

MODULE 9: STUDY NOTES

Role and Function of the Compliance Officer

- A FSP must ensure that a compliance function exists.
- A Compliance Officer must supervise this function or it must be managed and controlled by the FSP.
- Compliance Officers are responsible for compliance functions in relation to licence categories and subcategories of the FSP.
- The Key Individual must ensure that the Compliance Officer has adequate resources to meet all compliance requirements.

Internal control procedures

- Includes establishment of compliance function as part of the risk management framework.
- Compliance Officer must provide FSP with written reports and make recommendations to the FSP.

Compliance function and conflict of interest

- A qualifying criteria for the approval of Compliance Officer by the Registrar, is the ability to avoid conflicts of interest between duties of Compliance Officer and employees.
- When there is conflict of interest, a Compliance Officer will not be able to perform objectively.
- If the Compliance Officer is unable to perform their job, the Key Individual will be held responsible for lack of compliance.
- Internal Audit and Compliance are separate. There should be no conflict between the two.

Internal Auditors:

Audit compliance findings and report

Compliance Officers:

Supervises and monitors FAIS-related functions

Duties of the Compliance Officer

Monitoring:

Monitoring sampling must be done for each category of products.

- Identifying and improving weak or vulnerable areas in the business.
- Ensuring that the compliance controls in the business are effective and implemented.
- Constantly testing or reviewing the integrity of the compliance controls.

Supervising:

FSP is responsible for the establishment of the compliance function. The FSP must ensure that there are sufficient controlling requirements and that the Compliance Officer is responsible for all the related compliance functions.

The Compliance Officer must in effect ensure that the requirements of the act are met through procedures which the FSP or the key individual must establish.

Written reports to the Registrar:

Compliance Officer has to submit written reports to the FSP on compliance issues. Typically it will happen after monitoring has taken place or an audit is done, the compliance officer will ensure that management knows where the weaknesses are and where the vulnerabilities are. Then the Compliance Officer must provide guidance as to possible rectifications of the vulnerabilities or weaknesses. In this way the Compliance Officer will assist the FSP to achieve and maintain compliance within the FAIS Act.

Compliance report for Category I provider, with a Compliance Officer

SECTION 1 OF THE COMPLIANCE REPORT	GENERAL
1. Information on conditions and restrictions regarding the FSP license.	<ul style="list-style-type: none">• Information on any changes in business information.• Information on the financial products in respect of which the FSP renders financial service.• Instructions to other FSPs.• Information about other Regulators.
2. Information about the Group Structure – provide organogram/s.	
3. Key Individuals	<ul style="list-style-type: none">• Information about approval and replacement of Key Individuals.• Information about the fit and proper status of Key Individuals.
4. Representatives	<ul style="list-style-type: none">• Information about number and competency of Representatives.• Information about Representatives compliance with the General Code and debarment.• Information about Juristic Representatives.
5. Insurance cover	<ul style="list-style-type: none">• Information about the insurance cover of the FSP.
6. Compliance function	<ul style="list-style-type: none">• Questions around the establishment of the compliance function in the FSP business.
7. Maintenance of records	<ul style="list-style-type: none">• Information about the record keeping procedures and policies of the FSP.
8. General Code of Conduct	<ul style="list-style-type: none">• Information about how the FSP manages conflicts of interests.• Information on incentives and disclosure.• Information on direct marketing procedures.• Information about the furnishing of advice and record keeping of advice.• Information about the FSP's adherence to the requirements for custody of financial products and funds.• Information about the FSP's adherence to the Risk Management requirements in the General Code.

<ul style="list-style-type: none"> • Information about the advertising practices of the FSP. • Information about the complaints handling procedures of the FSP. • Information about the FSP's procedures to comply with the requirements of the General Code in respect of termination of agreements or business. • Information about the procedures to avoid waiver of rights by clients.
9. Money laundering control procedures <ul style="list-style-type: none"> • Information about compliance with anti money laundering requirements as per FICA.
10. Financial soundness <ul style="list-style-type: none"> • Information about the solvency and accounting procedures of the FSP.
11. Monitoring <ul style="list-style-type: none"> • Information about the type of monitoring and monitoring methodology / sample
SECTION 2 OF THE COMPLIANCE REPORT FOREX FSPs
12. Information about the duties/obligations of the Forex FSP.
SECTION 3 OF THE COMPLIANCE REPORT HEALTH SERVICE BENEFITS
13. Information about the accreditation in terms of the Medical Schemes Act.