**, in the **public's interest**.
- ❑ A person who conducts insurance business in South Africa without an insurance licence commits an offence and is liable on conviction to a fine of up to **R10 million**.
- ❑ FSPs are always expected to be **honest** and have **integrity** and be in good standing.
- ❑ In the event of a breach of the compliance obligations, **ignorance** of the law will **not** be an excuse.
- ❑ For this reason, it is vital that all role players in the industry **familiarise** themselves with the **regulatory requirements** and strictly **adhere** to them.



## 2. Specific regulations for funeral directors/business

### Authorisation & Licensing

- Funeral Class Business is authorised under Subcategory A and/or Friendly Society Benefits
- Insurance Act stipulates that all funeral products below **R100 000** fall within the **Funeral Class** in the Insurance Act.
- Before the Insurance Act, funeral products offering policy benefits between R30 000 and R100 000 were licensed to operate under long-term insurance **subcategory B1**. This falls under **subcategory A** now
- FSPs to send profile change requests within **15 days** of changes.
- Pay **levies** annually and timeously
- Operational ability** – human, technical and technological resources to effectively function and render financial services in relation to product for which it is authorised

# 3. Compliance Requirements

## Fit and Proper Requirements

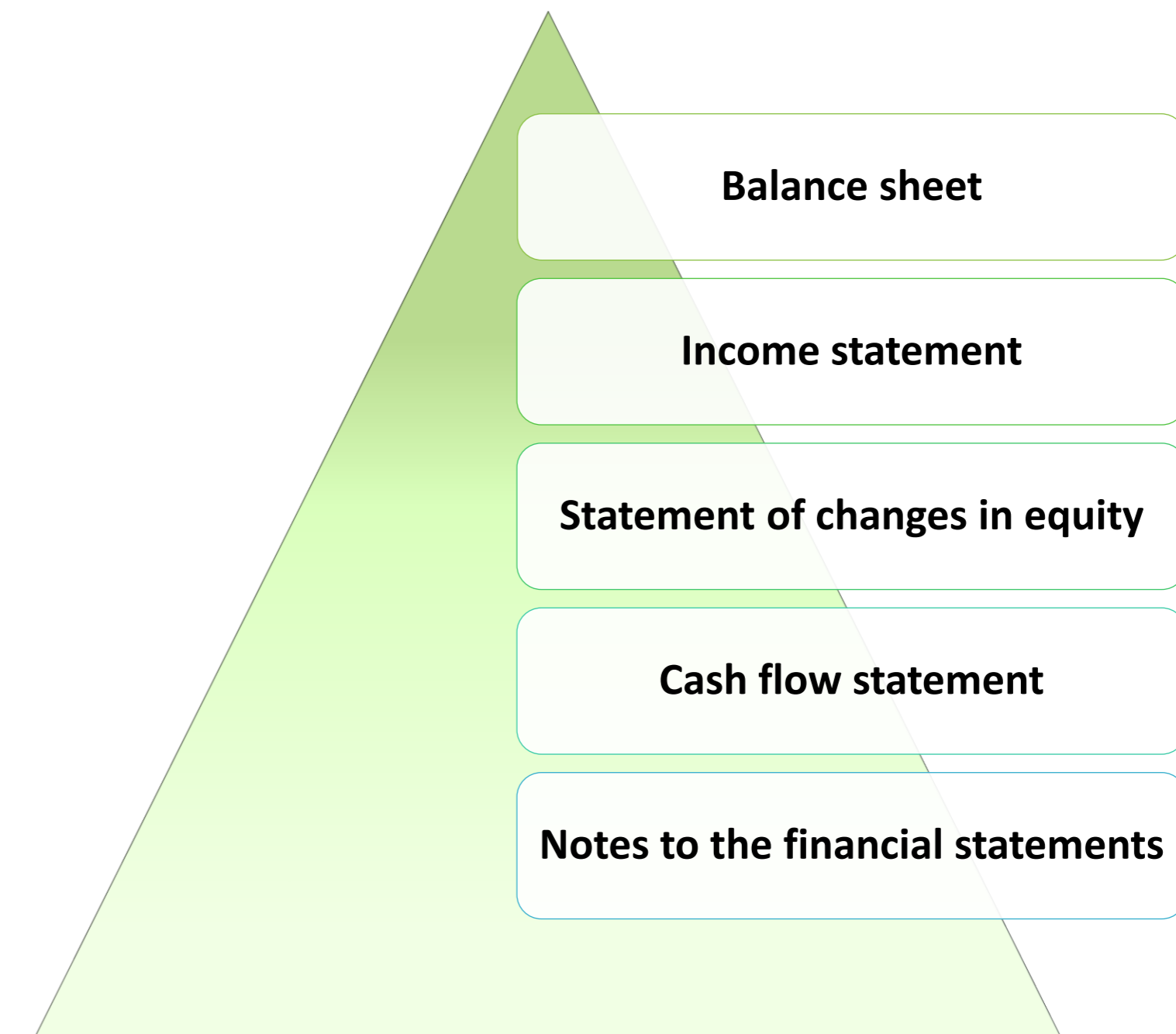
- The FAIS Act stipulates that all authorised **FSPs** must ensure that their **key individuals and representatives** are:
  - competent to act, and comply with all the fit and proper requirements
  - as well as any other requirements included in the Act.
  - Product knowledge and competence
- FSPs are always expected to be **honest** and have **integrity** and be in good standing.
- FSPs and their representatives are expected to operate in the **best interest of their clients**
- FAIS also requires FSPs to be **financially sound** and **not use client premiums** to carry out business operations.
- Only conduct authorised business
- Maintenance of records for **5 years after** a business relationship ends



## 2. Assess Financial Statements Section 19 of the FAIS Act

### Funeral Parlours

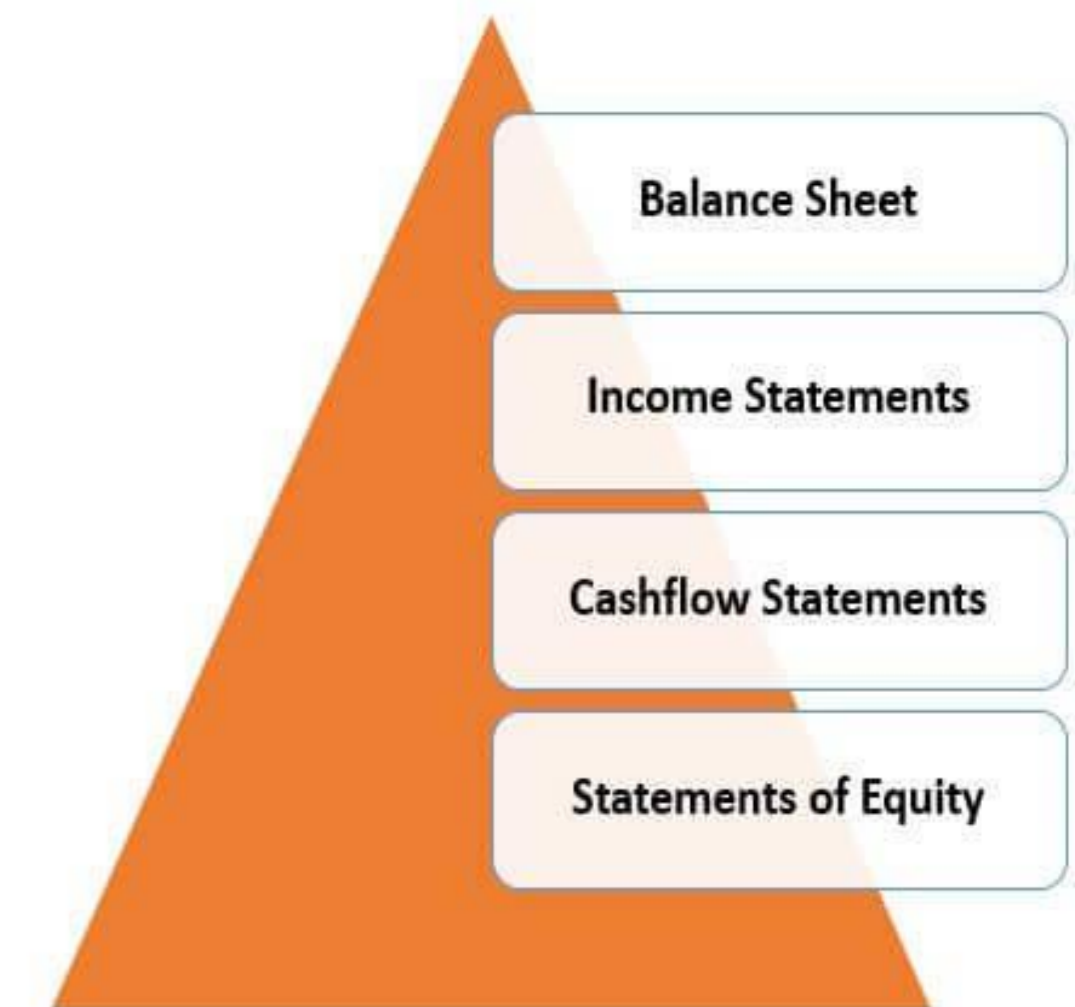
- ❖ FSP must submit its financial statements **annually**
- ❖ No later than **four** months after its **year-end**.
- ❖ Approved by the executive management or sole proprietor
- ❖ Full financial statements include the following:
  - ✓ Balance sheet
  - ✓ Income statement
  - ✓ Cashflow statement
  - ✓ Statement of changes in equity
  - ✓ Notes to the financial statements
  - ✓ Director's/member's report
  - ✓ Comparative figures from the prior year
  - ✓ S19(2) auditor's report in accordance with IFRS
  - ✓ Accounting officer or independent reviewer's report (if meet Annexure A requirements( PI Score < 350)
  - ✓ Sec 19(3) auditor's report on separate account (completed by an accounting officer if meet Annexure A requirements
  - ✓ Annexure 6 Form A Liquidity Calculation



# 3. Compliance Requirements (continued)

## Financial Statements Submissions

- FSPs must submit its financial statements **annually**
- no later than **four** months after their **year-end**.
- Funeral class must submit the **following documents alongside** its annual financial statements:
  - Annexure A (FAIS Notice 82 of 2015) (PI Score < 350)
  - Sec 19(3) Report on Separate Account (as completed by an accounting officer)
  - Annexure 6 Form A Liquidity Calculation
- FSPs that do not qualify for exemption must submit a S19(2) auditors report (PI Score > 350)
- Must meet **financial soundness** and **liquidity** requirements
- Apply for exemption when soundness or liquidity **not** met



# Annexure 6 Form A

- Completed by key individual of FSP
- Declaration signed by Chief Financial Officer of FSP or equivalent
- Calculation:
  - Liquid assets, less
  - Annual expenditure as defined in the Determination of Fit and Proper Requirements
  - Over 52 weeks
- Must meet financial soundness, working capital and liquidity requirements
- Apply for exemption when soundness or liquidity not met

**TABLE B**

Category of FSP & Juristic Representative	Working Capital Requirement	Liquidity Requirement
Category I	Current assets must exceed current liabilities	Liquid assets equal to or greater than 4/52 weeks of annual expenditure

## 4. How the FSCA is assisting small businesses to comply

### Exemptions from the following requirements:

#### FAIS Notice 82 of 2015

- ❑ This exemption permits Category 1 FSPs that are Funeral Parlours and collect clients' premiums to submit financial statements drawn up by an accounting officer
- ❑ including a Section 19(3) report which has been completed by an accounting officer.

#### Determination of Fit & Proper

- ❑ Exempted from minimum qualification requirements
- ❑ Exempted from regulatory exemptions (Reps & KIs)
- ❑ Class of business training and product specific training
- ❑ CPD Requirements



## 5. Underwriting Requirements

- Only licensed insurers may conduct insurance business (sec 5.1 Insurance Act “IA”);
- A person or entity, other than a licensed insurer, to whom an insurance function is outsourced, is not conducting insurance business. i.e intermediaries;
- The policy risks vests with a licensed insurer.

## 6. Policy administration and data requirements

- Insurer and intermediary may enter into an intermediary and/or binder agreement;
- Only properly licensed FSPs may enter into an intermediary agreement with a properly licensed insurer;
- Intermediary functions include –
  - o Marketing & selling of policies;
  - o Maintaining or otherwise dealing with policies;
  - o Claims administration; and
  - o Premium collection.

## 6. Policy administration and data requirements

- Binder functions include –
  - o Enter into, vary or renew a policy;
  - o Determine the policy wording
  - o Determine premiums under a policy
  - o Determine the value of policy benefits under a policy;  
and/or
  - o Settle claims under a policy
- All fees charged related to binder fees are subject to limits as set out in Reg 3.21 of LTIA;
- Commissions are subject to the limits as set-out in Reg. 3.4(1A) of LTIA.

## 7. Premium collection and remittance to the insurer

- Only intermediaries who entered into agreement to collect premiums may do so;
- They must have a separate bank account for premiums as per reg 8.2(2);
- All premiums must be deposited into a separate account;
- Cash premiums must be deposited within 1 business day of receipt;
- Premiums must be remitted (paid) to insurer within 15 days after the end of the month;

## 7. Claims handling and payment to beneficiaries

- Claims are paid directly to the claimant, unless the claimant has instructed the insurer to pay directly to a service provider;
- Even when claims management is outsourced to an intermediary or binder holder, this does not absolve the insurer from responsibility in respect of the claim;
- A claimant may indicate that the value of the policy be paid in monetary form;

## 8. Record Keeping

- Section 3 of the General Code of Conduct (Specific duties of provider)
  - (2)
    - (a) A provider must have appropriate procedures and systems in place to-
      - (i) record such verbal and written communications relating to a financial service rendered to a client as are contemplated in the Act, this Code or any other Code drafted in terms of section 15 of the Act;
      - (ii) store and retrieve such records and any other material documentation relating to the client or financial service rendered to the client; and
      - (iii) keep such client records and documentation safe from destruction.

## 8. Record Keeping

- (b) All such records must be kept for a period of five years after termination, to the knowledge of the provider, of the product concerned or, in any other case, after the rendering of the financial service concerned.
- (c) Providers are not required to keep the records themselves but must ensure that they are available for inspection within seven days of the registrar's request.
- (d) Records may be kept in an appropriate electronic or recorded format, which are accessible and readily reducible to written or printed form.

## 8. Important Obligations

- Comply with the fit and proper requirements ongoing basis
- Comply with Codes of Conduct applicable to FSP
- Comply with Financial Intelligence Centre Act
- Keep records
- Submit the required reports
- Prepare monthly accounts
- Maintain financial soundness
- Annual levies payable to the FSCA

## 9. Collection Beneficial Ownership Information

The Authority published FSCA Information Request 6 of 2022 (General) on 12 August 2022 – requesting ownership of certain financial institutions based on a recommendation by the Financial Action Task Force (FATF) who is a global watchdog for money laundering and terrorist financing.

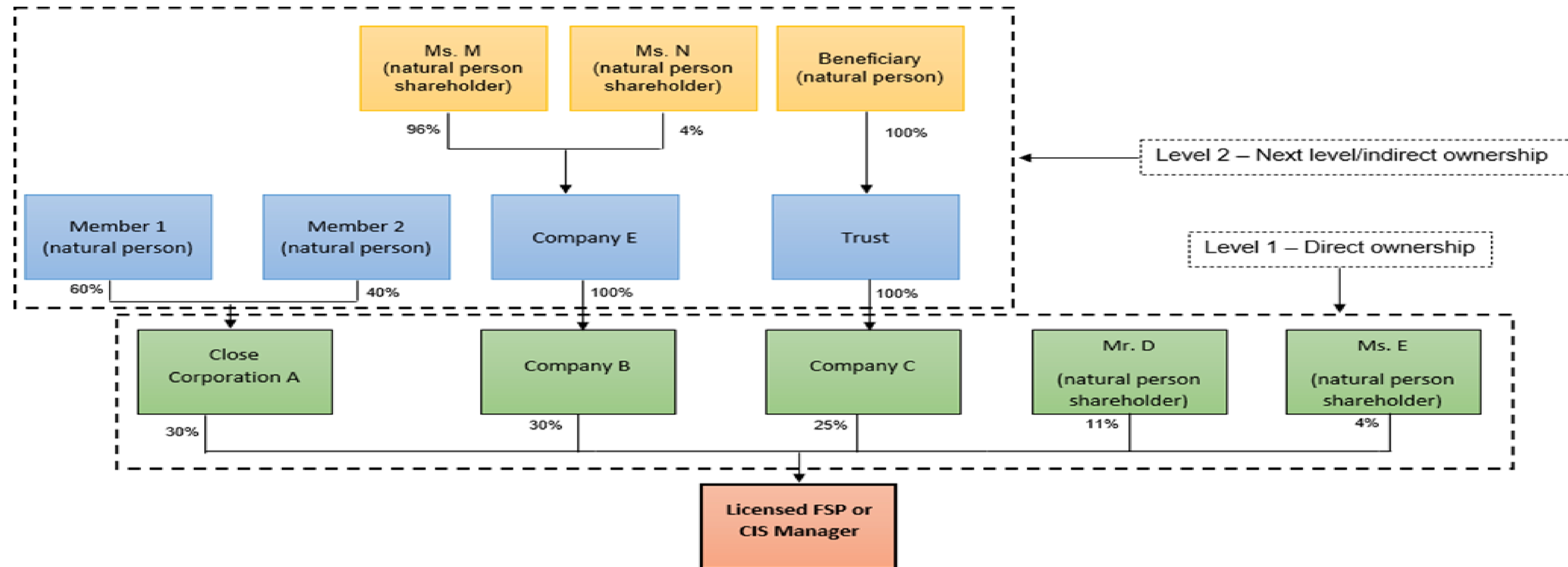
More information on who FATF is and what they do is available in the RFI (which will be posted in the chat for download)

The collection of the beneficial ownership information is applicable to all FSPs however some FSPs are excluded from submitting this information and these are:

- Banks
- Mutual banks
- Insurers
- FSPs that are authorised for non-life insurance and/or health service benefit products only
- Sole proprietors
- Partnerships

# 9. Collection Beneficial Ownership Information

Impacted financial institutions must upload an organogram depicting the total ownership and control structure of the institution to enable verification of the ownership information by the FSCA. Below is what an organogram should look like.



The Beneficial Ownership information can only be submitted via the FAIS e-Portal

A step-by-step user guide is available to assist you with the process (a copy will be posted in the chat for download)

We will now do a live demo on how you complete the information on the ePortal

# 5. Questions & Answers



Pended Questions:

1. ....



**THANK YOU**