



LEGISLATIVE FRAMEWORK

Loraine van Deventer



OVERVIEW

Principles of Legislative Framework

Fit and Proper Requirements

General Code of Conduct

Exemptions

FSR Consequential Amendments

LEGISLATIVE FRAMEWORK

PRINCIPLES

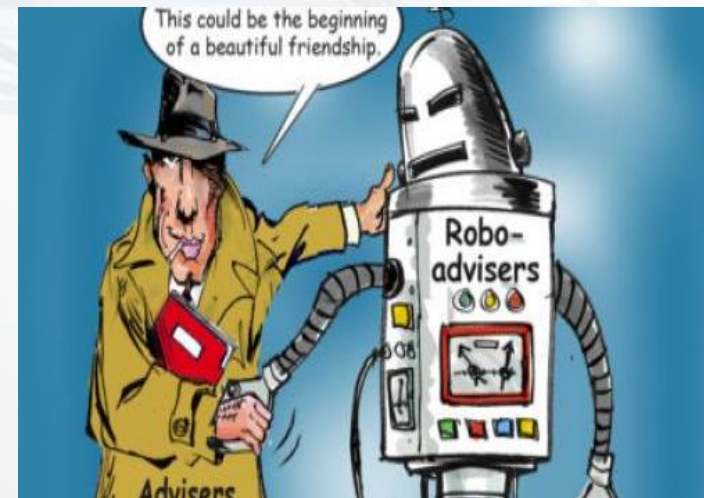
- ❑ Proportionate
- ❑ Principle based
- ❑ Outcomes based
- ❑ Transformation & Inclusion



**“My mom says I have to go inside to take a nap.
That’s the kind of over-regulation that
is killing small business!”**

FIT AND PROPER DEFINITIONS

- ❑ “Financial product” and subcategories of product
 - Products issued by foreign p/s similar to such subcategories
 - Issued with a foreign currency denomination
- ❑ New product subcategories:
 - Participatory interest in a hedge fund
 - Structured deposits
 - Securities and instruments
- ❑ Concept of automated advice
- ❑ Concepts for new competency requirements
 - Tier 1 & Tier 2 products
 - Product specific & Class of business training
 - RE Exams





TIER 1 FINANCIAL PRODUCTS

- Structured Deposits
- Short-term Insurance
Personal Lines &
Commercial Lines
- Long-term Insurance
subcategory B1, B2, C
- Retail Pension Benefits
- Pension Fund Benefits
- Participatory interest in one
or more collective
investment schemes
- Participatory interest in a
hedge fund
- Forex Investment
- Health Service Benefits
- Shares
- Money market instruments
- Debentures and securitised
debt
- Warrants, certificates and
other instruments
- Bonds
- Derivative instruments
- Securities and Instruments



TIER 2 FINANCIAL PRODUCTS

- Short-term Insurance Personal Lines A1
- Long-term Insurance subcategory A
- Long-term Insurance subcategory B1-A
- Long-term Insurance subcategory B2-A
- Friendly Society Benefits
- Short-term Deposits
- Long-term Deposits



MAJOR CHANGES CHARACTER QUALITIES

- ❑ Good standing
- ❑ Extension of factors
- ❑ Compliance by person that is not a natural person is demonstrated through:
 - its corporate behaviour
 - personal behaviour of directors and key individuals
- ❑ Limitations:
 - Seriousness of conduct
 - Relevance of conduct to duties to be performed
 - Passage of time since occurrence of conduct



MAJOR CHANGES COMPETENCIES

- ❑ Principle based – can no longer rely on compliance with minimum requirements

- ❑ FSP must-
 - Evaluate and review reps' and KIs' compliance with competence
 - Maintain a competence register
 - notify Registrar of KI's non-compliance with competency requirements

MAJOR CHANGES EXPERIENCE

- ❑ Principle requirement:
 - adequate, appropriate and current experience
- ❑ Lapsing of experience
- ❑ Major changes





MAJOR CHANGES QUALIFICATIONS & EXAMS

- ❑ Qualification requirements - not applicable to-
 - Reps & KIs - funeral assistance business
 - Reps performing execution of sales

- ❑ Regulatory Examinations
 - Not applicable to-
 - Reps & KIs - funeral assistance business
 - Cat I Reps of-
 - Tier 2 products
 - Execution of sales – all products
 - FSP and KI – no RE 5 Exam



PRODUCT & CLASS OF BUSINESS TRAINING

- ❑ Product training incl. product amendments
 - Could be provided by any person
 - N/a to Cat II, IIA and III FSPs
- ❑ Class of business training
 - Must be provided by accredited training provider
 - Does not apply to-
 - Reps & KIs - funeral assistance business
 - Cat I Reps - Tier 2 products
 - Cat 1 Reps - Execution of sales – all products
- ❑ Record keeping requirements
- ❑ FSP must provide confirmation of training

CLASSES OF BUSINESS

TABLE 1

CLASSES OF BUSINESS

1. Short-term Insurance		3. Retirement	
Subclasses		Subclasses	
1.1	Personal lines: Accident and health policy	3.1	Retail Pension Benefits
1.2	Personal lines: Liability policy	3.2	Pension Fund Benefits
1.4	Personal lines: Miscellaneous policy	4. Deposits	
1.5	Personal lines: Motor policy	Subclasses	
1.6	Personal lines: Property policy	4.1	Long-term Deposits
1.7	Personal lines: Transportation policy	4.2	Short-term Deposits
1.8	Personal lines: Short-term reinsurance policy	4.3	Structured Deposits
1.9	Commercial lines: Accident and health policy	5. Securities & Investments	
1.10	Commercial lines: Engineering policy	Subclasses	
1.11	Commercial lines: Guarantee policy	5.1	Shares
1.12	Commercial lines: Liability policy	5.2	Money market instruments
1.13	Commercial lines: Miscellaneous policy	5.3	Debentures and securitised debt
1.14	Commercial lines: Motor policy	5.4	Bonds
1.15	Commercial lines: Property policy	5.5	Derivative instruments, warrants, certificates or other instruments
1.16	Commercial lines: Transportation policy	5.6	Securities and Instruments
1.17	Commercial lines: Short-term reinsurance policy	5.7	Participatory interests in one or more collective Investment Scheme
2. Long-term Insurance		5.8	Participatory interest in a hedge fund
Subclasses		6. Forex Investments	
2.1	Assistance policy	7. Health Services Benefits	
2.2	Life risk policy		
2.3	Life investment, policy		
2.4	Fund policy		
2.5	Sinking fund policy		
2.6	Long-term reinsurance policy		



CONTINUOUS PROFESSIONAL DEVELOPMENT

- ❑ Principle – must maintain the required competence to render financial services
- ❑ FSP must establish and maintain -
 - policies on how to maintain, update and develop new knowledge and skills;
 - **training plans** to ensure CPD is relevant and appropriate, addresses any identified needs or gaps and improves professional standards.
- ❑ FSP must keep record of CPD hours and evidence of activities



CONTINUOUS PROFESSIONAL DEVELOPMENT

- ❑ CPD hours
 - a single subclass of business within a single class of business must complete a **minimum of 6 hours** of CPD activities per CPD cycle;
 - more than one subclass of business within a single class of business must complete a **minimum of 12** hours of CPD activities per CPD cycle; or
 - more than one class of business must complete a **minimum of 18 hours of CPD activities** per CPD cycle.

- ❑ Does not apply to-
 - Reps & KIs - funeral assistance business
 - Cat I Reps - Tier 2 products
 - Cat 1 Reps – Intermediary services – all products

MAJOR CHANGES COMPETENCIES

Person	Experience	Qualifications	Exams	Class of business	Product specific	CPD
Category I						
<u>ESP</u>	Product & Service	Recognised qual. Exceptions: ▪ Funeral & Friendly	RE 1 Exceptions: ▪ Funeral & Friendly	Yes Exceptions: ▪ Funeral & Friendly	Yes	Yes Yes
KI	Man. of Cat I service	Recognised qual. Exceptions: ▪ Funeral & Friendly	RE 1 Exceptions: ▪ Funeral & Friendly	Yes Exceptions: ▪ Funeral & Friendly	Yes	Yes
Rep	Product & Service	Recognised qual. Exceptions: ▪ Funeral & Friendly ▪ Scripted sales execution - all products – Grade 12	RE 5 Exceptions: ▪ Funeral & Friendly ▪ Tier 2 products – all services ▪ Tier 1 products - scripted sales execution only	Yes Exceptions: ▪ Funeral & Friendly ▪ Tier 2 products – all services ▪ Tier 1 products – scripted sales execution only	Yes	Yes Exceptions: ▪ Funeral & Friendly ▪ Tier 2 products – all services ▪ Tier 1 products – intermediary services only
Category II						
<u>ESP</u>	Product & Service	Recognised qual.	RE 1 & RE 3	Yes	No	Yes
KI	Man. of Cat II service	Recognised qual.	RE 1 & RE 3	Yes	No	Yes
Rep	Product & Service	Recognised qual.	RE 5	Yes	No	Yes
Category IIA						
<u>ESP</u>	Product & Service	Recognised qual.	RE 1 & RE 3	Yes	No	Yes
KI	Man. of Cat IIA service	Recognised qual.	RE 1 & RE 3	Yes	No	Yes
Rep	Product & Service	Recognised qual.	RE 5	Yes	No	Yes
Category III						
<u>ESP</u>	Product & Service	Recognised qual.	RE 1 & RE 4	Yes	No	Yes
KI	Man. of Cat III service	Recognised qual.	RE 1 & RE 4	Yes	No	Yes
Rep	Product & Service	Recognised qual.	RE 5	Yes	No	Yes
Category IV						
<u>ESP</u>	Product & Service	Recognised qual.	<u>RE1</u>	Yes	Yes	Yes
KI	Man. of Cat IV service	Recognised qual.	<u>RE1</u>	Yes	Yes	Yes
Rep	Product & Service	Recognised qual.	RE 5	Yes	Yes	Yes



OPERATIONAL ABILITY

- ❑ Must have effective governance framework that is proportionate
- ❑ Automated advice requirements
- ❑ Outsourcing of functions to persons other than representatives
- ❑ Appointment of representatives
 - Representatives may not sub-outsource financial services
- ❑ FSP must assess operational ability of KIs



FINANCIAL SOUNDNESS

- ❑ Does not apply to Banks and Insurers
- ❑ Applies to juristic representatives (JR)
 - JRs of Cat 1 FSPs - assets must exceed liabilities
 - Other JRs must comply with-
 - Additional asset req.
 - Working capital req. (current assets v current liabilities)
 - Liquidity req. (liquid assets)
- ❑ FSPs must monitor JR compliance with soundness req.
- ❑ Early warning requirements
 - Assets exceed liabilities by less than 10%
 - Does not meet any of the requirements in Ch 6



TRANSITIONAL REQUIREMENTS

Product specific training

Persons authorised, approved, appointed [excl rep under supervision] **at commencement date** deemed to meet training requirement

Does not apply to product amendments after commencement date

After commencement - 12 months to comply

Class of business training

If appointed **prior to 1 Jan 2015** [excl rep under supervision] deemed to meet training requirement

After 1 Jan 2015 – 12 months to comply

Reps under supervision at commencement – 12 months to comply



GENERAL CODE OF CONDUCT

Amendments to General Code of Conduct

- ❑ Enterprise development contribution
- ❑ Definition of “replacement”
- ❑ Advertising and complaints management



EXEMPTIONS

EXEMPTIONS WITH GENERAL APPLICATION

- Compliance officer visits
- Section 13(1)(c)
- Liquidity requirements



FSR CONSEQUENTIAL AMENDMENTS

FSR Consequential Amendments

- ❑ Definition of “intermediary services” & deletion of product supplier exclusion

The proposed amendments-

- remove the requirement that the person performing the activities must do so in an agency capacity; and
- remove the requirement that the service has to be rendered in a tripartite situation in which a product supplier figures.

- ❑ Inclusion of “pooled investments” as a financial product

- ❑ Section 14(1) Debarment



QUESTIONS

Integrity is doing the right thing, even when no one is watching.

C S Lewis



Thank You

Financial Service