

Unpacking financial services trends: how specialist support in the FSCA is finding new and better ways to supervise conduct in the sector

The global COVID-19 pandemic has led to widespread change in the way people live and work – and has caused significant disruption to the face of entire industries. The financial sector is no exception. This has made it critical for market conduct regulators globally to identify those trends that will continue to shift the way they regulate these entities.

This is particularly relevant when it comes to the specialist support department in the Financial Sector Conduct Authority (FSCA), which looks at areas such as the research and analysis of business models and products, disclosure, advertising and marketing, and competency frameworks

Although the specialist support function is more ‘inward-facing’, it is an engine-room of the FSCA. It assists the industry-facing departments in the development of frameworks and support in respect of supervisory functions. It’s important for the specialist support function to continuously identify and monitor new and better ways to supervise the conduct of the FSCA supervised financial institutions, especially in a rapidly shifting world driven by disruption such as the COVID-19 pandemic.

“COVID-19 in itself will not affect the nature of supervision as that is driven by the Financial Sector Regulation Act of 2017 (FSRA) and mandate requirements. How we do it may however change, in that there may be less face-to-face and travelling, for example,” says Marius du Toit, Divisional Executive: Specialist Support at the FSCA.

“What this indicates is a broad move online, across the financial services sector.” What then are other key trends we are seeing that have arisen in specialist support from the impact of COVID-19 and what changes can we expect from a regulatory perspective?

Research and analysis: business models and product analysis

- Our regulatory approach requires us to proactively identify and respond to emerging financial market trends and risks and to have a deep understanding of the business models and products of the financial institutions we supervise.
- **The advent of new business models in fintech and other disruptive businesses** has seen the role of the Business Models and Product Analysis team at the FSCA grow significantly in the last year. “It requires us to be constantly learning, adapting and questioning regulation as well as identifying loopholes that may exist to maintain a healthy financial system in South Africa,” says Shreelin Naicker, Senior Manager: Business Models and Product Analysis at the FSCA.
- **There is a significant increase of financial services activity in the retail market, particularly in the marketing of get-rich-quick schemes.** “Some new disruptive models are trying to leverage the inefficiencies in the financial markets by catering to different segments. While many such models focus more on the technology side, they are being required to also consider the function of risk mitigants that prevent systemic risk,” says Naicker.
- **Because of these new disruptive models and the proliferation of new upstart fintech firms, the FSCA expects to receive more licence applications where it is not obvious under which current licensing regime these are best classified.** Much thought needs to be given to how to regulate the changing landscape and the flurry of new financial service providers focussed on providing innovative solutions such as low-cost digital banking.

- The FSCA will need to be able to handle increased volumes of data, and the automation and interpretation of this data will become more important to respond to this increase in regulatory action,” says Naicker.

These rapid technological advancements driving automation and the explosion of data mean the FSCA needs to be vigilant when observing the markets and responding to changes.

Disclosure, advertising and marketing analysis

- **The advertising of financial products has also largely shifted towards digital platforms.** “The move by financial institutions to digital platforms as a medium for financial advertising was inevitable,” says Koko Kubelo, Senior Manager: Disclosure, Advertising, and Marketing Analysis at the FSCA. “As a regulator, we proactively scan and monitor social media platforms such as Twitter, Facebook, and YouTube, as well as online media such as websites of regulated financial institutions to identify misleading and false advertising. This includes assessing the adequacy and accuracy of product and risk disclosures.”
- **The promotion of illegitimate investment schemes, such as Ponzi and pyramid schemes has gained traction on social and online media platforms.** Such schemes promise members of the public huge returns in a short space of time and investment schemes are often marketed as free of risk and with limited disclosures. “As a conduct regulator, we continue to issue public warnings against these illegitimate schemes,” adds Kubelo.
- **In a world of asymmetric information, where providers of financial products know a lot more than consumers do,** it is of utmost importance to ensure that the dissemination of information does not lead to undesirable consumer outcomes. The overarching principle is that financial advertising and the disclosure of information should be clear and straight forward to the ordinary person, provide a balanced representation of key information and not create a false impression about a product or service. Disclosure of product information, including risk and benefits and exclusions should assist consumers into making informed financial decisions.
- **The FSCA also conducts research on international best practice in disclosure** in terms of advertising and marketing of financial products and services and identify conduct trends.
- **We ensure that financial customers are treated fairly across all industries,** by amongst others, reviewing disclosure, advertising and marketing approaches.

Competency frameworks

- **Most competence-related activities implemented by FSP’s are moving to online solutions.** And, FSP’s increasingly implement learner management systems to track and monitor compliance. “The growing demand for online solutions should result in the lowering of the costs associated with these solutions,” says Alta Marais, Head of Department: Supervisory Frameworks at FSCA. “During the Covid-19 pandemic, there has been a shift to online and digital platforms to obtain the relevant qualifications, training, regulatory examinations and Continuous Professional Development (CPD), and if these platforms continue to be offered by service providers, the cost of compliance should become cheaper and increase accessibility from more remote areas.”
- **FSPs are required to monitor their Key Individuals (KIs) and representatives’ compliance** with competence requirements, to identify and address any non-compliance. Key individuals and representatives are responsible for rendering critical financial services, so it is essential that they

receive the adequate and continuous training to maintain competence in offering customers the right financial services and products – and which they are authorised to offer.

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