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DEBARMENT MEMO

TO: REPRESENTATIVES AND KEY INDIVIDUALS OF THE GARRUN GROUP

FROM: COMPLIANCE DEPARTMENT

RE: DEBARMENT MEMO

1. INTRODUCTION

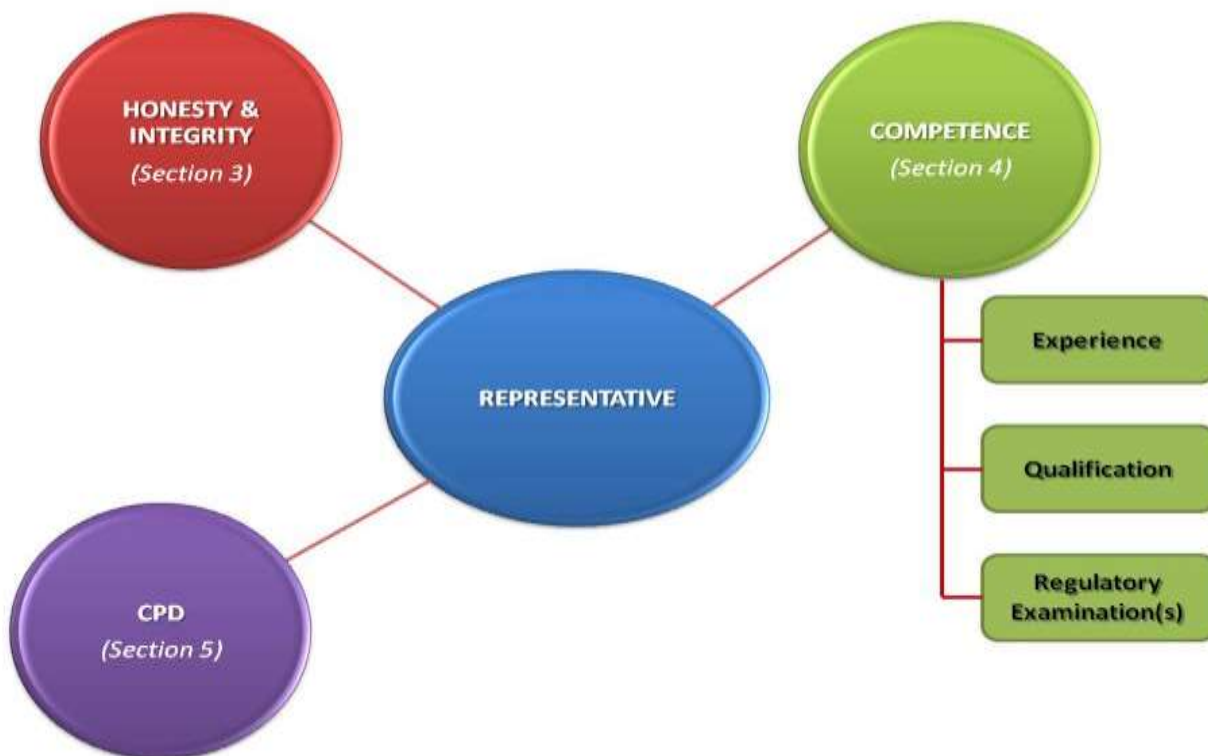
National strength. Local signature.

- 1.1. Section 14 of the Financial Advisory and Intermediary Services Act No. 37 of 2002 (“FAIS”), places an obligation on Financial Service Providers (“FSPS”) to ensure that their representatives (“Reps”) are fit and proper when they render financial services on behalf of the FSP.
- 1.2. Should a Rep not comply with the fit and proper requirements referred to in section 8 (1) (a) & (b) read with the Determination of Fit and Proper Requirements for FSPS and Reps the FSP must debar such a person from rendering any further financial services and remove such debarred rep from the register of reps and inform the Registrar of the debarment which may prevent the Rep from rendering financial services for a lengthy period of time or even indefinitely depending on the discrepancy.
- 1.3. The company has in place a Debarment Code which will be given to all Reps it is their responsibility to read and become familiar with this code. This Memo intends to describe the fit and proper requirements and the importance and implications thereof.

2. FIT AND PROPER REQUIREMENTS

- 2.1 There are three pillars to being Fit and Proper (see the diagram below):
 - 2.1.1. **honesty and integrity** as per section 3 of FAISⁱ - simply put, this means a Rep must possess qualities of honesty and integrity. Should you require further information on honesty and integrity refer to the FAIS Act and/or the compliance officer (alternatively, visit the FSB website at: www.fsb.co.za);
 - 2.1.1 A Rep must be **competent** in that they have the relevant *experience, qualification* and have completed the *Regulatory examinations* by the deadline according to their date of appointment;

2.1.2 The rep must maintain professional competency by way of **Continuous Professional Development** (“CPD”) this may be in the form of workshops, studies, conferences and courses. CPD has been put on hold until further notice from the FSB.



3. COMPETENCY

3.1 EXPERIENCEⁱⁱ

- 3.1.1 Only recognised if gained within the last 5 years;
- 3.1.2 Can be gained under supervision;
- 3.1.3 Must be practical or ‘hands-on’;
- 3.1.4 Within or outside South Africa;
- 3.1.5 for short-term personal lines a rep needs 1 (one) year experience to give advice and 6 (six) months for intermediary services;

3.1.6 For short-term commercial lines a Rep needs 1 (one) year experience to give advice and 6 (six) months for intermediary services.

3.2 QUALIFICATIONSⁱⁱⁱ

3.2.1 A list of recognised qualifications is published in the Gazette and is available on the FSB website and from the Compliance Officer.

3.2.2 the qualification may be obtained while working under supervision (for new reps only – appointed from January 2010 or later) within 6 (six) years of your Date of First Appointment^{iv} (by 30 June of your sixth year)– however on an entry level a rep needs at least a matric, Grade 12 or an equivalent school leaving certificate at an NQF level 4^v;

3.2.3 qualifications are listed as ‘G’ generic or ‘S’ and ‘SP’ specific – should it be listed as G a Rep will be required to complete the product specific Level 2 regulatory exams (‘RE2’s’). Should it be listed as S, the content of your qualification is considered 80% relevant to your industry (only applicable for Reps appointed from 1 January 2008 – 31 December 2009) or SP, where the content of your qualification is considered 100% relevant to your industry (for Reps appointed after December 31 2009) then a Rep **may** be exempted from writing these second level RE’s – at this stage, it is unclear what the procedure is regarding this exemption i.e. if we apply. However the RE 2 exams have been put on hold until further notice from the FSB

3.2.4 if your qualification is not on the list you may apply to have it recognised. There is however a cost involved in this application and the subjects you completed need to match certain qualifying criteria. The Qualifying Criteria is available on the FSB website or from the Compliance Officer;

3.2.5 If you were appointed as a Rep before 31 December 2009 then you are governed by 'Transitional Requirements' discussed later in this Memo. If you are appointed after 31 December 2009 you must have (or be completing under supervision) a recognised qualification and for purposes of this memorandum, you are regarded as a 'New Rep'.

3.3 REGULATORY EXAMINATIONS

3.3.1 **Regulatory examination Level 1** - this regulatory examination deals with the regulatory framework and is compulsory for all individuals in the financial services sector. The content of this examination focus on the regulatory framework, i.e. FAIS, Code of Conduct, Etc. This exam was required to be completed by 30 September 2012 (unless granted a further extension by the Registrar) if you were appointed before 31 December 2009 and within two years (by the 30 June of the second year) of your appointment but if you were appointed after 31 December 2009;

3.3.2 **Regulatory examination Level 2** - The level 2 regulatory examinations are the "product specific" examinations and therefore cover the knowledge and skill required for a representative giving advice and/or rendering intermediary services on a specific financial product. This exam is supposed to be completed within six years (by the 30 June of the sixth year) of completion of the first level RE. However, the Re 2 exams have not been launched yet and the FSB have put them on hold until further notice. If you have an S (for reps from Jan 2008 – Dec 2009) or SP (for reps from Jan 2010 and onward) qualification you may be exempt from writing these exams.

3.4 TRANSITIONAL REQUIREMENTS

- 3.4.1 The transitional arrangements apply to all representatives who were appointed by the Registrar during the period September 2004 to 31 December 2009;
- 3.4.2 Your date of first appointment is the date on which you were first appointed as a Rep to *any FSP*;
- 3.4.3 All **representatives** appointed between September 2004 and 31 December 2009 will be grouped into the following groupings:
- 3.4.3.1 **Group 1:** Appointed between September 2004 and 31 December 2007;
- 3.4.3.2 **Group 2:** Appointed between 1 January 2008 and 31 December 2009;
- 3.4.4 if you fall in group 1 you must have the relevant product experience (as described above), Complete a relevant registered skills programme of 30 / 60 credits (on the NQF level related to the financial product) by 31 December 2009 and complete your first level RE by 30 September 2012 (unless the Registrar has granted you a further extension);
- 3.4.5 if you fall into group 2 you must have the relevant product experience (as described above), Complete a relevant registered skills programme of 30 / 60 credits (on the NQF level related to the financial product) by 31 December 2011 *OR* Complete a full qualification from the list of recognised qualifications by 31 December 2013 and complete your first level RE by 30 September 2012 (unless the Registrar has granted you a further extension).

4. CONTINUOUS PROFESSIONAL DEVELOPMENT ("CPD")

- 4.1 Within the context of Fit and Proper the purpose of CPD is to ensure that representatives and Key Individuals:
- 4.1.1 Develop and maintain professional competence in order to provide financial services of a high quality in the public interest that will support the professionalisation of the financial services industry;
 - 4.1.2 Understand that the primary responsibility of competence vests in the individual, and that they have an obligation to develop and maintain their professional competence;
 - 4.1.3 Render financial services with due care, competence and diligence with an ongoing duty to maintain knowledge and skill at a level required to ensure that the client receives competent professional service based on up-to-date developments in legislation and the financial services industry.
- 4.2 The activities one could do included (but not limited to):
- 4.2.1 Courses, conferences or seminars;
 - 4.2.2 Studies leading to formal assessments such as additional qualifications;
 - 4.2.3 Workshops; and
 - 4.2.4 Structured self-study programmes including web-based, computer-based or paper-based delivery that assess knowledge.
- 4.3 One must obtain confirmation from the institution providing the activity that it is an approved CPD activity;
- 4.4 CPD is technically supposed to begin **the year after** completion of the RE exams and no later than 6 (six) years from appointment as a Representative. However, CPD has been put on hold until further notice from the FSB;

- 4.5 A Representative needs 10 (ten) hours of CPD for Personal lines and 15 for Commercial if you perform both these services you need the highest amount of hours being 15 per a year one year after completion of all competency requirements (to be confirmed – still in draft. Presently CPD runs over a 3 year cycle and is 45 and 60 hours);
- 4.6 See the Board Notice on CPD requirements for further information which you can access under the FAIS heading on www.fsb.co.za.

5. IMPLICATIONS OF NON-COMPLIANCE WITH THE ABOVE REQUIREMENTS

5.1 The Key Individuals and Compliance Department of The Garrun Group will provide a reasonable amount of assistance and resources to ensure its Reps to meet the above requirements however, where there is apathy and a blatant lack of interest we will have no option but to debar the infringing reps. Reps are exactly what their name suggests, representatives of their FSP, thus where a Rep is non-compliant it reflects poorly on the FSP. Going forward, in 2014, it is our goal to have all our reps having successfully completed their regulatory exams and qualifications;

6. DEBARMENT

6.1 For more detailed information pertaining to debarment please refer to the company's debarment codification;^{vi}

6.2 Debarment is the withdrawal of a Rep from rendering financial or intermediary services on behalf of a FSP as a result of a material breach of the FAIS act;

6.3 A material breach can be;^{vii}

- i. blatant apathy or refusal to complete RE exams;

- ii. Blatant apathy or refusal to complete FAIS credits and/or qualifications;
- iii. Blatant apathy or refusal to partake in CPD;
- iv. continuous unreasonable failure of RE's;
- v. dishonesty and lack of integrity;
- vi. Intentional or gross negligent advice giving or performance of intermediary services.

6.4 Debarment may even result in no longer being able to perform financial services indefinitely – depending on the breach;

6.5 Of course, it goes without saying, that debarment on your profile will be disadvantageous when applying for a new job or progressing in your existing job. It may prove to be impossible to work for another FSP once listed as debarred.

7. CONCLUSION

In conclusion, The Key Individuals and Compliance Department guarantee that it will reasonably provide support, training, resources and assistance to all reps attempting to complete the above requirements. Having that said, we expect all Reps to take these requirements seriously, and to study hard and prepare well in advance in order to ensure success. It must be noted that it is essentially the Key Individuals who must ensure compliance with the abovementioned requirements.

ⁱ 3) Without prejudice to the generality of subparagraphs (1), (2) and (4), any of the following factors constitutes prima facie evidence that an FSP, key individual or representative does not qualify in terms of subparagraph (1), namely that the FSP, key individual or representative-

- a) has within a period of five years preceding the date of [application](#) or the proposed date of appointment or approval, as the case may be, been found guilty in any criminal proceedings or liable in any civil proceedings by a court of law (whether in the Republic or elsewhere) of having acted fraudulently, dishonestly, unprofessionally, dishonourably or in breach of a fiduciary duty;
- b) has within a period of five years preceding the date of application or the proposed date of appointment or approval, as the case may be, been found guilty by any [statutory professional body](#) or [voluntary professional body](#) (whether in the Republic or elsewhere) recognized by the Board, of an act of dishonesty, negligence, incompetence or mismanagement, sufficiently serious to impugn the honesty and integrity of the FSP, key individual or representative;

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- c) has within a period of five years preceding the date of application or the proposed date of appointment or approval, as the case may be, been denied membership of anybody referred to in subparagraph (b) on account of an act of dishonesty, negligence, incompetence or mismanagement, sufficiently serious to impugn the honesty and integrity of the FSP, key individual or representative;
 - d) has within a period of five years preceding the date of application, or the proposed date of appointment or approval, as the case may be
 - i) been found guilty by any regulatory or supervisory body (whether in the Republic or elsewhere), recognised by the Board; or
 - ii) had its [authorisation](#) to carry on business refused, suspended or withdrawn by any such body, on account of an act of dishonesty, negligence, incompetence or mismanagement sufficiently serious to impugn the honesty and integrity of the [FSP](#), key individual or representative;
 - e) has within a period of five years preceding the date of application, appointment or approval, as the case may be, had any licence granted to the financial services provider by any regulatory or supervisory body referred to in subparagraph (d) suspended or withdrawn by such body on account of an act of dishonesty, negligence, incompetence or mismanagement, sufficiently serious to impugn the honesty and integrity of the FSP, key individual or representative; or
 - f) has at any time prior to the date of application, appointment or approval, as the case may be, been disqualified or prohibited by any court of law (whether in the Republic or elsewhere) from taking part in the management of any company or other statutorily created, recognised or regulated body, irrespective whether such disqualification has since been lifted or not.
- 4) An FSP and key individual must in the application to the Registrar, and a representative must at appointment by the FSP, be candid and accurate and must of own accord disclose all facts or information at the disposal of, or which may be accessible to, the FSP, key individual or representative, and which may be relevant for purposes of a decision by the Registrar, or in the case of a representative, by the FSP, that the FSP, key individual or representative complies or does not comply with subparagraph (1).

ⁱⁱ Board Notice 106 of 2008

ⁱⁱⁱ Determination of Qualifying Criteria and qualifications of 2008 and Board notice 44 of 2010

^{iv} Your date of first appointment is the date on which you were first appointed as a Representative to *any FSP*.

^v A representative of a Category I provider must, on appointment, have a recognised qualification as determined by the Registrar by notice in the Gazette, as it applies to the applicable Categories or subcategories he or she is appointed for: Provided that the Registrar may, by notice in the Gazette, exempt representatives that on appointment only meet the following entry level qualifications while working under supervision until the recognised qualification is obtained:

- i) Matric;
 - ii) Grade 12; or
 - iii) an equivalent school leaving certificate at NQF Level 4,
- with the proviso that in respect of representatives in [subcategory 1.1 Long Term Insurance Category A](#) and/or [1.19 Friendly Society Benefits](#), the entry level qualification requirement is either [ABET level 1](#), or the proven ability to read, write and calculate to the satisfaction of the provider.

^{vi} Available from the compliance officer and human resource manager.

^{vii} This is not an exhaustive list.