



Financial Sector
Conduct Authority

AN UPDATE ON MARKET CONDUCT REGULATORY REFORMS

Implementing a Twin Peaks regulatory framework

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Presented to the Compliance Institute of South Africa
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Overview

- **Introducing the FSCA – practical steps**
- **Priority focus areas**
- **Where are we with COFI?**
- **Conduct standards**
- **Licensing under Twin Peaks**
- **Customer redress**



Introducing the FSCA

What is the FSCA leadership structure?

- a transitional management committee (TMC) is in place – performs all functions of the FSCA Executive until the Commissioner and Deputy Commissioners are appointed (posts have been advertised)
 - TMC is led by Mr Abel Sithole (former FSB Chair), who is appointed as interim Commissioner – other members are the former FSB Exco, plus a National Treasury appointee
 - Divisional Executives will head up the new FSCA operational divisions – some already appointed from among former FSB Exco members, other posts advertised
 - TMC will remain in place in an advisory capacity for 3 months after Commissioner and Deputies are appointed, to support transition.
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Introducing the FSCA (cont.)

What changes have already taken place?

- a new brand, new website and new e-mail addresses
- Financial Sector Regulation Act consultation processes now apply to the making of regulatory instruments
- “Registrars” replaced by “the Authority” – new delegations in place
- FSB Appeal Board replaced by Financial Sector Tribunal.

Next steps to look out for:

- roll-out of our new, functional organisation design
 - publication of MOUs between the FSCA, Prudential Authority and other regulators by October 2018 – interim concurrence arrangements already in place where necessary
 - publication of the FSCA Regulatory Strategy by October 2018.
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Introducing the FSCA (cont.)

The future FSCA functional divisions

- Licensing and Business Centre
 - Regulatory Policy (Caroline da Silva)
 - Conduct of Business Supervision
 - Market Integrity Supervision (Jurgen Boyd)
 - Retirement Fund Supervision (Olano Makhubela)
 - Specialist Support (Marius du Toit)
 - Investigations and Enforcement
 - Corporate Centre (HR, Facilities, Communication)
 - Chief Information Office - ICT (CIO – Sello Mmaku)
 - Finance and Supply Chain (CFO – Paul Kekana)
 - Office of the Commissioner (incl. General Counsel, Chief Risk Officer, Media Liaison)
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FSCA priority focus areas

Issues that our Regulatory Strategy will highlight:

- Building the new organisation – new structures, new functions, new skills
 - An inclusive and transformed financial sector – focus on the FSCA’s role in supporting and monitoring effectiveness of the Financial Sector Code
 - A robust regulatory framework that supports TCF
 - Informed financial customers – our consumer education mandate (FSCA now has power to set standards for industry education initiatives)
 - Strengthening the efficiency and integrity of our financial markets – comprehensive financial markets and FMA reviews in progress
 - FinTech – a coordinated approach with PA, SARB, other regulators and FinTech sector to understand new ways of doing business and disruptive technologies
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Conduct of Financial Institutions Bill

Where are we with COFI?

- expert panel input on an early draft of the Bill has been reviewed
 - NT targeting public consultation on a revised draft later this year
 - COFI structure will be broadly aligned to the TCF product life-cycle based outcomes
 - focus will be mainly on principles-based requirements and enabling provisions for more granular conduct standards
 - will introduce an activity-based licensing framework – entities to be licensed based on what they do, not what they are
 - will apply to all financial institutions and extend to certain outsourcing arrangements.
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Conduct of Financial Institutions Bill (cont.)

Interface between COFI and other regulatory frameworks being considered, particularly -

- the Financial Markets Act – which aspects belong in the FMA and which in COFI? What are the respective roles of the FSCA, the PA and the financial market infrastructures? – to be informed by financial markets review project underway
 - the regulatory framework for the payments system – how best to capture the respective roles of the FSCA, NPSD in the SARB, and PASA?
 - the Pension Funds Act – should the PF Act remain in place for prudential elements? If so, which provisions stay in the PF Act and which move to COFI?
 - credit – how best to reflect the respective roles of the NCR and the FSCA, as set out in the Financial Sector Regulation Act?
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Conduct standards

- The FSCA's primary rule-making tool under the FSR Act and, in future , under COFI
 - Pre COFI we still have subordinate legislative powers under existing financial sector laws
 - Will use FSR Act conduct standards, especially for new functions – for e.g. banking
 - Can make joint standards with the Prudential Authority
 - Conduct standards can be made for a wide range of purposes, but must be consistent with our statutory objective
 - Can apply to financial institutions, representatives, key persons, contractors
 - Rigorous consultation requirements
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FSCA licensing – new licences required

As from 1 April 2019 (unless date changes) FSCA will also need to license:

- Services in relation to provision of credit, including debt collection and mortgage origination
- Services related to buying and selling of foreign exchange

Other possible future licensing functions (under discussion):

- Payment services providers
- Medical schemes and medical scheme administrators

Later, other new authorised activities under COFI.





FSCA licensing – pre COFI

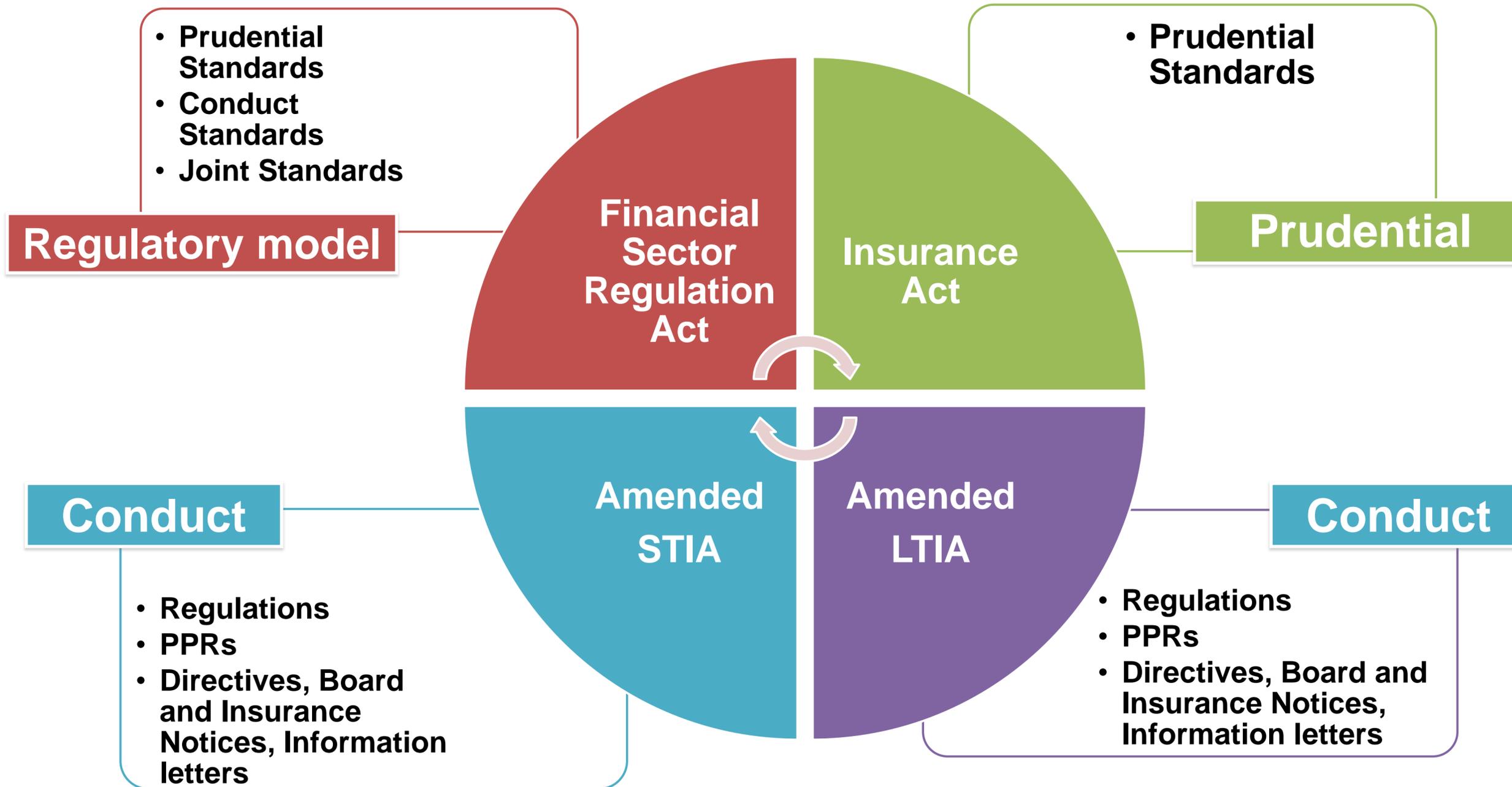
- FIs already licensed under sector laws will not be affected (status quo)
- Any new licences will still be issued under sector laws
- Banks licensed by PA, but FSCA can set conduct standards under FSR Act
- Insurance licensing moves to PA, but FSCA can issue PPRs and Minister can issue conduct regulations
- Credit providers licensed by NCR, but FSCA may set conduct standards under FSR Act for governance and for services related to credit
- Preparation work in progress for future new licensed activities ●

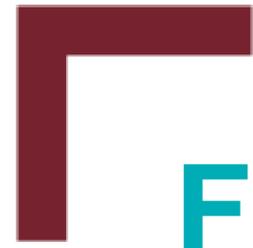


FSCA licensing – pre COFI (cont.)

- Coordination with SARB, PA and NCR to be dealt with in MOUs
 - MOU with SARB to focus on stability issues
 - MOU with PA necessary because no new licence may be issued unless both authorities concur that it may be granted – but MOU may provide for waiving of concurrence in agreed cases
 - Interim agreement with PA already in place – final MOU close to final
 - MOU with NCR is in progress – focus is on “services related to provision of credit”
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Insurance reforms: Twin Peaks (pre COFI) in action





FSCA licensing – post COFI

FSCA will issue each entity with a single licence that authorises it to:

- Perform one or more specified activities
- In relation to one or more specified financial products (if applicable)

Additional licensing conduct standards may be issued for different types of products, services or customers



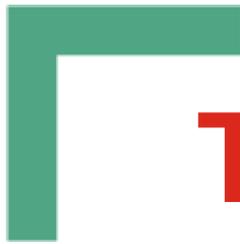


The Twin Peaks licensing construct

- To facilitate cooperation and collaboration on overlapping matters such as governance, fitness & propriety, product issuance – supported by MOU
- Two equal and independent peaks

Dual licensing is the essence of Twin Peaks





The FSCA's approach to customer redress

FSR Act provides various redress tools:

- Setting conduct standards for complaints handling, including redress
- Enforceable undertakings can include a redress undertaking
- Regulator's directives to "remedy the effects of a contravention" can order redress

Purpose of these tools:

- To address significant misconduct (usually systemic culture or control failings) causing widespread prejudice to multiple customers
 - Not aimed at individual disputes – Ombuds remain the appropriate port of call for those.
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THANK YOU

Questions please?