



Financial Planning
Institute of Southern Africa

THE PROFESSIONAL STANDARD

Understanding Product Specific Training as it relates to Collective Investments Schemes and Hedge Funds

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1. Introduction

FPI's Certification department continuously receives numerous requests and pressure from FSP's, FPI members, Compliance Officers, Key Individuals, representatives and CPD providers to approve product specific training as CPD activities. The purpose of this document is to clarify FPI's position with regards to the approval of such activities.

2. Problem Statement

The view in some pockets of the Financial Services Industry is that training provided by CAT II, 2A and III Financial Services Providers (FSP's) on their funds are **not** deemed to be product specific training and should therefore be approved by the FPI as verifiable CPD activities as defined in BN 194 of 2017 (fit and proper requirements). This document sets out why this view is not aligned with the relevant regulations.

3. Drilling into Regulations

In this scenario, it is necessary to look at Financial Sector legislation – specifically the Financial Advice and Intermediary Services Act and its sub-ordinate legislation. In this instance one has to look at BN 194 of 2017.

In unpacking the above, it is important to hone in on a few definitions codified in:

- the fit and proper requirements (BN 194 of 2017);
- the definition of Financial Product as found in the FAIS act; and
- the learning outcomes of Product Specific Training as described in section 29 (5) of the fit and proper requirements.

3.1) Applicable definitions in the determination of fit and proper requirements for FSP's:

The following are an extract of the definitions relevant to this discussion:

“CPD activity”¹ means an activity that is-

- (a) accredited by a Professional Body
- (b) allocated a hour value or a part thereof by that Professional Body; and
- (c) verifiable,

and excludes-

- (i) an activity performed towards a qualification and
- (ii) product specific training.

“CPD activity”² means an activity that is-

- (a) accredited by a Professional Body who confirmed that the activity is verifiable and
- (b) allocated an hour value or a part thereof by that Professional Body and
- (c) verifiable

and excludes

- (i) an activity performed towards a qualification and
- (ii) product specific training

“financial product” includes-

- (a) any subcategory of a financial product as defined in section 1 (1) of the Act and
- (b) in respect of each financial product or subcategory of a financial product that is issued by a foreign product supplier that is similar in nature to such product or subcategory of product;

“CIS hedge fund” means a hedge fund as defined in the Declaration made by the Minister under section 63 of the Collective Investment Schemes Control Act;

“participatory interest in a collective investment scheme” means a participatory interest in one or more collective investment schemes as referred to in paragraph (b) of the definition of “financial product” in section 1 (1) of the Act excluding a participatory interest in a CIS hedge fund;

“participatory interest in a CIS hedge fund” means a participatory interest in a collective investment scheme that is a hedge fund;

“particular financial product” in relation to product specific training, means a specific product of a product supplier with its own specific characteristics, features, terms and conditions and which product is a financial product;

“product specific training” means the training referred to in section 29 (5) in respect of a particular financial product and which training is assessed, including any amendments to that particular financial product;

¹ BN 194 of 2017

² Invitation to comment on proposed amendments to the determination of fit and proper requirements for Financial Services Providers 29 March 2018

STOP AND REFLECT

The above makes it clear that CIS and hedge funds (and all other particular financial products) are particular financial products and that the training about these products are referred to as product specific training (see section 29 (5) quoted in part 4 of this document)

Section 28 (3) reads:

The competency requirements relating to product specific training contained in this part do not apply to-

- (a) a Category II, Category 2A or a Category III FSP or its representatives; and
- (b) key individuals of all categories of FSP's, provided they comply with section 12.

For ease of reference, section 12 reads:

General competence requirements:

An FSP, key individual and representative must –

- (a) have adequate, appropriate and relevant skills, knowledge and expertise in respect of the financial services, financial products and functions that it performs;
- (b) comply with the minimum requirements set out in Part 2, 3, 4 and 5 of this Chapter; and
- (c) maintain their competence.

STOP AND REFLECT:

This means that a CAT II, 2A and III FSP and its representatives do not have to do product specific training BUT, they must complete CPD hours. The provisions of section 12 is also clear – although it is not a competency requirement for them to complete product specific training – they must still ... *“have adequate, appropriate and relevant skills, knowledge and expertise in respect of the financial services, financial products and functions that it performs”*.

The fact that these FSP's and its representatives do not need to complete product specific training, does not mean that such training becomes a CPD activity. The definition of a CPD activity in the fit and proper requirements is very clear – *it excludes any form of product specific training* and from the definitions above – training of CAT II, 2A and III FSP's funds are considered to be product specific training.

The FPI cannot approve product specific training as a verifiable CPD activity, nor can the individuals attending such training claim such training as CPD hours.

3.2) What about product specific updates? Is it considered to be a CPD activity?

The answer is simply no. The fit and proper requirements are very clear in this regard – product specific training (whether it is first time product specific training or product updates after the initial product training was conducted) is completely excluded from CPD.

3.3) Continuing the with the discussion on CIS and hedge funds:

It is important to take note of the Licence categories marked as FINANCIAL PRODUCTS in Annexure One (1) of BN 194 of 2017 – the following is an extract of the listed categories:

- 1.14 Participatory interest in a collective investment scheme
- 1.26 Participatory interest in a CIS hedge fund
- 2.11 participatory interests in a collective investment scheme (PST do not apply – CAT II)
- 2.20 participatory interest in a CIS hedge fund (PST do not apply- CAT II)

STOP AND REFLECT

According to the above, CIS and hedge funds are regarded as Financial Products – but is it as per the definition of Financial Products in BN 194 (subordinate legislation) or the definition of Financial product as per the Act?

Clarification: Section 1 of the fit and proper requirements provides that a word or expression to which a meaning has been assigned in the FAIS Act has the meaning as in that Act (FAIS Act), the reference to financial product referred to has the meaning as defined in the FAIS Act.

3.4 Definition of financial product as per the definition in FAIS act:

“financial product” means, subject to subsection (2) -

- (a)** securities and instruments, including -
 - (i) shares in a company other than a “share block company” as defined in the Share Blocks Control Act, 1980 (Act No. 59 of 1980);
 - (ii) debentures and securitised debt;
 - (iii) any money-market instrument;
 - (iv) any warrant, certificate, and other instrument acknowledging, conferring or creating rights to subscribe to, acquire, dispose of, or convert securities and instruments referred to in subparagraphs (i), (ii) and (iii);
 - (v) any “securities” as defined in section 1 of the Financial Markets Act, 2012 (Act No. 19 of 2012);
- (b)** a participatory interest in one or more collective investment schemes;
- (c)** a long-term or a short-term insurance contract or policy, referred to in the Long-term Insurance Act, 1998 (Act No. 52 of 1998), and the Short-term Insurance Act, 1998 (Act No. 53 of 1998), respectively;
- (d)** a benefit provided by -
 - (i) a pension fund organisation as defined in section 1(1) of the Pension Funds Act, 1956 (Act No. 24 of 1956), to the members of the organisation by virtue of membership; or
 - (ii) a friendly society referred to in the Friendly Societies Act, 1956 (Act No. 25 of 1956), to the members of the society by virtue of membership;
- (e)** a foreign currency denominated investment instrument, including a foreign currency deposit;
- (f)** a deposit as defined in section 1(1) of the Banks Act, 1990 (Act No. 94 of 1990);
- (g)** a health service benefit provided by a medical scheme as defined in section 1(1) of the Medical Schemes Act, 1998 (Act No. 131 of 1998);
- (gA)** an investment, subscription, contribution, or commitment in an alternative investment fund;
- (h)** any other product similar in nature to any financial product referred to in paragraphs (a) to (g), inclusive, declared by the registrar by notice in the Gazette to be a financial product for the purposes of this Act;
- (i)** any combined product containing one or more of the financial products referred to in paragraphs (a) to (h), inclusive;
- (j)** any financial product issued by any foreign product supplier and which in nature and character is essentially similar or corresponding to a financial product referred to in paragraph (a) to (i), inclusive;

4. Product Specific Training Learning Outcomes³

No	Product specific training, where appropriate, must include training on:
(a)	the specific characteristics, terms and features of the product, including any specific complexities or material differentiation from the general characteristics, terms and features of products in the class of business concerned;
(b)	the nature and complexity of the financial product and any underlying components of that product;
(c)	how the financial product and any underlying components of the product are structure and process;
(d)	the fee structure, charges and other costs associated with the product and their impact on the real return or benefits of the product;
(e)	the nature and features of any guarantees and the costs associated with them;
(f)	the risks associated with investing, purchasing or transacting in the product and any underlying components of the product;
(g)	the risks associated with particular investment concepts and strategies in respect of the product;
(h)	the impact of tax on the benefits or real return of the product;
(i)	the potential impact of abnormal or extreme market, economic or other relevant conditions in the performance of the product;
(j)	any investment options or strategies within the product;
(k)	any flexible benefit or service options available within the product;
(l)	the accessibility of benefits or funds under the product and any restrictions or limitations on such accessibility;
(m)	the level of liquidity of the product or its underlying components;
(n)	the intended target market of the product and the outcomes it is intended to deliver for customers, including identifying customers or groups of customers for who the product is not expected to be suitable
(o)	the identity of the product supplier and the providers of any underlying components of the product, including their good standing and regulatory status;
(p)	particular disclosures, whether or not prescribed by legislation, applicable or relevant to the product, its underlying components and the product supplier;
(q)	the lock-in periods and relevant terminating conditions, exit options and associated costs;
(r)	the accessibility of benefits or funds under the financial product and any associated restrictions of limitations and
(s)	the expected outcomes that will be achieved for clients.

³ Section 29 (5) of BN 194 of 2017

5. Conclusion

It is clear from the above that the following are indeed considered Product Specific Training and cannot be approved by the FPI as a CPD activity relevant to BN 194 of 2017:

- Training on funds of CAT II, 2A and III FSP's / product suppliers funds (this includes CAT I product suppliers too);
- Product specific updates, i.e. a specific product of a specific FSP / product supplier that has an enhancement, amendment, addition, deletion etc. – it is still regarded as Product Specific Training and is pertinently excluded from the definition of CPD activity in the fit and proper requirements.

We trust that this clarifies the FPI's position and why we are not able to approve any of the above product specific training as a verifiable CPD activity. The same will apply to any and all particular financial products as defined above.