



## **UNDERSTANDING THE NEW FIT AND PROPER**

### **Background**

The Fit and Proper legislation has been under review for the past year. The latest changes were published in the Government Gazette on 15 October 2008. These changes have a far-reaching impact on all industry role-players. The "old" Fit and Proper will expire at the end of December 2009 and thereafter the new legislation and its transitional arrangements will be the only legislation applicable.

The purpose of this document is to provide you with a brief summary of the changes and their impact on education.

### **What is new?**

Although there have been changes to all the aspects of Fit and Proper (Honesty & Integrity, Supervision, Operational Ability), the focus of this document is the changes to the education and experience requirements.

### **1. Continuous Professional Development (CPD)**

A system of **Continuous Professional Development** (CPD) has been introduced and comes into operation on 31 December 2008. This means that all key individuals, FSPs who are sole proprietors and representatives, will have to obtain a number of credits (15 - 60 hours) over a three-year period. Activities such as formal studies, workshops, conferences and seminars may qualify. Educational institutions, industry associations, professional bodies and other interested parties will have to apply to the FSB for recognition of their interventions as verifiable CPD programmes. It is thus important to ensure that any CPD activity undertaken is an approved FSB programme for the hours/credits to count towards CPD. Representatives will have to log their CPD activities on the on-line CPD register of the FSB. FSPs must also keep

records of CPD activities for a period of five years after the activities have taken place.

## **2. Educational requirements**

The requirement for educational credits with regards to a **qualification** has been increased for new entrants to the market after 1 January 2010. (The transitional arrangements for those already in the industry will be dealt with separately below.) In most instances (exception: assistance business) new entrants will have to enter the industry with a Matric and thereafter the person will have to obtain a full qualification within five years after appointment. Until such qualification is obtained, services have to be rendered under supervision. These qualifications will have to come from a list that is published and regularly updated by the FSB. Qualifications will be loaded onto the list, based on their coverage of the newly published Qualifying Criteria – a list of knowledge and skills required for a particular category of financial product.

## **3. Regulatory Exams (RE)**

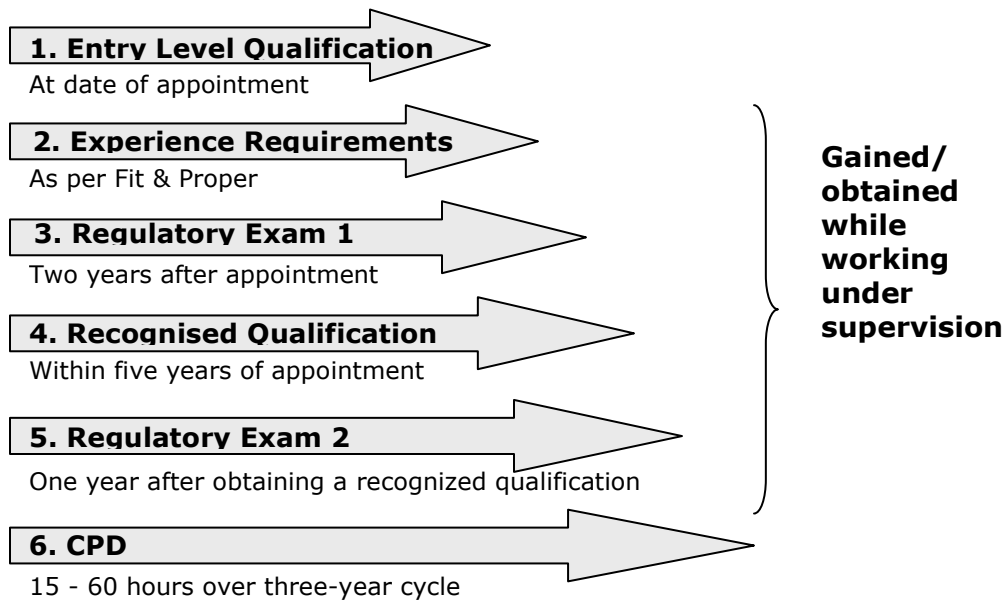
New **Regulatory Examinations (RE)** have been introduced. These examinations are required to be completed over and above the educational credit and/or qualification requirements. All key individuals, FSPs (who are sole proprietors) and representatives, will have to write two Regulatory Examinations, **RE1 and RE2**. According to the transitional arrangements, exemptions are possible for RE2, where students have completed one of the specific qualifications, as published on the FSB-recognised qualifications list. An **RE 2** examination will be required for most sub-categories licenced for. For example, an FSP licenced for Short Term Commercial Lines, Long Term Category C and Health Service Benefits may have to do up to three separate **RE 2** exams.

RE1 focuses on FAIS, FICA and other money laundering legislation and has to be completed by **ALL** key individuals, FSPs (who are sole proprietors) and representatives, without exception. RE2 focuses on the specific knowledge required for a particular product category. The qualifying criteria for both these examinations have been published.

The regulatory examinations will be administered nationally by to-be-appointed examining bodies, who will not be learning providers but rather professional or industry bodies. Learning providers will assist by providing course material and/or study workshops for the regulatory exams.

New representatives (appointed after 2010) have to complete **RE1** within two years of appointment, while key individuals have to write these examinations on appointment. **RE2** has to be completed by representatives within one year after completing a relevant qualification (mentioned above).

To summarise, the new Fit and Proper qualifications can be shown as follows for **new representatives from 2010:**



Services under supervision means financial services rendered by a representative who does not meet the prescribed experience, qualification and/or regulatory examination requirements and which services are rendered under the guidance, instruction and supervision of a supervisor, who must be Fit and Proper.

#### 4. Transitional arrangements

The legislation makes provision for transitional arrangements for key individuals, representatives and FSPs (sole proprietors) appointed before 1 January 2010. The following are important points:

- The requirements have NOT been increased to a full qualification for representatives appointed **before 31 December 2007**. That means that if, for example, the requirement was 30 credits on NQF Level 4, it remains 30 credits on NQF level 4 until the representative decides to add a new sub- category to his/her license. The addition of a new sub-category to a licence will require the representative to become subject to the new requirements and increase his/her credits from the minimum required to a full qualification. It may therefore be prudent for these representatives to finish the qualifications that they have started, as they may not be able to finish expired qualifications later when they change categories. These representatives have to also complete the relevant REs by certain dates.
- Representatives appointed between **1 January 2008 and 31 December 2008** may choose whether to comply with the old or the new requirements.
- Representatives appointed between **1 January 2009 and 31 December 2009** have to obtain the full qualification by 31 December 2013.

The situation may be summarised as follows:

<b>Appointed 2004-2007</b>	
Qualification/skills programme(s) as per PREVIOUS Fit and Proper	31 December 2009 <b>Note that this date has been extended from 31/12/2008.</b>
RE 1	By 31 December 2011
RE 2 (could be exempt)	By 31 December 2013
<b>Appointed in 2008 – choice between old/new</b>	
Qualification/skills programme (old, e.g. 60 credits), OR Qualification (full, new, on list)	By 31 December 2011  By 31 December 2012
RE 1	By 31 December 2011
RE 2	By 31 December 2013

<b>Appointed in 2009</b>	
Qualification (full, new, on list)	By 31 December 2013
RE 1	By 31 December 2011
RE 2	By 31 December 2013
<b>Appointed 2010</b>	
Qualification (full, new, on list)	By 31 December 2015
RE 1	By 31 December 2012
RE 2	By 31 December 2016 (one year after qualification)

- It is important to note that, as soon as a representative adds a **new category** to his license, he will be subject to the full qualification requirement.
- If you have obtained your required credits (e.g. 60 credits) on a non-unit standard based qualification, please note that you need to complete the full qualification by Dec 2011 in order to retain those credits.
- Also important for those who sell short- and long-term deposits, is that there is no RE2 for this category.
- In the post-transitional arrangements, where representatives/key individuals have obtained one of the full qualifications that appear on the FSB published list of qualifications and is marked with an "S" (for Specific), the person would be exempted from RE2.

### **Milpark Business School/DSBI qualifications**

We are pleased and proud to announce that the following Milpark Business School qualifications have been placed on the approved qualifications lists:

Qualification	NQF level	Credits	Category 1 (refer to annexure at the back for categories)																		
			1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19
Certificate in Financial Planning 57998	5	120	S	G	S	S	S	G	S	G	G	G	G	G	G	S	G	G	S	S	S
National Certificate in Financial Planning	6	120	G	G	G	G	G	G	G	G	G	G	G	G	G	G	G	G	G	G	G

Qualification	NQF level	Credits	Category 1 (refer to annexure at the back for categories)																		
57695																					
Bachelor of Commerce in Banking Management 58005	6	363	G	G	G	G	G	G	G	G	G	G	G	G	G	G	G	G	G	G	G
Certificate in Financial Products 21166	4	120	S	G	S	S	G	G	G	G	G	G	G	G	G	G	G	G	S	S	S

The FSB qualifications list is a working document and further qualifications will be added to the list quarterly. MBS is confident that all its appropriate qualifications will be placed on the qualification list in due course.

### Conclusion

This document summarises a lengthy piece of legislation with the purpose of alerting role-players to the changes that are happening with regards to Fit and Proper. Detailed analysis of each organisation’s requirements is necessary to determine the exact requirements. Should you have any questions, or should you wish to book an appointment to discuss these changes and how it affects your organisation, please contact:

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### Disclaimer

The information contained in this document was obtained from the Government Gazette no. 31514 and from conference material handed out by the FSB on 17 October 2008 in Pretoria. While every effort was made to ensure the correctness of this information, MBS takes no responsibility for any person acting solely upon any information contained herein.

## ANNEXURE A: COLUMN ONE SUB-CATEGORIES

1	Long-term Insurance Category A
2	Short-term Insurance Personal Lines
3	Long-term Insurance Category B
4	Long-term Insurance Category C
5	Retail Pension Benefits
6	Short-term Insurance Commercial Lines
7	Pension Fund Benefits (excl. Retail Pension Benefits)
8	Securities and Instruments – Shares
9	Securities and Instruments – Money Market Instruments
10	Securities and Instruments – Debentures and Securitised Debt
11	Securities and Instruments – Warrants, Certificates and other Instruments acknowledging Debt
12	Securities and Instruments – Bonds
13	Securities and Instruments – Derivative Instruments
14	Participatory Interests in one or more Collective Investment Schemes
15	Forex Investment Business
16	Health Service Benefits
17	Long-term Deposits
18	Short-term Deposits
19	Friendly Society Benefits