



FSCA'S REGULATION PLAN FOR 2022 TO 2025

The Financial Sector Conduct Authority ('FSCA') has published its Regulation Plan ('Plan') for the next three years, effective from 1 April 2022 to 31 March 2025.

PURPOSE OF THE PLAN

The Plan seeks to set out the regulations and rules within which financial institutions (including all retirement funds) must operate and for which the FSCA is responsible.

The financial sector is currently in the process of undergoing two major legislative reforms –

- The Conduct of Financial Institutions (COFI) Bill will reshape the future conduct regulatory framework by consolidating the conduct financial sector laws into a single overarching piece of conduct legislation, and will also bring a broad scope of new activities within the conduct legislative framework; and
- The Financial Markets Act.

MAIN FOCUS AREAS OF THE PLAN

The focus areas forming part of the Plan are regulatory framework developments related to:

1. Conduct;
2. Financial markets (integrity and efficiency); and
3. A number of themes that will cut across all financial institution sectors (some of which are set out below).

CONDUCT OF FINANCIAL INSTITUTIONS BILL ('COFI BILL')

The framework envisaged in the Plan will position the FSCA to ensure an efficient transition into the COFI Bill. The framework consists of three phases to be executed concurrently:

1. A high level design of the regulatory framework: a consideration of the overall design of the regulatory framework under the COFI Bill, including structure and how conduct standards will be managed.
2. Harmonisation of regulatory frameworks: based on the need to start harmonising laws administered by the FSCA, the harmonisation project identifies key conduct themes and the subsequent development of cross-cutting (across financial institutions) requirements for each of those themes. The result is a regulatory framework applied to the financial industry as a whole, regardless of the type of financial institution or activity.
3. Transition to the COFI Bill framework: the third phase entails a significant redesign of the current regulatory framework¹ and transitioning existing sectoral standards to the COFI Bill framework. All the subordinate legislation (for example, Conduct Standards) currently sitting under all the sectoral laws (for example, the Pension Funds Act) will continue to exist after the COFI Bill has come into operation, even though the laws in terms of which they were made have been repealed, until they are replaced by Conduct Standards under the Bill (once promulgated).

¹ The COFI Bill contains a provision that provides that anything done or prescribed under a section of an Act amended by the COFI Bill remains valid and enforceable until replaced by Conduct Standards under the COFI Bill.

RETIREMENT FUNDS

Some of the reporting requirements and formats for retirement funds are outdated. New and revised standards include the following that are in the pipeline:

- **Pension Funds Financial Statements and Regulatory Reporting Standard.**
- **Conduct Standard – payment of contributions (section 13A of the Pension Funds Act):** this Conduct Standard has already been submitted to Parliament and is expected to be finalised shortly. Regulation 33 of the Pension Funds Act will be repealed at the same time.
- **Conduct Standard – conditions for investment in derivative instruments:** a final version of this Conduct Standard will be submitted to National Treasury to provide to Parliament during the third quarter of 2022.
- **Conduct Standard – conditions for living annuities in an annuity strategy:** this Conduct Standard is undergoing final refinements and will be submitted to National Treasury to provide to Parliament during the last quarter of 2022.
- **Conduct Standard – communication of benefit projections to members:** this Conduct Standard is undergoing final refinements and it is expected that it will be submitted to National Treasury to provide to Parliament during the last quarter of 2022.

OTHER SECTORAL DEVELOPMENTS

The FSCA is working on several cross-sector regulatory developments, which will be prioritised in the next three years. These include those set out below.

Joint standard – culture and governance

The FSCA and Prudential Authority (“PA”) are currently developing a high-level Joint Standard relating to culture and governance of financial institutions which will be published for public consultation during 2023.

Joint Standard – information technology governance and risk management

A draft Joint Standard relating to information technology governance and risk management has been published. The FSCA and PA are busy with final refinements to the Joint Standard, and it is expected that it will be submitted to National Treasury to provide to Parliament by the end of 2022 or beginning of 2023.

Joint Standard - Cyber security and cyber resilience requirements

The draft Joint Standard relating to cyber security and cyber resilience requirements was published for public comment in December 2021. Further refinement of the Joint Standard is taking place, and it is envisaged that a second version of the draft Joint Standard will be published for public consultation.

The FSCA and PA are also working on other IT-related topics, such as cloud computing and outsourcing of IT functions, which may lead to further proposals for legislation.

Conduct Standard regarding industry practices and treatment of lost accounts and unclaimed assets

The treatment of lost accounts and unclaimed assets in the financial sector remains a significant concern. The FSCA will be developing policy proposals for the treatment of lost accounts and unclaimed assets with the ultimate goal of proposing legislative interventions through a Conduct Standard. Formal draft legislative proposals are expected during the first quarter of 2024 and should be finalised during mid-2025.

DEVELOPMENT OF CROSS-SECTOR LICENSING FORMS

To ensure a consistent approach to licensing and in anticipation of the licensing framework under the COFI Bill, the FSCA will be developing cross-sector licensing forms. The cross-sector licensing forms are expected to be finalised during 2023.

IMPLEMENTATION TIMETABLE

The Plan includes a table that outlines the various projects forming part of the Plan, as well as the implementation timetable of each project.

IMPORTANCE

The FSCA's Plan is important to the industry. Financial institutions and customers require an efficient regulator that delivers and is structurally prepared for the upcoming changes. In addition, understanding the Plan puts financial institutions in a better position to engage with the developments as well as to work the timelines and requirements into plans and projects to ensure compliance with the upcoming developments as and when they are rolled out.