

**NATIONAL ASSEMBLY**

**QUESTION FOR WRITTEN REPLY**

**QUESTION NUMBER 1337**

**DATE OF PUBLICATION: 19 AUGUST 2005**

**DUE TO PARLIAMENT: 1 SEPTEMBER 2005**

**DR S M VAN DYK (DA) TO ASK THE MINISTER OF FINANCE:**

- (1) Whether, in the light of the recent investigation by a certain firm (name furnished), which found that banks are collecting up to eight times more from bank fees per family than a certain bank (name furnished) in Britain, his department is planning to institute measures to regulate the banking sector in terms of their cost structures; if not, why not; if so, what are the relevant details;
- (2) Whether any legal measures exist, over and above the monetary measures of the Reserve Bank, to regulate banks against the exploitation of their clients; if so, what legal measures;
- (3) How many (a) South African individuals as well as businesses are clients of banks registered in South Africa, (b) applications for sequestration or liquidation of clients by commercial banks were there between 1 January 2000 and 31 August 2005 and (c) clients are currently using the cheaper Mzansi accounts which are facilitated by commercial banks? **N1731E**

**REPLY:**

- (1) The issue of cost structures in the banking sector have already been highlighted in a study jointly commissioned by the National Treasury and South African Reserve Bank (SARB), entitled Competition in South

African Banking, currently available on the National Treasury website. The recommendations of the study focus on promoting greater transparency and competition in the sector, as the most effective way to drive down costs. National Treasury is currently formulating policy responses in this regard. National Treasury will monitor the extent to which improved disclosure and competition result in lower costs for consumers, prior to evaluating whether there remains a need for explicit regulation of costs.

(2) The SARB currently regulates banks on the basis of legal prudential requirements and not market conduct. The market conduct of banks is currently guided by the Banking Code of Practice, which is a self-regulatory approach to regulating the relationship between banks and their clients. This includes recourse to the Office of the Banking Ombudsman for dispute resolution.

(3) Neither the National Treasury nor the SARB collect statistics on client numbers of banks and as such cannot be the source for responding to the member's questions in this regard. The member is referred to Stats SA or non-governmental sources such as the FinScope Survey conducted by Finmark Trust, or the Banking Association of South Africa. More specifically:

(a) This information is not furnished to the National Treasury, nor do banking regulations in terms of the Banks Act, 1990, require commercial banks to furnish the SARB with such information. However, FinScope (2003) reports that approximately 51% of the adult population in South Africa have a bank account.

(b) This information is not furnished to the National Treasury, nor do banking regulations in terms of the Banks Act, 1990, require commercial banks to furnish the SARB with such information. The member is referred to Stats SA, which publishes monthly statistics on

sequestrations and liquidations in aggregate, but not in a form that specifies the number of applications by commercial banks.

(c) This information is not furnished to the National Treasury or the SARB, but the Banking Association of South Africa reports that as at August 2005, 1.5 million Mzansi accounts have been opened.

**NATIONAL ASSEMBLY**  
**QUESTION FOR WRITTEN REPLY**  
**QUESTION NUMBER 1414**

**DATE OF PUBLICATION: 2 SEPTEMBER 2005**

**MR I O DAVIDSON (DA) TO ASK THE MINISTER OF FINANCE:**

How do the terms of reference and powers of the ombud established in terms of the Financial Advisory and Intermediary Services Act, No 37 of 2002, differ from those of the (a) banking adjudicator, (b) pension fund adjudicator, (c) short-term ombudsman, (d) long-term ombudsman and (e) any other adjudicator and/or ombudsman in the realm of financial institutions? **N1892E**

**REPLY:**

The main objective of the Ombud for Financial Services Providers (“the FAIS Ombud”) is to resolve complaints in relation to financial products by clients against financial service providers. The Financial Advisory and Intermediary Services Act (“the FSOS Act”) empowers the FAIS Ombud to act as statutory ombud in cases where there are no recognized voluntary schemes. The decisions of the FAIS Ombud are regarded as civil judgment of a court.

- (a) The Ombudsman for Banking Services (or “Banking Adjudicator”) deals with complaints concerning services and products offered by banks who participate in its ombud scheme. The Adjudicator does not enjoy the status of court judgement; its decisions are only binding to the banks, and clients have recourse to courts. The Banking Adjudicator cannot rule on matters falling within the FAIS Ombud’s jurisdiction.
  
- (b) The Pension Funds Adjudicator (“PFA”) resolves complaints lodged in terms of the Pension Funds Act, No 24 of 1956. The FAIS Ombud’s jurisdiction does not extend beyond a complaint related to financial advice provided by a financial services provider. The decisions of the

Pension Funds Adjudicator have the status of a civil judgment of any court of law.

- (c) The Ombudsman for Short-term Insurance considers complaints by policyholders against subscribing members of the ombud scheme. Complaints against all other short-term insurers can be referred to the FAIS Ombud in its statutory ombud capacity. The Ombudsman's decisions are binding on the insurers, but not on the policyholders and its decisions have no status of a civil judgement of any law courts.
- (d) The function of the Ombudsman for Long-term Insurance (“Long-term Ombudsman”) is to resolve disputes between subscribing members to the ombud schemes and long-term insurance policyholders. Industry subscribers are bound by the Ombudsman’s rulings but the client is not; clients may still seek court redress. Complaints against all other long-term insurers are referred to the FAIS Ombud in his statutory ombud capacity. The Ombud’s decisions do not have the status of a civil judgement of a court of law.
- (e) There are two other non-statutory ombuds in the financial sector: the Credit Information Ombud, and the Micro Finance Regulatory Council (“MFRC”).
  - (i) *Credit Information Ombudsman*: The Credit Information Ombud resolves complaints from consumers and businesses that are impacted upon by credit information.
  - (ii) *Micro Finance Regulatory Council (MFRC)*: The MFRC can attempt to resolve a complaint related to registered or unregistered micro-lenders.

The Honourable Member is referred to the mission statements and rules of the above-mentioned institutions for a complete description of the activities, jurisdiction and rules of operation.

# NATIONAL ASSEMBLY

## QUESTION FOR WRITTEN REPLY

### QUESTION NUMBER 1444

**DATE OF PUBLICATION: 12 SEPTEMBER 2005**

**MR I O DAVIDSON (DA) TO ASK THE MINISTER OF FINANCE:**

- (1) (a) What is the total number of service providers that have applied for licences in terms of the Financial Advisory and Intermediary Services Act, Act 37 of 2002, (b) how many licences have been issued by the Financial Services Board and (c) what is the current backlog in respect of the approval of applications and the issuing of licences;
- (2) whether he or his department has taken any action against those providers who have not applied for such licence; if not, why not; if so, what action;
- (3) whether the Board has taken any action against providers who have been found to have contravened the Act; if not, why not; if so, what action?

***N1894E***

**REPLY:**

- (1) (a) The Financial Services Board ("FSB") has received 14 236 licence applications in terms of the Financial Advisory and Intermediary Services Act, No 37 of 2002 ("the FAIS Act").
  - (b) 11 400 applications for authorisation as financial services provider have been finalised as at 19 September 2005.
  - (c) Of the remaining 2 836, it is estimated that a further 1 000 applications should be finalised by 11 October 2005. The remainder primarily represents new applications, which are being received at an average rate of 50 per week.

- (2) It is the regulatory function of the Financial Services Board to take action against unauthorised financial service providers, not the National Treasury.
  
- (3) At this stage the FSB has not instigated any disciplinary action against any services providers who have not applied for the required authorisation in terms of the FAIS Act. Rather, such providers have been encouraged to apply for the necessary authorisation. With the exception of unauthorised business, a number of licences have been suspended, or are in the process of being withdrawn as a result of information received by the FSB concerning the licensee after authorisation had been granted. The SAPS is also currently investigating the action of certain providers (both licensed and unlicensed) covered by the FAIS legislation.

The FSB intends ensuring that providers whose authorisation for a licence has been declined are not conducting unauthorised business.

# NATIONAL ASSEMBLY

## QUESTION FOR WRITTEN REPLY

### QUESTION NUMBER 1453

**DATE OF PUBLICATION: 12 SEPTEMBER 2005**

**MR I O DAVIDSON (DA) TO ASK THE MINISTER OF FINANCE:**

- (1) Who are the members of the Financial Advisory and Intermediary Services (FAIS) Advisory Board;
- (2) (a) how many of the said members are representatives of (i) insurance intermediaries or (ii) financial service providers and (b) what are their (i) names and (ii) experience in each case;
- (3) (a) how many of the professional personnel in the FAIS department of the Financial Services Board (FSB) are experienced in the insurance industry and (b) what are their (i) names, (ii ) qualifications and (iii) experience?
- (4) (a) what were the budgets and actual costs of the FAIS department within the FSB since its inception and (b) what is the anticipated rise in cost over the next three years;
- (5) whether a cost benefit analysis has been done in this regard; if so, what are the quantifiable benefits that are expected to accrue as a result of such expenditure?

**N1953E**



**REPLY:**

(1) The current members of the Advisory Committee on Financial Services Providers are Ms. Caroline Da Silva; Ms. Leanne Dewey; Ms. Giselle Gould; Ms. Adri Grobler; Ms. Rosemary Lightbody; Mr. Lesiba Modikwa; Mr. Pragasem Ramiah; Ms. Ina Wilken; Mr. Evans Theys; Mr. Rob Barrow (ex-officio member); and Mr. Gerry Anderson (ex-officio member).

(2) (a) (i) One member.

(ii) Five members.

(b) (i) Mr. Modikwa (insurance representative). He has 11 years as an independent insurance broker, and current Chairman of the Black Brokers Forum. The others are Mesdames Gould, Dewey, Da Silva, Lightbody and Ramiah and are employed by a range of financial service providers and each has more than 10 years of industry experience.

(3) (a) Out of twenty-two professional staff members in the FAIS Department, four have experience in the insurance industry.

(b) Mr. Manasse Malimabe: Head of FAIS Department. He has 12 years experience as an insurance broker and has been employed by FSB for 8 years. He holds a B.Admin, Post Graduate Dip in Marketing, Associate of the Institute of Chartered Insurance in London, and an MBL, Advanced Certificate in Leadership.

Mr. Warren Neale: Manager of Registration. Mr. Neale has 18 months short-term insurance experience and has been employed at the FSB for 10 years. He has a B.Com Business Management.

Ms. Constance Dibakwane: Analyst. She has worked for 2 years as a re-insurer and another 2 years at a financial services group, and has 5 years of experience with FSB. Qualification: B.Com Accounting.

Ms. Brenda Morty: Analyst. Ms Morty has 2 years experience with a life insurer and has been employed at the FSB for a year. Qualification: B.Com Marketing.

- (4) (a) The FAIS Department was formed on 1 August 2002 with 16 staff members. The budgeted and actual costs are as follows:

<b>FINANCIAL YEAR</b>	<b>BUDGETED COSTS (Rand)</b>	<b>ACTUAL COSTS (Rand)</b>
2002/2003	25 791 312	21 565 642
2003/2004	25 163 276	25 809 471
2004/2005	28 416 275	32 093 409
2005/2006	37 556 107	40 011 794***

\*\*\* Forecast

- (b) Basic costs increase is envisaged to be in the region of 6% annually for the next 3 years. When taking into account compliance and enforcement costs, it is estimated that a further 4% will be added over the next two years.
- (5) An independent cost benefit analysis was undertaken by Genesis Analytics in 2002 to support parliamentary debate on the FAIS Act. According to the study, the benefits of the Act to consumers are likely to exceed, by a ratio of 3 to 1, the expected costs of regulation.

**NATIONAL ASSEMBLY**  
**QUESTION FOR WRITTEN REPLY**  
**QUESTION NUMBER 1454**

**DATE OF PUBLICATION: 12 SEPTEMBER 2005**

**MR I O DAVIDSON (DA) TO ASK THE MINISTER OF FINANCE:**

- (1) What is the justification for the fact that, in terms of the Financial Advisory and Intermediary Services Act (FAIS), Act 37 of 2002, the larger firms which have a ceiling placed on their total fees to the Financial Services Board, pay relatively lower charges than small firms of financial service providers;
- (2) whether he has been informed of the fact that relatively high FAIS compliance costs, together with registration and license fees, may effectively close the door to emerging firms; if so,
- (3) whether he intends reducing the costs to these entrants in future; if not, why not; if so, what are the relevant details;
- (4) whether any detailed studies have been done on the effects of similar legislation in other countries, in particular the UK and Australia, with regard to financial service providers; if not, why not; if so, what are the results of such studies?

***N1954E***

**REPLY:**

- (1) When calculating the base levy, in terms of the FAIS Act, to be paid by financial services providers, cognisance is taken of (a) reasonability; (b) affordability; (c) size of the financial service provider (based on the number of key individuals and representatives employed by the licensee); and (d) degree of regulatory attention to each financial services provider, irrespective of the size of the licensee. Therefore, the

levy cap of R684 000 (inclusive of VAT) is based on the fact that larger entities require minimal additional regulatory attention once the cap amount has been reached; only a very small percentage of licensees will be affected in this instance.

- (2) In coming up with a special dispensation for small advisory and intermediary businesses, consideration was given to cost implications and this was done by entrenching flexibility in the appointment of the compliance officer/auditor, whichever is applicable. Because these costs do not have to be incurred by these businesses, compliance costs have been reduced. Moreover, the license/registration fee is a once-off cost.
- (3) Fees payable by financial service providers are reviewed from time to time. In future, the cost to smaller and emerging service providers will again be taken into consideration.
- (4) In drafting the FAIS Act, international best practice was duly considered to avoid the “one-size-fits-all” approach, making the legislation considerably more flexible when compared to countries with similar legislation. The Financial Services Authority of the United Kingdom in February 2005 confirmed this view during FSB’s visit to the UK.

**NATIONAL ASSEMBLY**  
**QUESTION FOR WRITTEN REPLY**  
**QUESTION NUMBER 1519**

**DATE OF PUBLICATION: 16 SEPTEMBER 2005**

**MR I O DAVIDSON (DA) TO ASK THE MINISTER OF FINANCE:**

(a) What was the total amount applied for in terms of the foreign exchange amnesty at the closing date for this amnesty and (b) what is the rand value of the above amount repatriated to date? *N2026E*

**REPLY:**

(a) The total amount of foreign assets disclosed during the foreign exchange amnesty period was approximately R65 billion, using the exchange rate as at 28 February 2003.

(b) Of the R65 billion assets disclosed, it is estimated that between R3–4 billion will be repatriated to South Africa by those individuals opting for the payment of a lower amnesty levy (of 5% per cent). However, it is not possible to provide an exact rand amount actually repatriated to date, as this figure is reported to the Amnesty Unit by Authorised Dealers on an ongoing basis.

**NATIONAL ASSEMBLY**  
**QUESTION FOR WRITTEN REPLY**  
**QUESTION NUMBER 1533**

**DATE OF PUBLICATION: 14 OCTOBER 2005**

**MR P J GROENEWALD (FF PLUS) TO ASK THE MINISTER OF FINANCE:**

- (1) Whether he has been informed that homeowners have been paying five rand per month for the past 15 years to banks for an inexpensive housing scheme; if not, what is the position in this regard; if so, (a) what amount has already been paid into the scheme, (b) at which institution is the account held and (c) what is the aim of the scheme;
- (2) Whether any money from the scheme has been paid to banks for risk reduction; if not, why not; if so, what are the relevant details;
- (3) Whether he will make a statement on the matter? **N2043E**

**REPLY:**

- (1) I recently became aware of the existence of a scheme by which homeowners have been paying five rand ("R5") per month for the past 15 years to banks for low-cost housing in terms of the Usury Act. The matter relates to a charge initiated in terms of the Usury Act 73 of 1968 which, before 1994, was administered by the Department of Finance. This responsibility was subsequently referred to the Department of Trade and Industry. National Treasury is in the process of tracking documentation relating to the matter.
- (2) According to the Banking Association of South Africa, the money collected from the homeowners' accounts is not used for risk reduction but as a levy in compliance with the Usury Act.
- (3) I will not make a statement but will however instruct the National Treasury to engage with the Banks on this matter.