

MODULE 1: STUDY NOTES

The Financial Advisory Intermediary Services Act (2002)

- Main objective: protect consumers in relation to financial services.
- Secondary objective: to professionalise the Financial Services Industry (those who provide, advice and offer intermediary services).

Key role-players in the FAIS Act

1. **Financial Services Board (FSB)** - regulatory home of the Act. The Registrar of the FAIS Act is also located within the FSB.
2. **Financial Service Providers (FSPs)** - typically financial institutions like banks, insurance brokerages and entities that have been authorised or licensed by the FSB to provide a financial service in terms of the FAIS Act.
3. **Key Individuals** - typically employed by an FSP (Key Individual can function as both a FSP and Key Individual in a sole-proprietor).
4. **Representatives** - appointed by Financial Service Providers. They typically render the financial service to clients on the FSPs behalf.
5. **Compliance Officers** - appointed by FSPs to render a specific function that is prescribed in the FAIS Act.

Product Categories

“Category I” - services and products provided by any person, which are **not listed** under product categories II, IIA, III and IV as set out in the relevant application.

“Category II” - are all persons who are authorised as **discretionary FSPs** as set out in the relevant application.

“Category IIA” - all persons who are authorised as **hedge fund FSPs** as set out in the relevant application.

“Category III” - all persons who are authorised as **administrative FSPs** as set out in the relevant application.

“Category IV” - all persons who require licences as an **Assistance Business FSP**.

CATEGORY I SUBCATEGORIES	
1.1	Long-term insurance category A
1.2	Short-term insurance personal lines
1.3	Long-term insurance category B
1.4	Long-term insurance category C
1.5	Retail pension benefits
1.6	Short-term insurance commercial lines
1.7	Pension fund benefits
1.8	Securities and instruments: Shares
1.9	Securities and instruments: Money market instruments
1.10	Securities and instruments: Debentures and securitized debt
1.11	Securities and instruments: Warrants, certificates and other instruments acknowledging debt
1.12	Securities and instruments: Bonds
1.13	Securities and instruments: Derivative instruments excluding warrants
1.14	Participatory interests in one or more collective investment schemes
1.15	Forex investment business
1.16	Health service benefits
1.17	Long-term deposits
1.18	Short-term deposits
1.19	Friendly society benefits

CATEGORY II SUBCATEGORIES	
2.1	Long-term insurance category B
2.2	Long-term insurance category C
2.3	Retail pension benefits
2.4	Pension fund benefits
2.5	Securities and instruments: Shares
2.6	Securities and instruments: Money market instruments
2.7	Securities and instruments: Debentures and securitized debt
2.8	Securities and instruments: Warrants, certificates and other instruments acknowledging debt
2.9	Securities and instruments: Bonds
2.10	Securities and instruments: Derivative instruments excluding warrants
2.11	Participatory interests in one or more collective investment schemes
2.12	Forex investment business
2.13	Long-term deposits
2.14	Short-term deposits

Why do we have these categories and subcategories?

The importance of these categories and subcategories is to identify and indicate:

1. What an FSP is licensed and authorised to sell in terms of products and services.
2. What a Representative is fit and proper to advise and offer an intermediary service on.
3. Key Individuals are authorised for a specific product category.

Codes of Conduct

- Published as a Board Notice.
- Purpose of a Code of Conduct – give businesses the guidelines and the rules of how to carry out appropriate business practices within the financial services industry as well as other important rules.

Minimum content of a typical Code of Conduct

Usually a Code of Conduct will consist of provisions relating to:

- Disclosure measurements
- Record keeping
- How to avoid fraudulent and misleading advertising
- Canvassing and marketing
- How to ensure proper safekeeping
- Separation and the proper protection of funds and transaction documentation of clients
- Where appropriate, when to make available and how to obtain suitable guarantees, professional indemnity or fidelity insurance for clients
- Control or prohibition of incentives given or accepted by a provider (conflict of interest)

The codes that have been published so far are

- The General Code of Conduct for Authorised Financial Service Providers
- The Specific Code of Conduct, which relates to short term deposit business
- Code of Conduct for FSPs and Representatives who are involved in Forex investment business
- Notice on Codes of Conduct for administrative and discretionary FSPs