

NATIONAL ASSEMBLY

QUESTION FOR WRITTEN REPLY

QUESTION NUMBER: 1790 [NW2181E]

DATE OF PUBLICATION: 27 JULY 2012

1790. Mr I O Davidson (DA) to ask the Minister of Finance:

- (1) Whether his department has conducted a comprehensive actual cost analysis for the (a) establishment and (b) administration of all aspects of the Financial Advisory and Intermediary Services (FAIS) Act, Act 37 of 2002, to date; if not, why not; if so, what are the costs since the adoption of FAIS with reference to (i) the office of the FAIS Ombud, (ii) all salaries paid to (aa) FAIS and (bb) Ombud staff, (iii) rentals paid, (iv) travel and entertainment, (v) legal fees paid to (aaa) lawyers, (bbb) court costs, (ccc) all appeal board costs and (ddd) settlements and (iv) all other costs incurred;
- (2) whether his department conducted cost estimates incurred by the private sector since the adoption of FAIS, including all (a) compliance officers, (b) reports of submissions, (c) training of personnel, (d) training courses, (e) study time, (f) travel, (g) examination fees and (h) all other costs complying therewith; if not, why not; if so, what are the relevant details;
- (3) what are the expected future annual costs for the next five financial years for the (a) public and (b) private sector?

NW2181E

REPLY:

(1)(a) and (b): No, because it is not possible to fully and meaningfully assess the costs or benefits from all aspects of the FAIS Act since its establishment in 2002. The global financial crisis has shown as well as recent revelations by US and UK regulators around LIBOR and money laundering that there is a need to regulate all financial institutions that operate in our country, from both a prudential and market conduct perspective, and ensure that they take adequate steps to prevent money laundering and other financial crimes. I refer the Honourable Member to our 2011 publication "A safer financial sector to serve South Africa better", which outlines our approach to regulating the financial sector.

Some of the reasons for regulations emanate from international obligations. The costs of not following international obligations can be enormous, as it could cut off our financial institutions from conducting business with other financial institutions based in countries that

we deal with via trade or financial transactions. There are significant benefits requiring financial institutions and providers to be fit and proper, and to be subjected to the enforcement mechanisms in terms of the Act.

(ii) (aa), (iii), (iv), (v) (aaa), (bbb), (ccc) and (ddd) and (iv) With regard to more direct costs of the functioning of the FAIS Ombud, the Honourable Member should note that the only reliable information that any entity can provide is from its audited financial statements and in terms of the breakdowns reported in such audited statements. There is no point in providing financial information that has not been audited, particularly if it is outdated information that may be ten years old and the accounting officers at that time are no longer available. The FSB estimates the cost for the FAIS division of the FSB at just under R665 million up to the end of 31 March 2011, extracted from the audited financial years, and broken down per year as follows:

Funds spent by FSB on FAIS	
Financial Year	R
2002/03	21 565 642
2003/04	26 170 175
2004/05	31 622 326
2005/06	49 571 539
2006/07	46 788 395
2007/08	76 227 620
2008/09	121 863 306
2009/10	146 162 368
2010/11	145 003 272
Total	664 974 643

The coming audited financial statements for the 2011/12 financial year (to be tabled later this month) is R156 976 271, so the above total will come to just under R822 million as at 31 March 2012.

The FSB has also provided the following information pertaining to the cost of the FAIS Ombud since its inception, drawn largely from their published annual reports:

Expenditure of the Office of the FAIS Ombud	
Financial Year	R
2002/2003	572 374
2003/2004	3 604 037
2004/2005	5 358 678
2005/2006	9 365 086

Notes

1

1

2

2

2006/2007	11 208 036	2
2007/2008	14 269 598	2
2008/2009	19 187 042	2
2009/2010	21 426 994	2
2010/2011	22 408 037	2
2011/2012	25 958 092	3
Total	133 357 974	
Notes: 1. As per the 2003/2004 published annual report of the FSB under the item "FAIS Ombud's loan account" 2. Extracted from the published annual reports of the Office of the FAIS Ombud 3. As per the 2011/12 annual report of the FAIS Ombud, which will be tabled shortly.		

With regard to the further breakdowns you require, you are welcome to check whether such information is provided in these audited financial statements. The Financial Services Board will be willing to provide the audited financial statements to you, should you not be able to secure the annual reports from Parliament. In addition, the FSB will also clarify any other information contained in the reports.

(2) and (3): As noted above, it is not possible to provide such costs or benefits as it affects individual financial companies or providers of financial services. The National Treasury does continually assess whether any specific costs are economically justified, where this is brought to the attention of the National Treasury by any affected financial institution, or by a representative body of financial institutions. For example, we are currently engaging with the Banking Association of SA, on how to make specific improvements to the functioning of the Banks Act.