

MODULE 5: STUDY NOTES

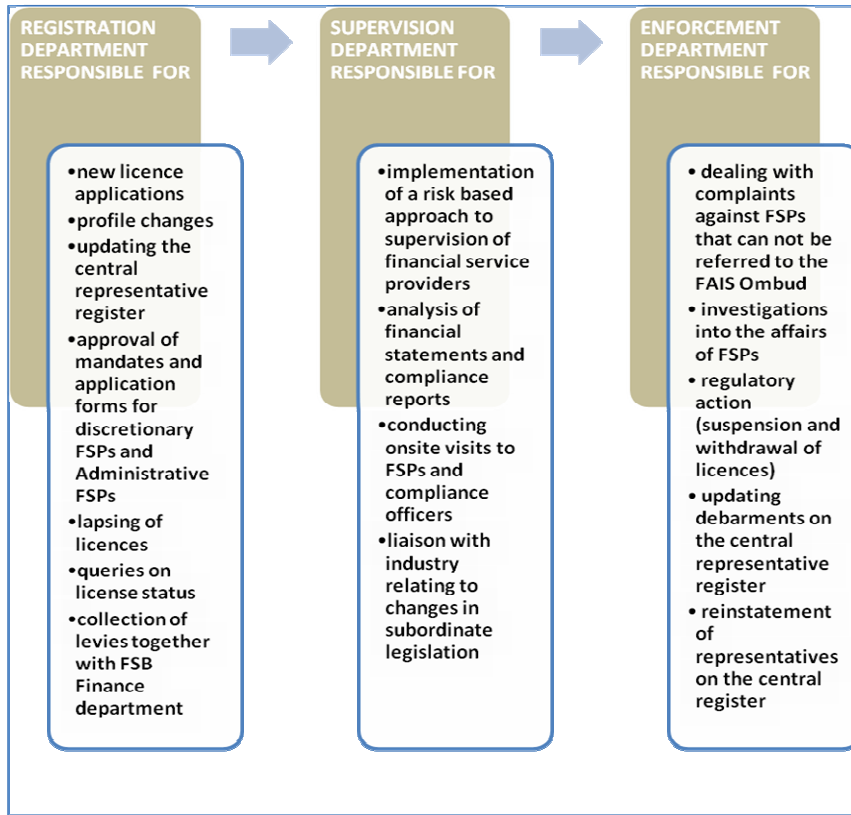
FAIS Act

- The FAIS Act was introduced to regulate the business of all Financial Service Providers who give advice or provide intermediary services to clients.
- Aims of the act are to professionalise the financial services industry and to provide adequate consumer protection.

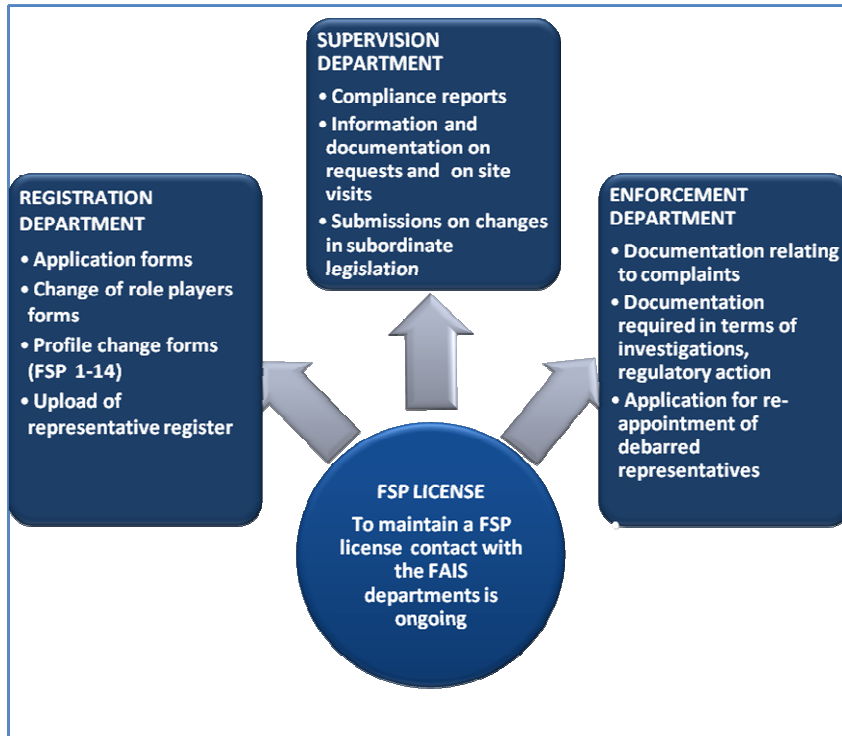
Scope of the FAIS Act:

- Administration of the Act is done by the FAIS Registrar.
- Authorisation and licensing of FSPs is done by the Registrar.
- The Registrar is responsible for approval of Key Individuals and Compliance Officers.
- The Act stipulates the form and manner of applications as well as other authorisation requirements such as the fit and proper requirements.
- The role, functions, fit and proper requirements and debarment of Representatives are defined in the Act.
- The subordinate legislation contains all the fit and proper requirements.
- The Registrar may publish Codes of Conduct which contain the detail of the requirements when FSPs and Representatives render financial services to clients.
- The most important is the General Code of Conduct - regulating aspects such as disclosure requirements, furnishing of advice, advertising and direct marketing etc.
- The enforcement part of the FAIS Act deals with the FAIS Ombud and related matters.
- It also deals with civil remedies, undesirable practices, offences and penalties, voluntary sequestration, winding-up and closure.
- The FAIS Ombud has its own terms of reference, which are aligned with the ambit of the FAIS Act.

Within the FSB there are three departments that a Key Individual needs to be aware of.



FSP license is affected by all three FAIS departments for different reasons.



Profile Changes

- When there are changes in information relating to the FSP submitted during the application, the FAIS department must be notified within fifteen days.
- Changes have designated forms that must be completed by the FSP.
- Key Individuals must ensure that there are adequate processes in place to manage completion of forms.
- Each profile change requires a fee to be paid to the FSB.

Summary of profile change forms

FSP 1	Business Information of Financial Services Provider
FSP 2	Licence categories
FSP 3	Directors, Officers and applicable shareholders
FSP 4	Key Individuals
FSP 5	Representatives
FSP 5A	Key Individuals of Representatives
FSP 6	Compliance Officer of FSP
FSP 7	Operational ability
FSP 8	Financial soundness
FSP 9	External auditor
FSP 10A	Shareholders, directors or trustees of the nominee company or independent custodian
FSP 13	Application for the approval of a compliance practice and/or officer (separate form)
FSP 14A	Attachments, list of all completed forms and declarations
FSP 14B	Calculation of application fee if applying directly to the FSB