



Financial Sector  
Conduct Authority

Insurance Institute of the Western Cape (IIWC) –

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# Key differences: FSB v FSCA

	FSB	FSCA
Jurisdiction	Non-banking financial sector	All financial institutions
Focus	Combined prudential and market conduct regulator	Dedicated market conduct regulator
Founding legislation	Financial Services Board Act	Financial Sector Regulation Act
Legislation overseen	A range of sector-specific laws	Existing sector-specific laws to be replaced by an overarching, cross-cutting Conduct of Financial Institutions Act <b>Pre-CoFI: Conduct standards may be made FIs not yet licenced</b>



# Key differences: FSB v FSCA

	FSB	FSCA
Governance structure	Overseen by a Board appointed by the Minister with governance sub-committees	Overseen by Executive Committee comprising the FSCA Commissioner and Deputy Commissioners appointed by Minister of Finance, with governance sub-committees appointed by National Treasury
Regulatory decision-makers	Executive Officer and (through delegation) Deputy Executive Officers, appointed by the Minister-	Commissioner is accountable for day-to-day management of the FSCA and for performing its functions, other than certain key functions (including standard setting and licensing) to be performed by EXCO as collective



# Key differences: FSB v FSCA

	FSB	FSCA
Organisation design	Sector-specific divisions focused on sector-specific laws	Largely functional design, with cross-cutting licensing, enforcement and conduct of business supervision groups. Strengthened research and technical analysis capacity
Licensing	Multiple sector laws, complex licensing framework	Two step process: <ul style="list-style-type: none"><li>•Pre-CoFI: Still use financial sector laws, but some licensing functions move to PA (MoUs required)</li><li>•Post-CoFI: New activity based licensing framework, licence mapping required</li></ul>



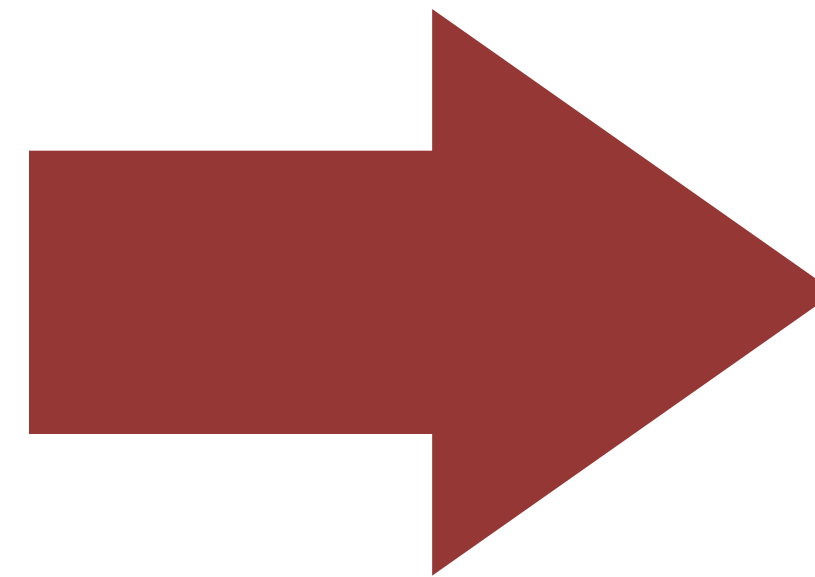
# **THE FUTURE OF MARKET CONDUCT**

# FSCA Strategy

- Strategy of FSCA - focus for the first three years :
  - Building a new organisation
  - A robust regulatory framework
  - Market Integrity - Financial Markets
  - An inclusive and transformed financial sector
  - A culture of fair customer treatment incl. fair and sustainable advice and distribution models
  - Consumer Education
  - Understanding new ways of doing business and disruptive technologies

# REGULATORY PARADIGM SHIFT

- ❑ Backward-looking
- ❑ Compliance-based
- ❑ “One-size-fits-all”
- ❑ “Silo” approach



- ❑ Forward-looking
- ❑ Pre-emptive and proactive
- ❑ Outcomes-based
- ❑ Risk-based & proportionate
- ❑ Comprehensive & consistent
- ❑ Intensive and intrusive...

National Treasury, February 2011  
*“A safer financial sector to serve South Africa better”*

# FOCUS ON LICENSING



# Current Licences

	Financial Advisory & Intermediary Services (FAIS)	Pensions	Capital Markets	Insurance	Collective Investment Schemes
Total authorised	11 260 FSPs	5 119 Active Funds	5	176	51 Managers 1631 Funds
Average new applications per annum	1 133	2	2	3	•Managers 250 Funds
Variations	40 316	45		185	
Service level agreement	30 - 180 days depending on category of licence	45 days	180 days	180 days	25 - 40 business days depending on the number of portfolios



# The challenge

- **Each sub-sector governed by a separate and distinct piece of legislation**
- **Regulatory structure cumbersome and costly for industry, requiring multiple licenses and being subject to multiple Registrars**
- **This has led to regulatory arbitrage and regulatory gaps**



## FSCA: Pre-CoFI

- FIs already licensed under sector laws will not be affected (status quo)
- Any new licences will still be issued under sectoral law
- **Banks licenced by PA, but FSCA may set conduct standards under FSRA**
- Insurance licencing moves to PA, but FSCA may issue PPRs & Minister may issue conduct regulations
- Credit providers licenced by NCR, but FSCA may set conduct standards under FSRA relating to credit

# FSCA: Pre-CoFI

- **Coordination with PA to be dealt with in MoU**
- **MoU necessary because no new licences may be issued unless and until both authorities are satisfied that the licence may be granted**
- **MoU may provide for waiving concurrence requirement in respect of certain FIs**
- **Work on MoU with PA is well progressed**
- **MoUs with FIC and NCR commenced**



# FSCA: Post-CoFI

- **FSCA will issue each provider with a single licence that authorises them to:**
  - **Perform one or more specified activities**
  - **In respect of one or more specified classes of financial products**
  - **To one or more specified type of customers**





# **Twin Peaks: Licensing construct**

- Will facilitate cooperation and collaboration on overlapping matters such as governance, fitness and propriety and product issuing**
- MoU to facilitate**
- Two Peaks - independent and equal**
- Dual licencing is essence of Twin Peaks**



THANK YOU