REGULATORY STRATEGY

2021 – 2025

FSCA

Financial Sector
Conduct Authority

Contents

Our Vision

To foster a fair, efficient, and resilient financial system that supports inclusive and sustainable economic growth in South Africa.

vision

Unathi Kamlana
FSCA Commissioner

01

1. Foreword by the Commissioner

01

When the FSCA published its inaugural Regulatory Strategy in 2018, no-one could have foreseen the once-in-a-lifetime global pandemic brought about by COVID-19 that would impact our country and indeed the global community in unprecedented ways in 2020.

Even with this unique challenge, the FSCA persevered in achieving many of the outcomes we set ourselves in 2018. As we plan for the period ahead, we can take some comfort in knowing that we are able to respond in agile ways to dynamic circumstances, supported by the collaborative relationships we maintain with many of our stakeholders, including financial institutions and other regulators.

The work of the FSCA in ensuring a financial system that is fair, efficient and resilient, as well as one that supports inclusive and sustainable economic growth, has never been more important. South Africa faces muted growth prospects over the medium-term and contends with persistent high levels of unemployment.

While access to financial products and services has been steadily increasing, more can be done to deepen the use of such products and services by customers, to make a meaningful impact on their lives.

Transformation of the financial sector is also an imperative we will continue to support to build a sector that is reflective of the society it serves.
The work of the FSCA contributes to sustainable economic growth and more resilient financial customers. We must ensure that financial customers have access to financial products and services that are innovative and appropriate, and that they are empowered to make financially capable and informed decisions. Economic growth should be supported by financial markets that function fairly, effectively, and efficiently, and by a stable financial sector that is well-regulated through proactive and responsive regulation, supervision, and enforcement.

Our focus in the period ahead will see the FSCA implementing our recently-established approaches to policy development, regulation and supervision to drive fair customer and market outcomes.

The newly established Executive Committee of the FSCA will enable the FSCA to fully deliver on its mandate. Together with the strong management team of the FSCA, we are looking forward to delivering on our mandate and ensuring a financial services sector that delivers the best possible outcomes for all.

Unathi Kamlana
Commissioner
Financial Sector Conduct Authority

2. Executive Summary

02

The FSCA's Regulatory Strategy (14 December 2021 – 31 March 2025) addresses:

- *our regulatory and supervisory priorities for the next three years*
- *the intended key outcomes of the strategy, and*
- *our guiding principles*

Much work undertaken in terms of our previous Regulatory Strategy (Oct 2018 – September 2021) saw a strong focus on managing the transition from the Financial Services Board to the FSCA. Despite a number of challenges during this period, including the onset of the COVID-19 pandemic, the FSCA achieved many of the outcomes set in the inaugural Regulatory Strategy. Key achievements are set out in section 5, and include implementing a new operating model; adopting a data-driven digital strategy; reviewing regulatory and supervisory frameworks to support financial inclusion; working to embed Treating Customers Fairly (TCF) principles in law; undertaking supervision in an increasingly proactive, pre-emptive manner; and launching the IFWG Regulatory Sandbox, Regulatory Guidance Unit and the Innovation Hub.

In the period ahead we are focusing strongly on implementing and embedding our newly established approaches to policy development, regulation, supervision and enforcement. Our regulatory and supervisory priorities for the next three years are captured by the following five strategic objectives, and their associated outcomes:

Strategic Objective	Intended Outcomes
1. Improve industry practices to achieve fair outcomes for financial customers	• Good conduct and Treating Customers Fairly (TCF) principles embedded consistently across the financial sector • Conduct risks mitigated
2. Act against misconduct to support confidence and integrity in the financial sector	• Trust in the financial sector maintained
3. Promote the development of an innovative, inclusive, and sustainable financial system	• Transformation in the financial sector supported • Financial inclusion of low-income households and small businesses deepened • Greater competition and contestability in the financial system enabled • Sustainable finance and investment in the financial sector fostered
4. Empower households and small businesses to be financially resilient	• Financial customers able to make better and more informed financial decisions
5. Accelerate the transformation of the FSCA into a socially responsible, efficient, and responsive organization	• Operational excellence embedded across all functions of the FSCA • FSCA is recognised and trusted by financial institutions, financial customers, financial sector ombuds and other financial sector regulators in South Africa and internationally

We will undertake our work in line with our guiding principles as set out in Section 7:

- pre-emptive and pro-active
- intensive and intrusive
- risk-based and proportional
- transparent and consultative
- outcomes-based
- comprehensive and consistent
- a credible deterrent
- aligned with applicable international standards

We also describe in section 7, in more detail, our approach to regulation, supervision, and enforcement and administrative actions.

We will continue to engage with all relevant stakeholders – including financial customers, financial institutions, financial sector ombuds, other regulators, policymakers, and international bodies – to ensure that our work is effectively contributing to our vision of a fair, efficient, and resilient financial system that supports inclusive and sustainable economic growth in South Africa.

3. Introduction

The Financial Sector Conduct Authority (FSCA) was established in April 2018 and published its inaugural Regulatory Strategy in October 2018, covering the 3-year period from October 2018 to September 2021.

The Financial Sector Regulation Act (FSR Act)[1] requires the FSCA to periodically publish a Regulatory Strategy that addresses:

- our regulatory and supervisory priorities for the next three years
- the intended key outcomes of the strategy, and
- our guiding principles

This document provides the FSCA's Regulatory Strategy for the period 14 December 2021 to 31 March 2025, to align with the FSCA's Strategic Plan (2020 – 2025) and Annual Performance Plans (based on the financial year starting 1 April of each year). The strategic objectives as indicated across these various documents are therefore also aligned.[2]

The Regulatory Strategy explains the make-up and operations of the FSCA, sets out the FSCA's five strategic objectives for the period ahead, and provides an update on the progress made in achieving the outcomes of the FSCA's inaugural Regulatory Strategy. The Regulatory Strategy also outlines the guiding principles that will inform how we approach our work and ensure effective delivery of the objectives described herein.

1 As per requirements of section 70 of the Financial Sector Regulation Act, 9 of 2017 (FSR Act).

2 The term "strategic objective" is used in this document to indicate our regulatory and supervisorypriorities, which must be specified in terms of section 70 of the FSRA.

4. Who we are

4.1 About us and what we strive for

The FSCA was created as a dedicated market conduct regulator in South Africa's Twin Peaks regulatory model implemented by the FSR Act.[3] We are established to:

- protect financial customers by promoting their fair treatment by financial institutions;
- enhance and support the efficiency and integrity of financial markets;
- provide financial education and promote financial literacy; and
- assist in maintaining financial stability.

The FSCA's mandate includes all financial institutions that provide a financial product and/or a financial service as defined in the FSR Act.

- Banks 37
- Insurers 174
- Section 13B administrators 123
- Insurers providing funeral policies 45
- Micro-insurers 7
- Friendly Societies 196
- Co-operative Financial Institutions 25
- Co-operative Banks 5
- Supervised Financial Services Providers (FSPs) 10 130
- Licensed exchanges 5
- Central Securities Depositories 2
- Associated Clearing Houses 2 [5]
- Over the Counter Derivative Providers (ODPs)[6] 13
- Retirement Funds 5090
- Credit Rating Agencies 3

Collective Investment Schemes (CIS):

- CISs in Securities 51
- CIS in property 1
- CIS in Participation Bonds 2
- Foreign Collective Investment Schemes 131
- CIS in Hedge Funds 14
- Foreign Hedge Fund Schemes 6

3 The FSCA works alongside its twin, the Prudential Authority, which is responsible for the safety and soundness of financial institutions. The South African Reserve bank is responsible for protecting and enhancing financial stability and responding to systemic events.

4 All information derived from FSCA Annual Report 2020/21

5 One of the Associated Clearing Houses also provides CCP functions and the FSCA has strong regulatory and supervisory oversight over the entity.

6 Of these, 3 ODPs are non-bank ODPs

To regulate – subject to requirements in other legislation and refinement following finalisation of the COFI Bill:[7] [8]:

Financial benchmark providers: **23**[9]

Debt Collectors: **18 079**[10]

Registered Credit Providers: **8774**[11]

Payment service providers: **> 250**[12]

Authorised dealers: **30**[13]

Authorised dealers with limited authority: **22**[14]

The FSCA's regulatory jurisdiction is still under development for specific financial services such as payment services, debt collection services, and services related to the provision of credit. These areas are being developed in close collaboration and consultation with relevant regulators and stakeholders and further clarity on the extent of the FSCA's regulatory oversight, and the specific services to which it applies, will be provided in due course. The regulators are collaborating to clarify areas of responsibility and streamline processes, in order to reduce regulatory duplication and burden.

Our vision, mission and values are as follows:

Our Vision

To foster a fair, efficient, and resilient financial system that supports inclusive and sustainable economic growth in South Africa.

Our Mission

The FSCA's mission is to promote an inclusive, customer-centric, and competitive financial sector wherein:

- Financial customers have access to innovative and appropriate products and services and are empowered to make financially capable and informed decisions;
- Financial markets function fairly, effectively, and efficiently; and
- Proactive and responsive regulation, supervision, and enforcement results in accountable financial institutions.

7 *The COFI Bill proposes a new licensing schedule for all persons that are regulated by the FSCA and will be licensed by the FSCA in future. The licensing categories are in line with the FSR Act, but may be subject to change with the finalization of the COFI Bill and other policy developments This will take account of other legislation where applicable – e.g. legislation regulating debt collectors and credit providers such as the National Credit Act, Debt Collectors Act, Superior Court Act, Magistrates' Courts Act, Courts of Law Amendment Act and the rules of court.*

8 *The Council for Medical Schemes Annual Report 2020 and Industry report 2019/2020 respectively identify 76 registered medical schemes and 19 medical scheme administrators. The extent to which medical schemes and administrators are under the jurisdiction of the FSCA is still subject to engagement underway between National Treasury, the Council for Medical Schemes, PA and the FSCA.*

9 *In September 2021 the Minister of Finance published draft regulations in terms of the FSR Act to designate the "provision of a benchmark" as a financial service. Providers will be regulated once the final Regulations are published, scheduled for 2022-23*

10 *Council for Debt collectors, 2018/2019 integrated Annual Report. The regulation and supervision of debt collectors by the FSCA will take account of other legislation and regulators already regulating debt collectors such as the National Credit Act, Debt Collectors Act, Superior Court Act, Magistrates' Courts Act, Courts of Law Amendment Act and the rules of court.*

11 *https://www.ncr.org.za/register_of_registrants/registered_cp.php In line with the FSR Act, credit providers will be regulated by the FSCA for financial services provided in relation to credit agreements, for matters referred to in section 108 of the FSR Act. This is in support of the NCR, which will continue to regulate credit providers in line with the NCA.*

12 *The definition of payment services providers will be contained in amendments to the National Payment System Act, expected through consequential amendment via the COFI Bill. It is expected to include at least banks and entities currently licensed to provide third party payment services (TPPPs) and wallet providers, amongst others. The number of entities is therefore likely to be higher than the 216 bank and non-bank TPPPs that were reported in the PASA 2020 Annual report.*

13 *Of these, 3 are restricted Authorised Dealers; Source: South African Reserve Bank.*

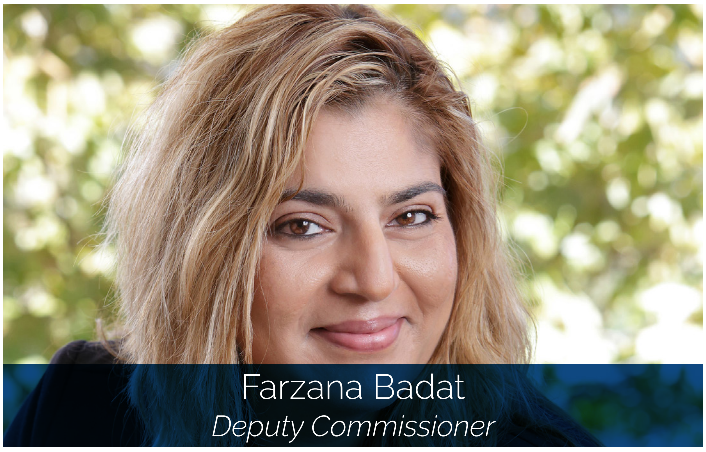
14 *Source: South African Reserve Bank.*

Our Values

Our actions and decisions are informed by our values, which drive the culture of our organisation. Our values are:

- **Excellence:** We set high standards for ourselves and strive to perform our functions with professionalism.
- **Integrity and Accountability:** We are transparent, honest, fair, and consistent in our actions and decisions.
- **Collaboration:** We work together in a spirit of consultation, cooperation, mutual respect, and trust.
- **Agility:** We respond promptly, innovatively, and smartly to changing needs and circumstances.
- **Sustainability:** We meet the needs of the present without compromising the ability of future generations to meet their own needs, by adopting socially responsible practices.

4.2 Our Executive Committee



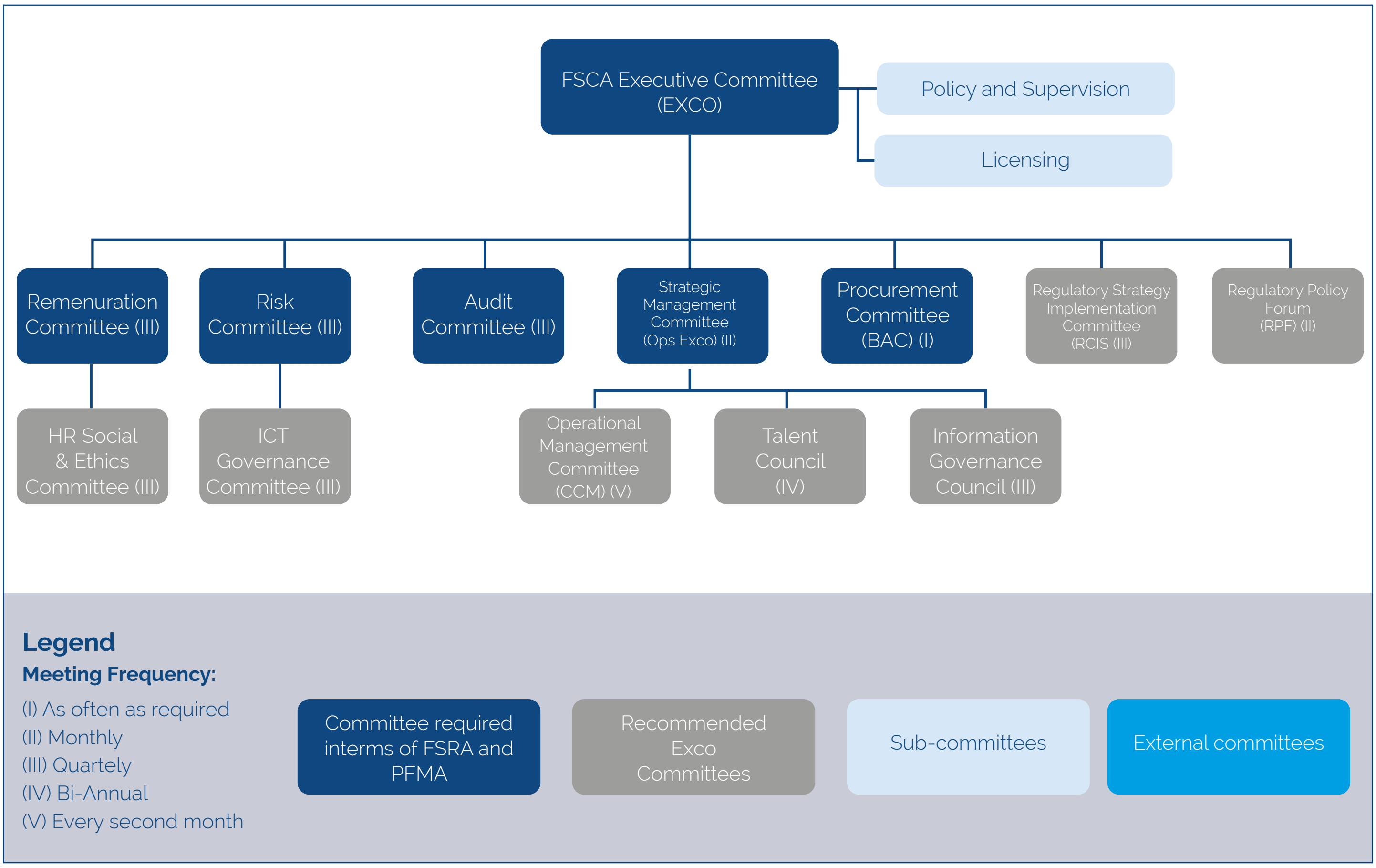
The Executive Committee (EXCO) comprises the Commissioner and three Deputy Commissioners appointed by the Minister of Finance. It is responsible for generally overseeing the management and administration of the FSCA to ensure that it is efficient and effective. This entails overseeing strategic and operational matters.

EXCO is also responsible for:

- overseeing the implementation of key matters assigned to the FSCA by relevant financial sector laws;
- authorising the Commissioner to sign memorandums of understanding with other regulators;
- delegating powers of the FSCA to the PA in terms of an MOU;
- developing conduct and joint standards, and other regulatory instruments in terms of various financial sector laws;
- approving the granting, varying, suspending and revoking of licences in terms of financial sector laws;
- adopting the administrative action procedures of the FSCA;
- appointing members of subcommittees of the FSCA required or permitted by a law, and giving directions regarding the conduct of the work of any subcommittee;
- making determinations of fees in terms of financial sector laws; and
- adopting the Regulatory Strategy of the FSCA and any amendment thereto.

EXCO is supported by the FSCA management (who engage with EXCO through several sub-committees of EXCO), as well as external committees made up of independent members, which advise EXCO on their respective areas of expertise (Figure 1). These external committees include a Remuneration Committee and a Risk Committee appointed by the National Treasury, and an Audit Committee and Human Resources, Social and Ethics Committee appointed by EXCO.

Figure 1: FSCA Governance Structure



4.3 Our organisational design

The FSCA comprises ten different divisions.

FELICITY MABASO

Licencing and Business Centre

The licensing division processes licensing applications of all financial institutions regulated by the FSCA. It also oversees the FSCA's Business Centre which manages requests for information from the regulator

OLANO MAKHUBELA

Retirement Fund Supervision

The division oversees the conduct and prudential regulation of retirement funds. It also comprises departments responsible for retirement fund reviews and authorisations, and for fund governance and trustee conduct.

BRANDON TOPHAM

Enforcement

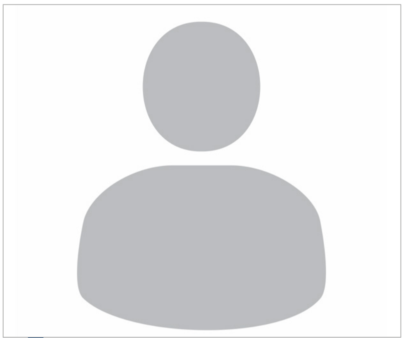
Responsible for the FSCA's enforcement function, this division comprises an Investigations, Complex Enforcement Cases, and Market Abuse Investigations departments.

KEDIBONE DIKOKWE

Conduct of Business Supervision

The division is responsible for supervising the conduct of specified financial institutions through the following departments:

Banks and Payment Providers; Insurers and Retirement Fund Benefit Administrators; Micro and Access Product Institutions; Financial Advisors and Intermediaries; Investment Providers. The division is also responsible for supervision relating to anti-money laundering and counter financing of terrorism (AML/CFT).



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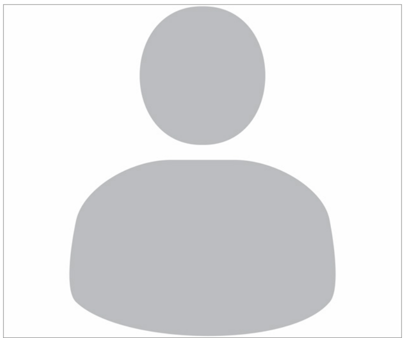
Market Integrity Supervision (under care of Deputy Commissioner Astrid Ludin)

The division comprises two departments, namely Market Infrastructures and OTC Markets; and Financial Benchmarks and Credit Ratings Agencies



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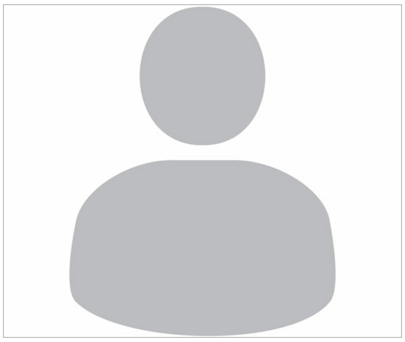
Regulatory Policy (under care of Deputy Commissioner Katherine Gibson)

The Regulatory Policy division comprises a Regulatory Frameworks department; a FinTech department; a Consumer Education Department; a Market, Customer and Inclusion Research Department; a Regulatory Liaison department; and a Supervisory Frameworks department



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Specialist Support (under care of Deputy Commissioner Astrid Ludin)

The division encompasses Actuarial Services; Business Model and Product Analysis; Data Analysis; and Disclosure, Advertising and Marketing Analysis

PAUL KEKANA

Chief Financial Officer

The CFO's office incorporates Treasury and Management Accounting; Financial Management; Supply Chain; and Expenditure

JABULANE HLALETHOA

Corporate Services

This division incorporates Human Resources; Communication and Language Services; and Facilities and Security. It is also responsible for Organisational Design and Effectiveness

PHOKENG MOGASE

Chief Information Officer

The CIO is responsible for ICT Governance, Risk and Compliance; ICT Applications and Operations; the Project Management Office; Enterprise Information Governance; Data Analytics; and ICT Security

The organisational design supports our commitment to be proactive, pre-emptive, outcomes focused and risk-based by providing for:

- **research and trend monitoring** functions
- **data analysis,** underpinned by a **data driven digital strategy**, to enhance our ability to gather and interpret data from regulated entities and relevant third-party sources
- **business model analysis** to enable "deep dives" at regulated entity and group level
- understanding new ways of doing business and disruptive technologies **(FinTech),** and leveraging technology for more effective and efficient supervision (**RegTech** and **SupTech**)

In addition, providing for regulatory, policy and supervisory structures that are cross-cutting, rather than more narrowly focused on industry segments, enable integrated insights into emerging risks.

4.4. Our approach to co-operation and co-ordination in the financial sector

The FSCA interacts closely with the Prudential Authority as its regulatory "twin", and the SARB which has the primary responsibility for financial stability. It also maintains co-operative and collaborative relationships with the National Credit Regulator, the Financial Intelligence Centre, the Council for Medical Schemes, and other local regulators in the performance of its regulatory and supervisory duties. Regular co-ordination engagements with other regulatory institutions and the financial sector ombuds help to strength information exchange and alignment between the institutions.

The Commissioner of the FSCA also serves on the Financial System Council of Regulators, a body established under the FSR Act to foster greater coordination amongst regulators involved in the financial sector.

Although the Prudential Authority and the FSCA have co-ordinated supervisory plans and engagements to the extent possible, care needs to be taken not to duplicate data collection, licensing processes and supervisory engagements.

To this end, the authorities are considering ways in which data collection could be coordinated through a shared service, which could potentially include the Prudential Authority, the SARB, the National Credit Regulator and the Financial Intelligence Centre.

How the FSCA Supports Government's National Development Plan (NDP)

The FSCA contributes to developmental priorities in the following manner:

i. **Job creation:** The FSCA develops appropriate regulatory frameworks to support innovation within the sector consistent with the growth strategy. With this growth, more employment opportunities may be created. This can be further supported through implementation of the Inclusion Strategy.

ii. **Youth employment:** The FSCA has a bursary programme for actuarial students. Each year, the institution funds two students, who are then required to work for the FSCA for three years. During this period, the actuarial students obtain valuable exposure to actuarial work and obtain industry exposure.

iii. **Gender equality:** The FSCA continues to drive and sponsor various consumer awareness programmes targeted at women and youth, educating them of various financial tools available. These are aimed at improving their financial literacy levels and financial confidence and management.

iv. **Innovation through technology:** Through the Regulatory Sandbox, the FSCA continues to collaborate with other organisations for ongoing monitoring, research and assessment of technological trends and innovations within the sector. Through this initiative, the FSCA will analyse external impact of new products to the financial sector business models, product and solution design and customer outcomes. The objective of this initiative is to inform appropriate regulatory and supervisory responses for the sector and eliminating legacy barriers.

v. **Transformation:** The FSCAs transformation strategy will ensure that regulatory requirements do not restrict the diversification of financial institutions and products for new entrants to the market. In addition, the FSCA will integrate monitoring of the implementation of transformation plans into the supervisory framework for financial institutions. The FSCA has continued to hold training workshops with emerging financial services providers to inform and assist them with regulatory compliance, reaching hundreds of individuals each year. An MoU has been entered into between the FSCA and Financial Sector Transformation Council (FSTC) to ensure cooperation and coordination between the two organisations with the aim of supporting financial sector transformation.

The NDP provides an integrated approach for business, government, and civil society to address the critical issues of income inequality, poverty, and unemployment in South Africa. The FSCA contributes to these priorities through:

- the use of regulatory and supervisory measures to **promote more 'value for money' financial products and services and reduce the abuse of savings and investments** by unscrupulous providers of financial products and services.
- aiding government in designing and implementing measures to **broaden social security for all,** particularly in relation to retirement reform and roles that can and should be played by persons and entities subject to supervision by the FSCA, including retirement funds, friendly societies, insurers, and banks.
- supporting the design and implementation of **cost-effective measures (including products) to promote savings, investments and risk reduction** and thereby increase asset ownership.
- supporting measures to **promote 'active ownership' and sustainable and responsible investments** by retirement funds for the benefit of their members and other stakeholders.
- **reducing the cost of regulatory compliance,** especially for small- and medium-sized entities.
- providing **support to small businesses** through better coordination of relevant agencies, development finance institutions, and public and private incubators.
- developing an appropriate **regulatory framework to support innovation** in the financial system consistent with the growth strategy.
- promoting **access to employment, financial inclusion and education.**

5. Progress in achieving the outcomes of our inaugural Regulatory Strategy

The period following the establishment of the FSCA saw a strong focus on managing the transition from the Financial Services Board to the FSCA – a new organisation with a dedicated mandate, expanded scope of jurisdiction, and dynamic new approaches to conduct regulation and supervision. Our regulatory and organisational strategy was ambitious, with a strong focus on adapting our regulatory and supervisory approaches, and streamlining and improving internal processes, procedures, capacities and competencies.

This period was not without its challenges. The organisation contended with transitional leadership structures, with a permanent Executive Committee only established toward the end of 2021. Naturally, the global COVID-19 pandemic presented its own unique challenges to the organisation as well as the financial sector it regulates.

Despite the challenges, the FSCA has achieved many of the outcomes set in the inaugural Regulatory Strategy. It has successfully implemented a new organisational design, moving from a sector regulator to a functionally structured conduct regulator, and has established the technological foundation for its work. Notably, the shift to remote working for the organisation was smoothly managed. Significant progress has been made in developing regulatory frameworks, especially to fill regulatory gaps, and to develop new supervisory approaches.

A summary of the achievements of the FSCA against its previous six strategic priorities is set out below:

Strategic Priority 1: Building a new organisation

Intended outcome	*Achievement*
Through our new organisational design, capacity building and infrastructure upgrades, the FSCA aims to be: • **Trusted by financial customers** to promote their fair treatment by financial institutions and take visible, meaningful action against those that jeopardise their financial wellbeing or the integrity or efficiency of the financial markets • **Respected by all stakeholders** as a competent, effective, and accountable regulator that engages with them openly and transparently and without fear, favour, or prejudice • **Proactive** in identifying conduct risks across the financial sector and taking evidence-based actions to respond to those risks • **Respected** as a global leader in the area of market conduct regulation and supervision by both domestic stakeholders and international peers • **A modern organisation** that draws on international best practice and leverages technology to respond flexibly, proactively, and pragmatically to new risks and opportunities.	• **New operating mode**l with new roles, skills and competencies designed and implemented (shift from sector-based to functional structure) • Revised **competency framework** aligned to the new operating model. All role profiles were updated to align to strategic focus of the organisation; **skills audit** conducted to gain insights into skills base. • **Change initiatives** aimed at embedding new organisational values and improving employee performance and engagement. • **Targeted training interventions** • Talent Council and Talent Management Forums established • **Data driven digital strategy** adopted; supported by new strategies and policies (information strategy, cybersecurity strategy, cloud strategy.) • **Business intelligence and analytics platform** is assisting the FSCA with management and supervisory information. • Solutions implemented to enable **remote working for all FSCA staff**

Strategic Priority 2: An inclusive and transformed financial sector

Intended outcome	*Achievement*

• Formalised relationships with the Financial Sector Transformation Council
• Licensing conditions and other provisions in the COFI Act (or other financial sector laws) that cater for transformation commitments aligned to nancial Sector Code (FSC)
• FSCA monitors progress against transformation plans, assists with driving achievement of commitments to FSC targets, including consequences for failure to demonstrate progress
• Proportionality and progression built into supervisory and regulatory frameworks
• FinTech Department suitably resourced and actively engaged with FinTech start-ups and incumbents using FinTech
• **Inclusion Research unit** suitably resourced and engaged to ensure regulatory and supervisory frameworks cater for transformation and inclusion
• **Training and support initiatives** for small financial services businesses held every year.
	• **MOU** entered into with **Financial Sector Transformation Council**
	• **Draft COFI Bill** provisions **amended** to allow FSCA more clearly to support Financial Sector Code targets
	• **Regulatory and supervisory frameworks** reviewed to support financial inclusion:
	  ◦ draft conduct standards for cell captives[15] and Co-operative Financial Institutions
	  ◦ amendments to microinsurance product standards,
	  ◦ regulatory approaches and framework for the funeral parlour market
	  ◦ Conduct of Business Returns
	• **Financial Inclusion Strategy** developed (*to be published in 2022)* to guide FSCA operations and support National Treasury's National Financial Inclusion Policy
	• **Transformation Strategy** developed to guide FSCA operations *(to be published in 2022)*

15 *When considering exemptions from the requirements of the Conduct Standard for Cell Captive Insurers, issues relating to transformation will be taken into account (progressing small black-owned cell businesses to microinsurers).*

Strategic Priority 3: A robust regulatory framework that promotes fair customer treatment

Intended outcome	

• Increasingly **aligned and harmonised conduct standards** under existing sectoral laws
• **New conduct standards under the FSR Act** for financial institutions and activities not covered by existing sectoral laws
• **A holistic TCF-aligned supervisory approach** to monitor and enforce delivery of these conduct standards
• **Ongoing implementation of key TCF-aligned regulatory projects**, including achieving the outcomes of the RDR
• Readiness for a **smooth transition** to the overarching licensing and conduct standards framework under the COFI Act.
	• Work underway to **embed TCF principles** in sector **laws, supervision increasingly Pro-active Pre-emptive Intensive and Inclusive**
	• **Harmonisation project** initiated (identifying themes and developing regulatory frameworks applicable across the entire financial sector)
	• **Conduct Standards and Joint Standards** developed, including:
	  • Conduct Standard for Banks
	  • Conduct Standard on Net Asset Valuation Calculation and Pricing for Collective Investment Scheme Portfolios
	  • Requirements for Delegation of administration functions by a manager of a Collective Investment Scheme
	  • Conditions for Smoothed Bonus Policies to form part of Default Investment Portfolios
	  • Minimum Skills and Training Requirements for Board Members of Pension Funds
	  • Joint Standard on fitness, propriety and other matters related to Significant Owners
	• Development of enterprise-wide **risk-based supervisory framework** near completion
	• Draft **omni Conduct of Business Returns** developed *(to be published for consultation)*

Strategic Priority 4: Informed financial customers

Intended outcome	*Achievement*
• Broader **consumer protection** • **Integration** of financial education with regulatory functions • **Coordinated** industry financial education activities • Improved data on consumer behaviour • Positive consumer **behavioural change.**	• Developing draft **conduct standards for consumer education** • Greater internal communication to **coordinate and enhance messaging** • **Coordinated activities** with national consumer protection fora and committees • **Conducted research** on consumer behaviour • National Speech Competition; Youth Campaign; Expanded Public Works Programme; Money Smart Week

Strategic Priority 5: Strengthening the efficiency and integrity of our financial markets

Intended outcome	*Achievement*
This strategic priority is intended to ensure that South African financial markets are: • **fair, efficient,** and **transparent,** with reliable and effective **price discovery** • supported by **robust** and **efficient** post-trade systems • provide a **diverse and competitive range of products** and services to meet investors' needs	**Conduct Standards and Joint Standards** developed, including: • Conduct Standard for Authorised OTC Derivative Providers[16] • Joint Standard on Margin requirements for non-centrally cleared over the counter derivative transactions • **Joint Standard** on Requirements relating to Central Counterparty Licence Applications • Conduct standard for exchanges, to address issues of interoperability (published for consultation) • Local **CCP regime introduced;** applications being assessed • Participation in **"Global Legal Entity Identifier Foundation** meetings • Published discussion paper on **short selling** • **Exemption criteria framework** for external market infrastructures being drafted together with a **determination and equivalence framework**

Strategic Priority 6: Understanding new ways of doing business

Intended outcome	*Achievement*
• Creation of dedicated **FinTech Department** • Active participation in South Africa's **Intergovernment FinTech Workgroup (IFWG)** • Finalisation and establishment of an **Innovation Hub protocol** through the IFWG • Establishment of a **Regulatory Sandbox**, or participation in multi-regulator sandboxing with other financial sector regulators through the IFWG • Co-hosting, with IFWG members, of **engagement conferences** with the FinTech sector • Co-hosting of **hackathons** with IFWG members • Development and implementation of the FSCA **data strategy** • Recruitment of necessary **specialist skills.**	• The FSCA with the IFWG launched a **Regulatory Guidance Unit, a Regulatory Sandbox, and an Internal Innovation Hub** • FinTech department **published joint papers and reports** with the IFWG (SA FinTech Landscape Report; Crypto Assets Working Paper; Non-Traditional Data Report; Suptech report) • **Published report on Open Finance**

16 *This Conduct Standard strengthens investor protection and therefore also supports Priority 3: A robust regulatory framework that promotes fair customer treatment.*

6. Our strategic objectives[17] and intended outcomes for the period 2021 – 2025

In the period ahead we are focusing strongly on implementing and embedding our newly established approaches to policy development, regulation, supervision and enforcement. This includes implementing the new legal framework for conduct reflected through National Treasury's envisaged Conduct of Financial Institutions Act, a new risk-based supervisory framework including new supervisory tools such as the Conduct of Business Returns, and continued active and visible enforcement.

We are increasingly embedding evidence-based and research-driven approaches to policy development, supervisory interventions and other initiatives across the financial sector. Our guiding principles and how we approach our work are further described in section 7 of this document.

We have identified 5 strategic objectives for the period 2021 – 2025:

1. **Improve industry practices to achieve fair outcomes for financial customers**
2. **Act against misconduct to support confidence and integrity in the financial sector**
3. **Promote the development of an innovative, inclusive and sustainable financial sector**
4. **Empower households and small businesses to be financially resilient**
5. **Accelerate the transformation of the FSCA into a socially responsible, efficient, and responsive conduct regulator**

Below we set out how we intend to meet our strategic objectives and achieve our intended outcomes under each objective:

1. Improve industry practices to achieve fair outcomes for financial customers

Outcomes

- Good conduct and Treating Customers Fairly (TCF) principles embedded consistently across the financial sector
- Conduct risks mitigated

The South African financial sector is highly concentrated, particularly in banking and insurance where the top 5 companies account for 89% and 71% of total sector assets respectively. Market dominance and power may manifest in low value/ high cost financial products and services, owing to poor price transparency and comparability, in turn the result of complex pricing structures and an "excessive" array of products and business models relative to the size of the market.

As with many countries around the world, customers are increasingly being exposed to new business, delivery and distribution models in the financial sector. Fair industry practices that are consistently embedded across the financial sector are vital to ensure that customers experience good outcomes irrespective of the models or channels used to deliver different financial products and services.

We will promote the consistent embedment of good conduct and TCF principles by developing clear and coherent conduct standards applicable across the financial sector. Proper embedment of good conduct requires strong cultural and leadership commitment to customer centricity throughout all levels within financial institutions. To this end, the FSCA, in conjunction with the Prudential Authority, is in the process of developing a cross-cutting regulatory framework for culture and governance aimed at establishing baseline requirements to be implemented by financial institutions. This will help ensure a more consistent and measurable approach to supervising how financial institutions embed such within their organisations.

Harmonised regulatory and supervisory frameworks

An active part of the FSCA's regulatory and supervisory approach is to ensure that, where possible, existing frameworks are harmonised and developed in such a way as to be more outcomes- and principles-based. This is to move away from a siloed sectoral approach, which leads to fragmented supervision and regulatory arbitrage, in turn to ensure more consistent outcomes across the financial sector as a whole. It also, very importantly, aims to facilitate a proportional approach to regulation and supervision.

This approach towards an outcomes- and principles-based framework is also emphasised and reflected in the draft COFI Bill. For example, the COFI Bill incorporates the six TCF Outcomes and sets high-level principles for each area covered in the Bill.

Importantly, harmonisation of the FSCA's regulatory and supervisory frameworks, and the shift to a more outcomes- and principles-based approach, is not ultimately dependent on the finalisation of the COFI Bill. Whilst it is the cleanest solution, should the COFI Bill be delayed the FSCA may still implement the intended frameworks. On the regulatory side, this may be done by Conduct Standards issued in terms of the FSR Act, similar to the approach taken for banks by way of the 2020 Conduct Standard for Banks. The FSR Act already provides the FSCA the suite of powers necessary to licence and supervise all financial institutions.

The FSCA will also increase awareness of our conduct requirements and our expectations for embedding good conduct, including through a risk-based supervisory approach. Our supervisory framework will be informed by, among others, analysis of the statutory Conduct of Business Returns, which will be rolled out incrementally over the course of the period. Conduct outcomes across the financial sector will be measured, tested and tracked through research on financial customer experiences and the suitability of financial products and services.

We will continue working with industry and particular sub-sectors to ensure that efficient processes are in place so that the unclaimed or lost assets of financial customers are returned to their rightful owners.

The FSCA will improve its ability to respond to emerging and systemic conduct risks. We will develop and implement systems and approaches to collect and analyse relevant data and undertake targeted interventions to address these emerging risks in a timeous manner. Possible responses include thematic supervisory and research efforts. Examples of specific risks that have been already identified relate to crypto assets and increasing cyber and systems threats, which can expose consumers to loss of assets or identity.

2. Act against misconduct to support confidence and integrity in the financial sector

Outcome

- Trust in the financial sector maintained

The FSCA will act decisively and visibly against misconduct in the South African financial sector. This includes scams, fraudulent behaviour, the illegal undertaking of unlicensed activities, and other undesirable practices that could result in significant consumer harm.

We intend to enhance our ability to proactively detect misconduct and poor practices through targeted surveillance, enhanced enforcement activity and pro-active reviews of financial information to ensure the safety and soundness of entities that are prudentially regulated by the FSCA[18].

Our work in the sector will also be enhanced by strengthening our regulatory frameworks and the ability of the FSCA to exercise oversight. This will be largely focussed on bringing new areas of regulation , as designated in the FSR Act, more squarely within the ambit of the FSCA – for example, the regulation and supervision of payment services, services related to credit (including debt collection), financial benchmarks, services related to foreign exchange and crypto asset activities[19]. A key focus will be ensuring that our approaches are developed in close consultation with other regulators who are already active in these industries – for example, the NCR, Council for Debt Collectors, and the SARB.

As not all of these activities can be brought under the conduct framework at the same time, the FSCA will clearly communicate to stakeholders its plans regarding transitional arrangements and timelines. Payment services and financial benchmarks will be prioritised.

Another focus of the FSCA will be financial market regulation, including the implementation of a roadmap on central clearing of derivative instruments, enhanced regulation of Collective Investment Schemes and implementing reporting requirements for Over-the-counter Derivative Providers engaging in OTC derivative transactions that are not centrally cleared. Further work is also being undertaken together with the PA and SARB where relevant to explore frameworks for the reporting of short selling practices, securities financing transactions, requirements for the recovery plans of non-systemic market infrastructures and finalising the Conduct Standard for Exchanges focusing on addressing issues prevalent in a multiple exchange environment.

3. Promote the development of an innovative, inclusive, and sustainable financial system

Outcomes

- Transformation in the financial sector supported
- Financial inclusion of low-income households and small businesses deepened
- Greater competition and contestability in the financial system enabled
- Sustainable finance and investment in the financial sector fostered

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18 In terms of the section 292 of FSRA, transitional arrangements provide that the FSCA is responsible for the prudential oversight of retirement funds, friendly societies and collective investment schemes, until such time as determined by the Minister.

19 The COFI Bill proposes additional activities for licensing by the FSCA, and the transitional licensing arrangements will need to ultimately be crafted to include these activities as well.

In recognition of our role to further promote transformation of the financial sector, the FSCA will maintain and build on relationships with key stakeholders responsible for transformation, such as the FSTC, the Employment Equity Commission and the BBBEE Commission.

As set out in our transformation strategy[20], the FSCA will implement processes for collecting data on transformation and monitoring changes over time. This information will be shared publicly to allow for engagement and debate.

Our role in enhancing financial inclusion will focus largely on monitoring changes in levels of access and usage of financial products and services, and encouraging innovation in the sector in a way that supports deeper financial inclusion of low-income households and small businesses.

An area that will receive heightened attention from the FSCA is contestability and competition in the financial system. This will involve ensuring that the regulatory framework enables new entrants and facilitates proportional application of the law, including supporting the development of new entrants into sectors with established market infrastructure. In addition to regulatory reviews, the FSCA will also conduct targeted research in identified areas.

The FSCA is aware that it has an important role in enabling sustainable finance, through disclosure but also through enabling regulation, for example designating types of sustainably-labeled investments that are indeed sustainable (taxonomy). Focused research will help inform appropriate regulatory changes. The FSCA intends working closely with the National Treasury and the Prudential Authority to support the development of a sustainable finance market in South Africa.

4. Empower households and small businesses to be financially resilient

Outcome

- Financial customers able to make better and more informed financial decisions

South African households display poor financial resilience, evidenced by low savings rates and high household indebtedness, which were worsened during the COVID-19 pandemic as income sources for many households contracted. Additionally, small businesses are facing increasing pressures because of limited cash flows and lack of ability to access appropriate financing mechanisms.

A core mandate of the FSCA is to promote the financial literacy and capability of consumers. The FSCA sees its role as more broadly supporting financial resilience of households and small businesses, primarily by enabling them to make more well-informed financial decisions, with a focus on savings and wealth creation. This involves making resources and information available and undertaking targeted campaigns based on identified needs, especially in relation to those households and businesses that are particularly vulnerable. In addition, the FSCA will be developing a framework to monitor consumer resilience and vulnerability.

5. Accelerate the transformation of the FSCA into a socially responsible, efficient, and responsive organisation

Outcomes

- Operational excellence embedded across all functions of the FSCA
- FSCA is recognised and trusted by financial institutions, financial customers, financial sector ombuds and other financial sector regulators in South Africa and internationally

The FSCA will focus on enhancing its performance and responsiveness as an institution by improving its service delivery commitments through increased digitalisation and optimised business processes. We will also enhance our focus on sustainability by implementing more socially responsible practices. To improve our regulatory and

20 To be published in 2022.

supervisory insights and outputs, the FSCA will implement measures to continue improving the availability and quality of data. Talent management in the FSCA will continue to remain a central focus.

The FSCA will ramp up communication and dialogue efforts with a range of external stakeholders, including the general public, financial customers, regulated entities, policy makers and other regulators involved in financial sector regulation. We will also leverage opportunities for enhanced thought leadership and broader engagement through relevant policymaking fora, both locally and internationally, as well as increasing platforms for engaging industry, such as by coordinating financial education initiatives of industry players.

Our digital journey

The FSCA has adopted the Data Driven Digital (DDD) strategy with the vision to digitally transform the FSCA into a next generation digital regulator.

Main features of the DDD strategy relate to:

- business intelligence and data analytics
- cloud default services
- IT operating model transforming workforce skill productivity
- disruptive technologies, including RegTech and SupTech
- customer self-service and omni-channels for engagement with the FSCA
- cyber security and resilience

Combining effective use of technology and tapping into the value of our data is a key driving force to our digital transformation and improving operational efficiency. To fully take advantage of data that the FSCA is collecting or that is being collected by others in the financial sector ecosystem, we require new technology foundations to underpin the enterprise technological backbone. Developing advanced analytical capability is essential. The FSCA is driving customer-centric innovations that improve access, responsiveness and consequently build trust amongst stakeholders. Innovations that enable the FSCA to be proactive in identifying conduct risk supported by insight-driven decision making are being prioritised.

Our focus on FinTech

The FSCA also aims to support responsible innovation in the sector, that benefits customers and contributes to efficient market dynamics. FinTech innovations have the potential to expand financial inclusion in terms of improved access and suitability of product and service offerings.

A dedicated FinTech department focuses on the following, often in collaboration with the other financial sector regulators:

(i) The Regulatory Guidance Unit provides regulatory guidance for market participants and generates data and insights for policy development

(ii) The Regulatory Sandbox provides a live and "safe" regulatory testing environment for new market participants and innovative solutions

(iii) The Innovation Accelerator drives suptech research and innovation projects for participating regulators

Priority FinTech projects pertain to open finance, digital platforms and crypto assets.

7. Our guiding principles and how we will undertake our work

The FSR Act enjoins the FSCA to, amongst others, take into account the need for a primarily pre-emptive, outcomes focused and risk-based approach to carrying out its functions, and to prioritise the use of resources in accordance with the significance of risks to the achievement of its objective. The Act also requires the FSCA to describe its guiding principles, including how we will perform our regulatory and supervisory functions; matters which we will have regard to in performing those functions; our approach to administrative actions; and how we will give effect to principles of transparency, openness to consultation, and accountability.

Our guiding principles, and how we continue to incorporate them into our work, are set out below[21]:

a) Pre-emptive and pro-active

The FSCA must not only mitigate risks that have already resulted in prejudice to financial customers, but also adopt a forward-looking approach by pre-empting prejudice and proactively identifying and responding to emerging conduct risks. This forward-looking approach is inherent to the licensing "gate-keeper" function and is being embedded across supervisory practices, including through enhanced reporting frameworks (for financial institutions) and research capability.

b) Intensive and intrusive

Intensive and intrusive principles are expressed in a judgment-based style of supervision to interrogate - and where necessary challenge – the strategic decisions and business practices of supervised entities. From a conduct perspective this requires having deep insight into the culture, business models and drivers of behaviour in these entities, to ensure that they understand and mitigate the resulting risks posed to customers and financial markets.

c) Risk-based and proportional

The risk-based and proportional principle requires the FSCA to identify key risks to the achievement of its objectives and prioritise the use of resources according to the significance of these risks. The risk-based approach therefore requires the use of regulatory, supervisory and enforcement tools in a way that enables the FSCA to proactively assess sources of potential conduct risk and respond to them appropriately and proportionately. This means that regulatory, supervisory and enforcement interventions should be proportional to the scale and impact of the risk observed and being addressed. Interventions should positively contribute towards and add value to the operation of the South African financial sector, whilst minimising regulatory burden – the sector should be encouraged to self-regulate, taking responsibility for promoting positive customer and market outcomes.

d) Transparent and consultative

The FSR Act requires the FSCA to be transparent and open to consultation. The FSR Act prescribes a rigorous consultation process for making regulatory instruments. The transparency principle implies being as open as feasible to the public, industry, media, and political stakeholders about how the FSCA works, what its priorities are, what actions it undertakes and what results are accomplished. The FSCA accounts to Parliament through the Minister of Finance, as a Public Finance Management Act (PFMA)-regulated entity.

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21 *These principles carry through from the preceding Regulatory Strategy 2018 - 2021, as are equally important today and in future work.*

e) Outcomes-based

The outcomes-based principle implies monitoring the extent to which the financial system is delivering fair outcomes to customers, with a focus on the fairness and appropriateness of financial products and financial services and the extent to which they may meet the needs and reasonable expectations of financial customers. Expectations for desired customer and market outcomes are being embedded in our regulatory frameworks and supervisory approaches.

What are desired customer and market outcomes?	
Customer-centric culture and governance	Customer-centric decision-making is central to the culture and governance of financial institutions
Suitability, appropriateness and increased access	Suitable and appropriately designed financial products and services are increasingly accessible to wider segments of financial customers
Clear communication, transparency and financial empowerment	Financial customers are empowered to make informed financial decisions by being provided with clear, adequate and easily understandable information throughout the financial product lifecycle
Fair and sustainable advice and distribution models	Financial customers have access to professional unconflicted financial advice and intermediation necessary to support their long term financial goals
Quality and performance of products and services	Financial products and services perform reliably and in line with the expectations and needs of financial customers
Post-sales responsiveness and support	Financial customers are able to have their post-sales queries, claims and disputes resolved swiftly and with minimal cost and effort

f) Comprehensive and consistent

The risk-based approach will enable consistent response to entities, products and services that pose similar levels of risk. The comprehensive principle implies that the FSCA is vigilant that all relevant activities in the financial markets – including innovative products and services and relevant activities from non-financial entities - are covered by adequate regulations and are considered for supervision and enforcement attention. The consistency principle implies implementation of fair and coherent supervision and enforcement actions informed by consistent judgment-based decision making.

g) A credible deterrent

The credible deterrent principle requires at least the following:

(i) the FSCA promotes **compliance with legislation** with a focus on deterring poor and harmful conduct.

(ii) **enforcement action** must discourage financial institutions or regulated persons from non-compliance, and more generally discourage conduct that leads to poor customer and market outcomes.

(iii) enforcement processes must be **fair and consistent**.

(iv) **administrative penalties and other sanctions** must be meaningful, but appropriate.

(v) where suitable, enforcement action will **support redress to financial customers.**

(vi) **monitoring perceptions** of the supervision and enforcement regime.

h) Aligned with applicable international standards

The FSCA participates in the international regulatory community and keeps track of relevant international standards and developments. It adopts the principles and methodologies of the international standard setting bodies, as they relate to financial institutions and persons supervised by the FSCA, to inform its regulatory, supervisory and enforcement approaches.

These principles and methodologies specify international expectations for conduct, financial consumer protection, the safety and soundness of financial institutions, the integrity of the financial system and financial stability. The FSCA applies these principles and methodologies within the context of its mandate and the nature of South Africa's financial sector, to foster trust and confidence.

7.1 Our approach to regulation

The conduct regulatory framework is the body of laws and supporting instruments for which the FSCA is responsible, that govern the conduct and market integrity regulation of financial institutions. The regulatory framework comprises primary laws, subordinate legislation[22], documents that impose legally enforceable requirements[23] and documents that support the interpretation and implementation of financial sector laws, such as interpretation rulings, guidance notices, general directives and the like.

The regulatory framework therefore sets the legal parameters within which financial institutions must operate and it underpins and facilitates the licensing and supervisory approach. A weak regulatory framework constrains the ability of a financial sector regulator to effectively supervise financial institutions and ensure good and consistent outcomes for financial customers and markets. Similarly, an inflexible regulatory framework impedes a financial sector regulator from acting proactively in addressing identified risks and frustrates the proportional (risk-based) application of the law. As such, it is critical for the FSCA to ensure that the conduct regulatory framework is robust, flexible and all-encompassing.

In developing the conduct regulatory framework over the next five years, the FSCA will focus on:

- strengthening, rationalising and harmonising the conduct regulatory framework, focusing on overarching conduct themes like "culture and governance" and "cyber and IT risk," to address existing gaps and emerging risks and to ensure that outcomes for financial customers are more consistent across the financial sector;
- ensuring the conduct regulatory framework is proportional and aligns to international standards;
- ensuring that the conduct regulatory framework is sufficiently flexible to enable the FSCA to swiftly respond to emerging risks and to facilitate proportional application of the law; and
- creating an enabling environment to support financial inclusion, transformation, sustainability and competition.

7.2 Our approach to supervision

Our supervisory framework sets out the manner in which the FSCA will license and supervise the conduct of financial institutions. There is an overriding objective of harmonising the supervisory approaches across sectors. Also, a risk-based supervisory approach has been adopted in line with our guiding principles. The risk-based approach is applied over the life cycle of a financial institution, from the granting of a licence until its termination.

It provides a systematic approach for identifying those areas of risk that require supervisory attention and remediation within a financial institution. The risk-based supervisory process also aims to encourage financial institutions to take responsibility for their own risk management.

Promoting trust and confidence in the financial sector - FSCA as "gate-keeper"

Licensing is a crucial part of the supervisory cycle, as can serve to keep potentially rogue financial institutions out of the financial system in the first instance, and permanently remove known rogue institutions. Looking for the right "red-flags" upfront as part of the risk-assessment done at licensing stage can therefore support an effective gate-keeping function. This can mean denying access into the system in total, or if allowing access, implementing the right monitoring mechanisms through intensive and intrusive supervision, so that harmful practices by the financial institution are remedied.

22 Such as conduct standards.

23 Such as Notices made under specific empowering provisions.

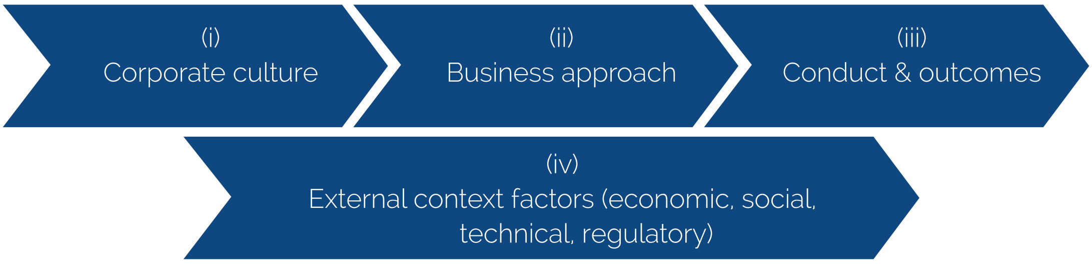
The key objectives of the risk-based supervisory approach are to -

(a) pre-emptively identify and assess risks, including cross-sector risks, risks related to specific financial sub-sectors and risks in respect of individual financial institutions;

(b) intervene on a timely basis where the governance, culture or practices of the supervised financial institution are imprudent, unsafe, endanger the integrity of the markets or do not deliver appropriate outcomes to consumers;

(c) address risks in a systematic manner, prioritising what matters most.

HOLISTIC RISK ASSESSMENT FRAMEWORK



These objectives will be achieved by implementing an effective process for –

(a) the assessment of financial institution' conduct and practices by evaluating their risk profiles, financial positions, risk management processes, governance structures and processes, and level of compliance with applicable legislation, and

(b) supervisory and enforcement interventions where needed in line with our guiding principles.

The FSCA's primary market conduct supervision process consists of four core phases: market monitoring, risk analysis, prioritisation, and intervention. In practice these phases are executed partially in parallel, and there is no strict distinction between them. This is an ongoing, circular process, meaning that the ultimate phase of the supervision cycle (intervention) flows into the first phase (market monitoring). For example, inspection outcomes may provide guidance and generate attention points for further monitoring.

THE SUPERVISION CYCLE

Risk assessments must take into account of size and complexity of the financial institution, business models and/or product propositions, the target market of the financial institution, the impact of identified risks and the probability of those risks materialising. The outcome of the risk assessment will guide the intensity of future supervisory activities relative to specific financial institutions - supervisory resources will be targeted to those entities, business models and/ or product propositions with a higher risk profile.

Rules-based supervision (checking whether financial institutions comply with particular regulations or requirements) will continue to be important in deterring and detecting inappropriate conduct towards customers, such as suitability checks. Outcomes-focused supervision will augment this work, by assessing for example the commitment of senior management to embedding good conduct and fair treatment of customers, regardless of whether this commitment in itself constitutes a breach of a specific regulation or requirement.

The FSCA has a variety of supervisory tools at its disposal to monitor the conduct of financial institutions. These may include a combination of reviews that are:

(a) off-site or on-site;

(b) standardised or ad hoc;

(c) risk-based, thematic or comprehensive;

(d) aimed at direct verification (e.g. of TCF performance), or enquiring into FIs' underlying systems and controls; or

(e) financial institution-specific or sector wide.

Conduct of business reports are a key off-site monitoring tool for the FSCA. The monitoring and analysis of other data sources like complaints data, irregularity reports and scanning of traditional and social media platforms are equally critical to augment findings[24]. Thematic industry reviews will also support the work of the supervision department[25].

7.3 Our approach to administrative actions and enforcement

The FSCA is accountable for carrying out investigations and enforcement as contemplated in the FSR Act. We are therefore accountable for assessing complaints against regulated or unregistered persons in the financial sector that may point to regulatory contraventions, as well as the investigation of potential transgressions identified through supervisory activities. We are committed to enforcement that is efficient, effective and fair. This includes reducing the time taken to close cases and more rapidly hold wrong-doers accountable, as longer case times may amplify any harm already suffered. To optimise impact, the FSCA has adopted a risk-based approach to enforcement by categorising cases based on various factors like number of complaints received and the scale and impact of potential harm.

New proactive approaches are being introduced, like monitoring social media platforms to obtain earlier warnings of unregistered and unlawful operations, and applying intelligence to financial data to identify suspicious transactions in the financial markets which could imply market manipulation.

The teams carrying out investigations and enforcement are multi-disciplinary in nature, with a high level of forensic investigative skills to suitably investigate complex financial structuring and manipulation matters. These teams work closely with the licensing, regulatory and supervisory divisions of the FSCA to identify problems which can and should be rectified by regulatory or supervisory interventions, to mitigate conduct risks or prevent further harm. We also engage other regulators, the National Prosecuting Authority and the South African Police Services, to ensure a shared understanding of challenges and to co-ordinate responses[26]. Engagement with international counterparts in other jurisdictions ensures that we are abreast of developments in financial crime and of new ways in which enforcement is applied.

24 *Other data sources include: analysis of financial reports, statutory filings, incidental inquiries, mystery shopping, self-assessments, management meetings, off-site/on-site inspections, licensing risk assessments, data from ombud schemes, customer complaints, demand side surveys, web-based databases to track agreements, fees and new products across various industries, and investigations.*

25 *To include benchmarking research, customer experience testing and research, and evidence from supervisory activities.*

26 *Notably only the SAPS and NPA can deal with criminal cases, and so the FSCA supports these offices to the extent possible where there are alleged offences in the financial sector.*

Implementing an effective regulatory regime also requires the FSCA to maintain open, co-operative relationships with the financial institutions that we regulate. Regulated entities must have the confidence that we will act in a fair and consistent manner when taking decisions under applicable financial sector laws.

An administrative actions procedure, currently in draft form, setting out the principles informing the FSCA's approach to administrative actions. Examples of administrative actions include:

- issuing a directive
- issuing a debarment
- the imposition of a penalty
- the decision not to grant a licence
- the decision to suspend or withdraw a licence

The purpose of our administrative actions is to change the behaviour of the person who is the subject of its action, to deter future non-compliance by others, to eliminate any financial gain or benefit from non-compliance, and where appropriate, to remedy the harm caused by the non-compliance, and to ultimately protect financial customers.

The administrative actions procedures sets out that the FSCA will seek to take administrative action in a manner that is transparent, proportional, responsive to the issue and consistent with its objective and statutory mandate. We also seek to ensure fair administrative action as required by the Constitution and Promotion of Administrative Justice Act, 2000.

The proposed process to be followed in taking an administrative action is depicted below:

1. Notice of proposed administrative action (Notice of Intent)	2. Reasonable opportunity to make representations	3. Final decision (Notice of Administrative Action)
The notice to contain- (a) clear statement of the proposed administrative action (b) reasons for proposed administrative action (c) specified information	**Affected person afforded-** (a) reasonable period to submit representations (b) option to be assisted by a legal representative (c) option to present and dispute information	**Final decision to contain:** (a) clear statement of the administrative action (b) reasons for administrative action (c) adequate notice of internal remedy (d) adequate notice of the right to request reasons should reasons not be provided

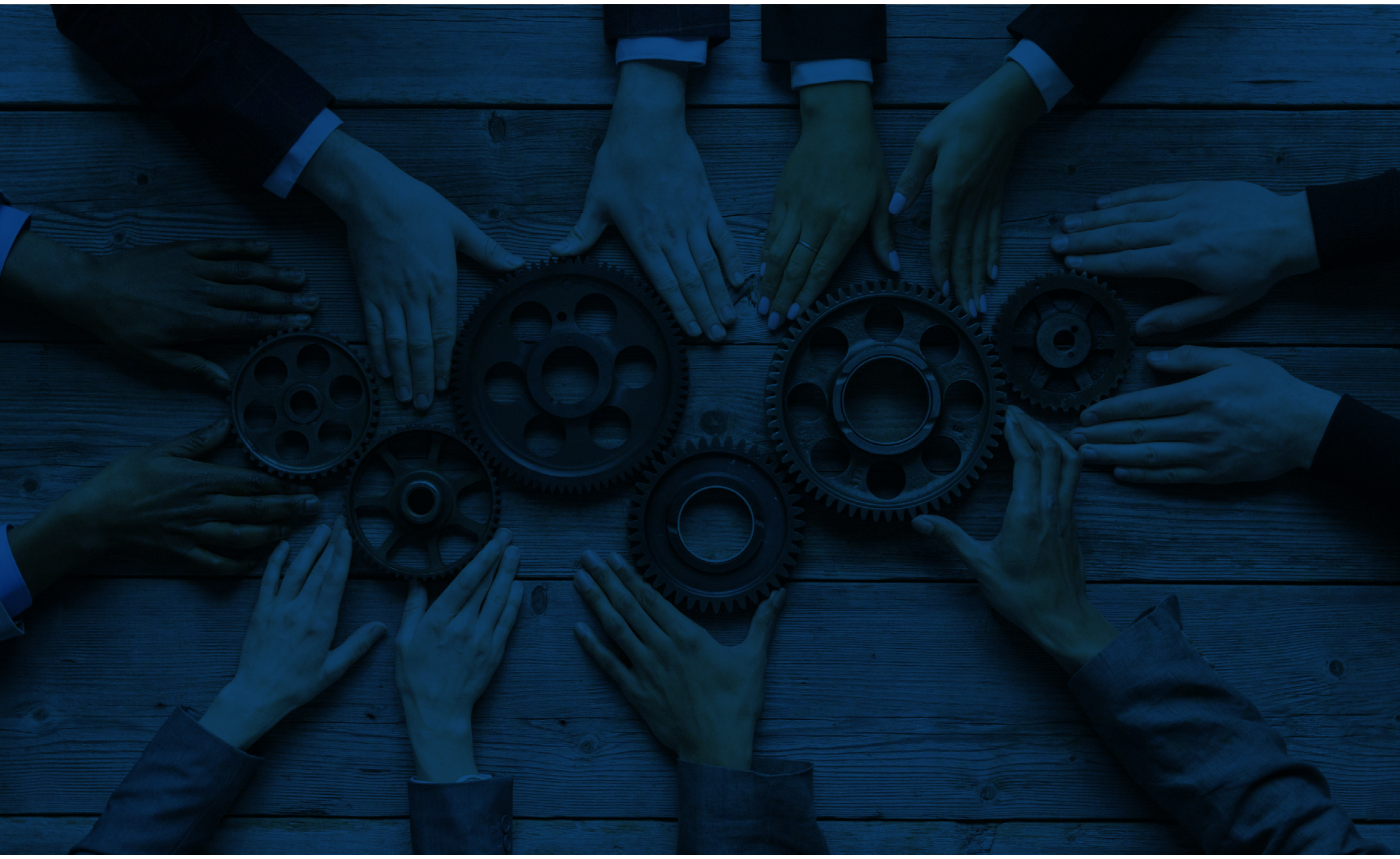
7.4 Openness through consultation

External stakeholder inputs are critical to ensure that the conduct framework is fit for purpose and improves customer and market outcomes, whilst at the same time does not unnecessarily impede business activities or create undue operational challenges for regulated persons.

The FSCA has well-established channels for communicating with industry stakeholders and public sector representatives, including industry workshops and targeted consultations. Formal structures like the Market Conduct Committee and the National Consumer Financial Education Committee include representation across trade associations, the National Treasury, and regulators such as the PA, NCR and NPSD. In addition, the FSCA is considering establishing more regular industry reference groups to support the development of regulatory and supervisory approaches.

We regularly engage with the six financial sector ombuds[27] that provide alternative dispute resolution channels to customers in South Africa, and have begun formalising our engagement with the newly-established Ombud Council. The Ombud Council oversees the ombuds system with a view to ensuring greater coordination amongst the various ombuds offices.

Our direct engagement with financial customers will continue to be strengthened. This includes the establishment of an advisory panel comprising suitable consumer representatives, that will ensure that the work of the FSCA formally considers and takes into account consumer views and experiences. The panel will also alert the FSCA of emerging trends and risks facing financial customers in South Africa. The FSCA engages customers directly through our customer education and awareness campaigns.



27 *This includes the Ombud for Banking Services, the Ombud for Long-term Insurance and Ombud for Short-term Insurance (amalgamating into the Insurance Ombud), the Credit Ombud, the FAIS Ombud and the Pension Funds Adjudicator.*

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