

NATIONAL ASSEMBLY

QUESTION FOR ORAL REPLY

QUESTION NUMBER: 37 [NW3007E]

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37. Mr. N J J van R Koornhof (Cope) to ask the Minister of Finance:

- (1) How many financial service providers have been debarred in terms of the Financial Advisory and Intermediary Services Act, Act 37 of 2002, since 01 January 2008 for trading without a licence;
- (2) whether a register is kept of financial service providers who have been debarred; if not, why not; if so, what are the relevant details?

NW3007E

REPLY:

(1) None, since an illegal financial service provider is investigated and/or prosecuted, and cannot be debarred if they are operating illegally in the first place. So no financial service provider has been debarred since 1 January 2008 for trading without a licence, because such service providers are by definition operating illegally, and should not be allowed to operate in the first instance. Hence, where the Registrar of Financial Services Providers in the Financial Services Board (FSB) becomes aware of any person or entity trading in financial services without an appropriate licence issued by the Registrar, this is immediately investigated, and thereafter referred for criminal prosecution.

With regard to licenced financial service providers who transgress any regulations, these cases have been referred to the FSB Enforcement Committee for administrative enforcement action since 30 November 2008, following the amendment of the FAIS Act. Twenty such cases have been referred to the Enforcement Unit, and successful enforcement has ensued in all the matters, in terms of which fines were levied. Enforcement action statistics are reported annually in the FSB's Annual Report. All enforcement orders are also published on the FSB website at www.fsb.co.za/Enforcement/EnforcementActions.htm. The 20 respondents were all identified in the releases on the website, together with a full copy of the relevant order.

(2) Yes, however the register only reflects Financial Services Providers (FSPs) (legal entities or sole proprietors) or licensees which have been debarred from re-applying for a license after the original license was withdrawn as a result of regulatory action. The register is kept electronically and can be accessed by members of the public on the FAIS pages of the FSB's website (www.fsb.co.za). Members of the public can, by entering the name of the entity or FSP reference number on the search facility (under search for financial services

providers), determine what the status of a particular FSP is (authorised, suspended, withdrawn including the dates of suspension or withdrawal). All withdrawals and suspensions or liftings of withdrawals or suspensions are published monthly in a media release and in the *Government Gazette*. Given the volume of information involved, I would invite the Honourable Member to visit the website to secure all the information from the website, or contact the Registrar for any specific information or assistance required.

In addition to the register referred to above, in terms of Section 14 of the FAIS Act the Registrar also maintains a register of debarred representatives.

- A representative of a financial services provider must be debarred by an FSP in terms of Section 14(1) if it is satisfied that such a representative no longer meets the fit and proper requirements. In instances where a representative is debarred by the FSP itself, the role of the Registrar is only to update the register of debarred persons by placing the name of debarred representatives on the register. The register is maintained by the FSB and can be accessed by the public by entering the name and ID number of the individual concerned under “search for debarred representatives” on the FAIS page of the FSB’s website. This register is a combination of both types of debarments (sections 14(1) and 14A).
- The Registrar is also empowered in terms of Section 14A (which came into operation on 01 November 2008), to debar any person, including a representative, if satisfied that such person no longer meets the fit and proper requirements. The number of debarments since 2008 is as follows:

2008	65 (Section 14(1) debarments)
2009	397 (Section 14(1) and 16 14A debarments)
2010	589 (Section 14(1) and 104 14A debarments)
2011	555 (Section 14(1) and 237 14A debarments)
2012	583 (Section 14(1) and 118 14A debarments to date (13 September 2012))

All these names are kept on the debarred register referred to above.