

MARKET CONDUCT RULES

Policy Proposal and Inter-Country Analysis



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1. ABBREVIATIONS

CBE	Central Bank of Eswatini
CBK	Central Bank of Kenya
CMA	Capital Markets Authority
CoFI	Conduct of Financial Institutions
FSAP	Financial Sector Assessment Program
FSC Mauritius	Financial Services Commission of Mauritius
FSCA	Financial Sector Conduct Authority (South Africa)
FSRA	Financial Services Regulatory Authority
IAIS	International Association of Insurance Supervisors
IOSCO	International Organization of Securities Commissions
IRA	Insurance Regulatory Authority (Kenya)
OECD	Organisation for Economic Co-operation and Development
SACCO	Savings and Credit Cooperative
TCF	Treating Customers Fairly
NBFI's	Non- Bank Financial Institutions
MSMEs	Micro, Small and Medium Enterprises

2. DEFINITIONS

For purposes of this Policy Proposal, unless the context otherwise requires:

“Authority” means the Financial Services Regulatory Authority established under the Financial Services Regulatory Authority Act, 2010.

“Consumer” means any person who purchases, uses, applies for, or may reasonably be expected to use a financial product or financial service provided by a regulated entity.

“Conduct Risk” means the risk that the conduct, behaviour, practices, or culture of a financial institution may result in unfair treatment of consumers, market abuse, or undermine market integrity.

“Financial Services Provider” means any non-bank financial institution licensed, registered, or supervised by the Authority.

“Market Conduct” means the manner in which financial institutions design, market, distribute, administer, and service financial products and services, including their interactions with consumers throughout the product lifecycle.

“Product Lifecycle” includes product design, marketing, promotion, advice, sales, post-sale servicing, complaints handling, and claims management.

“Treating Customers Fairly” or “TCF” means an outcomes-based regulatory approach requiring financial institutions to place fair treatment of consumers at the centre of their business operations and conduct.

“Vulnerable Consumer” means a consumer who, due to personal circumstances such as age, disability, low income, limited financial literacy, or other socio-economic factors, is especially susceptible to harm and requires enhanced care and protection.

3. INTRODUCTION

Overview

- 3.1 The non-bank financial services sector in Eswatini has undergone significant transformation over recent years, driven by technological innovation, increased product diversification, expanding distribution channels, and growing participation by consumers in formal financial markets. Financial products and services have become increasingly accessible through digital platforms, intermediated sales models, mobile-based services, and integrated financial offerings. While these developments have contributed positively towards the financial sector's growth and financial inclusion, they have simultaneously introduced new risks relating to the manner in which financial institutions design, market, distribute, and administer financial products and services to consumers. These developments further support national objectives aimed at expanding access to and usage of formal financial services as articulated in the *National Financial Inclusion Strategy of Eswatini 2023–2028* (Government of Eswatini, 2023).
- 3.2 As financial products become more sophisticated and distribution models more complex, consumers are increasingly required to make financial decisions involving products they may not fully understand, often relying heavily on representations made by financial institutions and their representatives. In such an environment, weaknesses in disclosure standards, product oversight, advisory practices, complaints handling, advertising, governance arrangements and customer engagement practices may expose consumers to unsuitable products, unfair treatment, excessive risk, or financial harm. These risks are particularly heightened in markets where varying levels of financial literacy, unequal bargaining power, and information asymmetries exist between financial institutions and consumers (Financial Stability Board, 2011; World Bank, 2017).
- 3.3 Traditionally, financial sector regulation within Eswatini has focused predominantly on prudential oversight aimed at promoting the safety, soundness, and financial stability of regulated institutions. While this approach remains essential, developments within the financial sector increasingly demonstrate that financial stability alone is insufficient to ensure that consumers are treated fairly or that financial institutions consistently act with due skill, care, transparency, and integrity throughout the product lifecycle. Increasingly, international regulatory practice recognises market conduct supervision and the fair treatment of customers as integral components of an effective financial regulatory framework (World Bank, 2017; IAIS, 2019).
- 3.4 The need for enhanced market conduct oversight has become more pronounced as non-bank financial institutions continue to introduce innovative financial products and expand their reach across previously underserved segments of the population. The World Bank (2017) notes that clear market conduct frameworks assist in establishing minimum expectations regarding consumer treatment, governance of conduct risk, product suitability, transparency, and accountability within financial institutions. Effective consumer protection frameworks further enable regulators to identify patterns of

consumer harm and respond consistently to emerging conduct-related risks within the sector (Financial Stability Board, 2011).



- 3.5 Against this background, there is increasing international recognition of the need for structured, outcomes-focused market conduct and financial consumer protection frameworks that promote fair treatment of consumers, responsible business conduct, transparency and accountability throughout the product lifecycle (OECD, 2022; IAIS, 2019). The G20/OECD High-Level Principles on Financial Consumer Protection recognise such frameworks as foundational elements of an effective and comprehensive financial consumer protection regime, while supporting public trust and confidence in the financial system (OECD, 2022).
- 3.6 Such an approach would support fair treatment of financial consumers, strengthen public confidence in financial institutions, encourage responsible innovation and ethical business practices, and further advance national objectives relating to financial inclusion and consumer empowerment as articulated in the *National Financial Inclusion Strategy of Eswatini 2023–2028* (Government of Eswatini, 2023).

Theoretical Background

- 3.7 Market conduct regulation has developed internationally in response to the recognition that financial consumers often operate at a significant informational and bargaining disadvantage when engaging with financial institutions. Unlike ordinary commercial transactions, financial services frequently involve complex products, long-term contractual obligations, technical terminology, and risks that may not be readily understood by consumers. In such circumstances, consumers are often reliant on the expertise, disclosures, and representations of financial institutions when making financial decisions. This creates a regulatory need for oversight mechanisms aimed not only at ensuring institutional soundness, but also at governing the manner in which financial institutions design, market, distribute, and administer financial products and services (Financial Stability Board, various reports; IOSCO, Conduct of Business Standards).
- 3.8 Historically, financial regulation focused primarily on prudential supervision, with regulatory attention directed towards ensuring the solvency, liquidity, and operational stability of financial institutions. However, international experience has demonstrated that financially sound institutions may still engage in practices that result in consumer harm, market abuse, reputational damage, and erosion of public trust. Events such as the global financial crisis highlighted the limitations of prudential regulation in the absence of effective conduct supervision, particularly where poor sales practices, unsuitable product recommendations, conflicts of interest, unfair treatment of customers, and inadequate disclosures remained insufficiently addressed within regulatory frameworks (Financial Stability Board, various reports).

- 3.9 As a result, modern financial regulation increasingly recognises market conduct supervision as a distinct regulatory discipline concerned with consumer outcomes, ethical business practices, transparency, institutional culture, and the fair treatment of customers. Contemporary conduct regulation is largely influenced by principles-based and outcomes-focused supervisory models, including the Treating Customers Fairly (“TCF”) framework pioneered in the United Kingdom and subsequently adopted or adapted in several jurisdictions. These approaches emphasise that financial institutions should place fair customer outcomes at the centre of business operations and remain accountable not only for technical compliance with regulatory requirements, but also for the broader impact of their conduct on consumers and market integrity (IAIS, 2019; IOSCO, Conduct of Business Standards).
- 3.10 International standard-setting bodies have similarly advanced the importance of market conduct regulation as a core component of effective financial sector supervision. The International Organization of Securities Commissions (“IOSCO”), the International Association of Insurance Supervisors (“IAIS”), the Organisation for Economic Co-operation and Development (“OECD”), and the World Bank have all developed principles and guidance promoting fair treatment of customers, transparency in financial markets, effective disclosure practices, responsible product governance, management of conflicts of interest, and accessible complaints handling mechanisms. These frameworks recognise that effective consumer protection contributes not only to individual consumer welfare, but also to broader financial stability, market confidence, and sustainable financial sector development.
- 3.11 The growing digitalisation of financial services has further strengthened the need for enhanced market conduct oversight. Digital financial products, automated sales models, embedded finance, mobile-based financial services, and platform-based distribution channels have significantly changed the manner in which consumers interact with financial institutions. While these developments have improved access and convenience, they have also introduced new conduct-related risks involving data privacy, digital disclosures, algorithmic bias, unsuitable automated recommendations, aggressive digital marketing practices, and reduced consumer understanding of financial products. Regulatory frameworks are therefore increasingly required to evolve beyond traditional compliance approaches in order to address emerging conduct risks within rapidly changing financial markets (OECD, 2022).
- 3.12 Within developing and emerging markets, effective market conduct regulation also plays an important role in supporting financial inclusion objectives. Expanding access to financial services without corresponding consumer protection safeguards may expose financially vulnerable consumers to over-indebtedness, exploitation, fraud, or inappropriate financial products. Sustainable financial inclusion therefore depends not only on access to financial services, but also on the existence of regulatory frameworks capable of promoting trust, confidence, transparency, and fair treatment within the financial sector (Alliance for Financial Inclusion, 2020).

- 3.13 In Eswatini, the increasing sophistication of financial products, expansion of non-bank financial institutions, and continued growth of digital financial services have created an environment in which conduct-related risks are becoming increasingly significant. As consumers engage more actively with savings products, insurance products, investment opportunities, retirement funds, digital credit, and other financial services, the need for clearer conduct standards and enhanced oversight mechanisms becomes more pronounced. Strengthening the regulatory approach to market conduct would therefore support broader objectives relating to consumer protection, market integrity, responsible innovation, and long-term confidence in the non-bank financial services sector.

4. PROBLEM STATEMENT

- 4.1 The continued evolution of Eswatini's non-bank financial services sector has increased the need for a regulatory framework capable of addressing conduct-related risks arising from the interaction between financial institutions and consumers. While the sector has experienced growth in product innovation, digital financial services, and consumer participation, the regulatory approach to market conduct has not evolved at the same pace. Existing conduct-related obligations remain dispersed across various legislative instruments, sectoral guidelines, supervisory directives, and licensing conditions, resulting in inconsistent regulatory expectations and uneven consumer protection standards across the sector. The following problems have been identified as critical:

- (a) Inconsistent application of conduct standards across regulated entities - despite operating under the same overarching regulatory authority, non-bank financial institutions apply materially different standards in relation to disclosure, product transparency, customer engagement and treatment of consumers. This inconsistency is most evident in the way long-term savings and credit-linked products are presented to consumers. For example, pension fund members often receive limited upfront information regarding fees, early withdrawal restrictions, and projected benefit values, whereas insurance policyholders are generally provided with comparatively more structured policy documentation. As a result, consumers experience differing levels of transparency, understanding, and protection depending on the type of institution or product involved.
- (b) Mis-selling, weak suitability assessment, and bundled product opacity – a persistent conduct issue within FSRA supervised markets is the weak application of suitability and appropriateness assessments at the point of sale, particularly in insurance, microfinance, and intermediary-driven distribution channels. Consumers are frequently sold products that are not aligned with their income levels, financial literacy, or long-term financial objectives. Credit life insurance, for instance, is routinely bundled with loan products without adequate disclosure of exclusions, coverage limitations, or cost breakdowns. In some cases, consumers only become aware of the effective cost or limitations of the product upon claim rejection or loan settlement. This reflects the absence of a clear and enforceable

framework requiring institutions to place fair customer outcomes at the centre of product design and distribution practices.

- (c) Weak intermediary oversight and inconsistent agent-level conduct - intermediaries and agents play a central role in the distribution of non-bank financial products in Eswatini. While the regulatory framework provides for the licensing and fit-and-proper assessment of intermediaries, and section 54 and section 64 the Insurance Act establishes agency relationships under which insurers remain ultimately accountable for the conduct of their agents, conduct oversight at the point of sale remains largely reliant on internal institutional controls and supervisory interventions after issues arise. As a result, the quality of disclosure, explanation of product features, and customer engagement may vary between intermediaries and agents. Consumers may therefore receive differing levels of information and assistance when purchasing similar products, creating inconsistencies in customer experience and potentially affecting the achievement of fair customer outcomes across the market.
- (d) Recurring consumer complaints and disputes - Information reported by the Office of the Ombudsman for Financial Services (“OFS”) in various Annual Reports reflects recurring consumer concerns relating to delayed benefit payments, disputed withdrawal values, insurance claims, product-related misunderstandings, and other service-related disputes within the non-bank financial services sector. The persistence of similar complaint themes over successive reporting periods suggests that certain conduct-related issues are not isolated incidents but may point to underlying weaknesses in disclosure practices, customer communication, product understanding, or complaints-handling processes within regulated institutions.
- (e) Predominantly reactive supervisory approach - current FSRA market conduct supervision remains largely reactive, relying heavily on consumer complaints and post-transaction disputes to identify conduct failures. This limits FSRA’s ability to detect and address emerging risks such as mis-selling, unfair treatment, inadequate disclosure, and harmful sales practices before consumer harm occurs. As a result, regulatory intervention often takes place after financial loss, disputes, or consumer prejudice has already materialised.
- (f) Misalignment between market evolution and existing conduct regulatory tools - The non-bank financial services sector in Eswatini has grown significantly in scale and complexity, particularly with the expansion of pensions, insurance products, SACCOs, and micro-lending services. However, conduct regulation has not evolved at the same pace as market innovation. Hybrid products combining savings, credit, and insurance features increasingly fall across multiple regulatory categories without corresponding conduct standards governing fair treatment, product suitability, disclosure, and accountability throughout the customer lifecycle. This creates regulatory gaps in the protection of consumers engaging with increasingly complex financial products and distribution models.
- (g) Growing pressure on FSRA’s supervisory capacity due to sector expansion - non-bank financial institutions now represents the dominant portion of Eswatini’s

financial system in terms of both reach and asset base. his growth has resulted in increased complaint volumes, more complex conduct-related disputes, and greater supervisory demands on FSRA. In the absence of a unified market conduct and Treating Customers Fairly framework, supervisory oversight remains fragmented and resource-intensive, limiting regulatory efficiency and consistency across sectors.

- 4.2 Taken together, these challenges demonstrate that the non-bank financial services sector currently operates without a coherent, principles-based market conduct and Treating Customers Fairly framework capable of ensuring consistent conduct standards, fair customer outcomes, and effective consumer protection across all FSRA regulated entities. The current regulatory approach remains fragmented, reactive, and insufficiently outcomes-focused, resulting in uneven consumer experiences and recurring patterns of consumer harm.
- 4.3 The findings of the IMF/World Bank Financial Sector Assessment Program (FSAP) for Eswatini similarly highlighted the need to strengthen market conduct supervision and consumer protection arrangements as part of the broader financial sector regulatory framework (IMF & World Bank, 2024). These circumstances clearly necessitate the development of a comprehensive Market Conduct and Treating Customers Fairly Framework for the sector.

5. OBJECTIVES OF THE POLICY PROPOSAL

- 5.1 To strengthen the regulatory framework governing market conduct within Eswatini's non-bank financial services sector and address existing gaps in consistency, effectiveness, and consumer protection, this policy proposal seeks to;
 - (a) establish a clear and principles-based approach to market conduct regulation grounded in Treating Customers Fairly principles and promoting consistent standards of fairness, transparency, accountability, and ethical conduct across financial institutions;
 - (b) improve the quality of consumer protection and fair customer outcomes by reducing inconsistencies in how financial products are designed, marketed, distributed, and administered throughout the product lifecycle;
 - (c) strengthen regulatory oversight by enabling more proactive, risk-based, and outcomes-focused supervision of conduct-related risks within the non-bank financial services sector;
 - (d) enhance the integrity and efficiency of the financial system by addressing recurring sources of consumer harm and improving trust in financial institutions;
 - (e) ensure that financial institutions place fair treatment of customers at the centre of product governance, sales practices, customer engagement, complaints handling, and post-sale servicing;

- (f) ensure that regulatory approaches remain responsive to developments in financial products, service delivery models, technological innovation, and evolving conduct-related risks within the sector; and
- (g) support the alignment of Eswatini's regulatory framework with relevant international best practices in market conduct supervision, Treating Customers Fairly principles, and consumer protection.

6. STATUS QUO

- 6.1 An effective market conduct and Treating Customers Fairly framework requires a coherent and integrated regulatory structure that is capable of setting consistent behavioural expectations for financial institutions, ensuring uniform consumer protection standards, and enabling proactive supervision of conduct-related risks. In Eswatini's non-bank financial services sector, however, the current regulatory environment reflects a dispersed collection of statutory provisions, licensing conditions, supervisory directives, and sector-specific rules administered by the Authority. While these instruments collectively address aspects of disclosure, governance, and consumer protection, they do not operate as part of a single, unified conduct framework governing how financial institutions are expected to treat customers across the product and service lifecycle.

FSRA's overarching mandate

- 6.2 The Financial Services Regulatory Authority Act, 2010 establishes FSRA as the primary regulator of non-bank financial institutions in Eswatini. Section 4(c) empowers FSRA to promote "the highest standards of conduct of business" within the financial services sector, while section 4(f) extends its mandate to the protection of stakeholders within the industry. In addition, section 46 prescribes the principles of conduct that is expected from financial services providers, thereby providing a statutory foundation for market conduct regulation. Furthermore, section 49 empowers the Authority to develop rules, guidelines, standards and other regulatory instruments necessary to give effect to its regulatory objectives.
- 6.3 Collectively, these provisions provide both the mandate and the regulatory authority necessary to establish a more structured market conduct framework. However, notwithstanding this legislative foundation, the current framework does not provide a comprehensive, cross-sectoral market conduct regime that articulates enforceable standards relating to fair treatment of customers, customer outcomes, product governance and conduct risk management across all FSRA-regulated entities.

Retirement Funds regulatory framework

- 6.4 In the retirement funds sector, the Retirement Funds Act, 2005 and the Retirement Funds Regulations, 2008 govern the conduct of fund trustees, administrators, and service providers. Section 10 of the Act requires management boards to act with "due care, diligence and good faith" and to prioritise the interests of members and beneficiaries. Section 13(4) provides members with the right to inspect fund rules upon request, while

section 31 protects retirement benefits from unlawful reduction, attachment, transfer or execution.

- 6.5 The Regulations further impose requirements relating to governance processes, record-keeping, and administrative management of member funds. These provisions establish important fiduciary and governance safeguards; however, they do not set uniform standards for how retirement funds must communicate with members, assess suitability of benefit options, disclose fees and long-term value impacts, or ensure consistent fair treatment in member-facing decision-making. As a result, member experience and disclosure practices differ significantly across funds.

Insurance Sector

- 6.6 The Insurance Act, 2005 and Insurance Regulations, 2008 provide the primary legal framework governing insurers and insurance intermediaries. Section 72 of the Act empowers the Registrar to make rules relating to policy conditions and the disclosure of information considered material to policyholders. The Act further prohibits practices that may be deemed undesirable or prejudicial to policyholders and beneficiaries.
- 6.7 This framework has been progressively strengthened through the introduction of the Policyholder Protection Rules, 2021, which prescribe requirements relating to disclosure, policyholder communication, policy documentation, claims handling, advertising, complaints resolution and other policyholder protection measures. These requirements are further supported through FSRA licensing conditions, directives and supervisory interventions. Collectively, these measures have contributed to the development of the market conduct environment within the insurance sector. However, the existing framework remains largely rules-based and sector-specific and does not form part of a broader, principles-based market conduct and Treating Customers Fairly framework applicable consistently across all FSRA regulated entities. As a result, conduct expectations and consumer protection standards continue to vary across sectors and product categories.

Securities and Capital Markets

- 6.8 In the securities sector, the Securities Act, 2010 regulates the conduct of licensed market participants. It requires intermediaries to provide accurate and non-misleading information to investors, disclose material risks associated with investment products, and adhere to standards designed to preserve market integrity. It also prohibits manipulative and deceptive market practices. While the provisions are important for investor protection and market stability, they are primarily structured around capital market integrity rather than a broader consumer conduct framework.

Microfinance, SACCO'S and credit related services

- 6.9 Market conduct requirements applicable to microfinance institutions, SACCOs and other credit providers are derived from a combination of the Consumer Credit (Amendment) Act 2021, FSRA licensing requirements, directives and supervisory

measures. The Consumer Credit Act establishes important consumer protection principles aimed at promoting transparency, responsible lending, fair treatment of borrowers and informed decision-making by consumers. These requirements are complemented by regulatory obligations relating to governance, disclosure, complaints handling and reporting. Collectively, these measures provide a significant market conduct foundation within the credit sector. However, implementation remains largely sector-specific and differences continue to exist in areas such as product disclosures, treatment of ancillary products, communication of charges and fees, and consumer engagement practices. As a result, consumer experiences and outcomes may vary across institutions and product offerings.

- 6.10 FSRA has also issued cross-sectoral Fit and Proper Guidelines applicable to directors, principal officers, trustees, and intermediaries, imposing standards relating to honesty, integrity, competence, and financial soundness. While these governance requirements contribute to institutional accountability and sound governance, they do not establish a comprehensive framework governing fair treatment of customers throughout the product lifecycle. Consequently, although market conduct obligations are embedded within various laws, regulations, directives and supervisory instruments, the existing framework remains largely sector-based and fragmented. There is currently no overarching, principles-based Market Conduct and Treating Customers Fairly framework that applies consistently across all non-bank financial services providers and promotes uniform conduct standards and customer outcomes throughout the non-bank financial services sector.

7. INTER-COUNTRY ANALYSIS

The experience of other jurisdictions offers valuable insights for the development of an effective market conduct and consumer protection framework. Several jurisdictions have adopted structured and principles-based approaches to supervising the conduct of financial institutions and promoting the fair treatment of consumers. This section examines Mauritius, South Africa, and Kenya, highlighting key features and regulatory approaches.

Mauritius

- 7.1 Mauritius provides a useful example of a jurisdiction that has adopted a structured and principles-based approach to market conduct supervision within the non-bank financial services sector. The Financial Services Commission of Mauritius (“FSC Mauritius”) recognised the need to strengthen consumer protection and market integrity by addressing how financial institutions interact with consumers throughout the product lifecycle. The Mauritian framework reflects a recognition that conduct risks extend beyond disclosure to include sales practices, product design, transparency of fees and charges, consumer awareness, and the competency of financial service providers. These concerns informed the development of a Fair Market Conduct Programme aimed at promoting fair treatment of consumers while maintaining an appropriate balance between regulatory oversight and market development.



- 7.2 A central feature of the Mauritian approach is the emphasis on embedding a Treating Customers Fairly (“TCF”) culture within regulated entities. Financial service providers are expected to demonstrate how fair treatment principles are integrated across the full customer journey, including product design, promotion, point-of-sale interactions, post-sale engagement, complaints handling, and claims management.
- 7.3 The framework has been implemented through a series of regulatory instruments issued under the Financial Services Act, 2007. These include Competency Standards (2014), aimed at strengthening professionalism and consumer-facing conduct; a Code of Business Conduct applicable to all licensees, establishing overarching standards of ethical behaviour and consumer treatment; and Guidelines for Advertising and Marketing of Financial Products, designed to prevent misleading or deceptive practices and promote balanced disclosure.
- 7.4 FSC Mauritius has also introduced measures to address emerging risks associated with digital financial services, including guidelines governing the issuance of insurance policy documents in digital format. These measures seek to ensure that technological innovation does not compromise transparency, consumer protection, or the integrity of financial transactions. The Mauritian framework is informed by international standards, including the International Association of Insurance Supervisors (“IAIS”) Insurance Core Principles and the International Organization of Securities Commissions (“IOSCO”) principles relating to conduct of business and intermediary oversight. Implementation has been undertaken on a phased basis, allowing for the gradual integration of conduct standards within both supervisory practices and institutional operations.
- 7.5 The Mauritian approach illustrates the role of a structured, principles-based conduct framework in promoting consistent standards of consumer treatment, strengthening institutional accountability, and supporting confidence and integrity within the financial services sector.

South Africa

- 7.6 South Africa provides a well-developed example of a jurisdiction that has adopted a comprehensive and outcomes-based approach to market conduct regulation within the financial sector. Market conduct supervision is primarily led by the Financial Sector Conduct Authority (“FSCA”), supported by a broader legislative and policy framework aimed at strengthening consumer protection, promoting fair treatment, and enhancing confidence in the financial system.
- 7.7 A central pillar of South Africa’s conduct framework is the Treating Customers Fairly (“TCF”) initiative, which was introduced following the National Treasury policy position set out in *A Safer Financial Sector to Serve South Africa Better* (2011). The TCF framework reflects a deliberate shift from a product-centric regulatory approach towards a customer-centric model, requiring financial institutions to consider consumer

outcomes across the entire product lifecycle, including product design, marketing, advice, point-of-sale interactions, and post-sale support.

- 7.8 The introduction of TCF was informed by key structural characteristics of financial markets, including information asymmetry between financial institutions and consumers, the inherent complexity of financial products, and the need for a more coordinated and consistent approach to consumer protection. The framework emphasises the importance of embedding fair treatment principles within institutional governance, culture, business practices, and decision-making processes, rather than relying solely on prescriptive compliance requirements. To support implementation, the FSCA has adopted a supervisory approach that combines principles-based regulation with practical tools, including self-assessment frameworks and supervisory engagement mechanisms. Financial institutions are expected to demonstrate how fair treatment of customers is embedded within their operations and to provide evidence of how consumer outcomes are monitored and achieved in practice.
- 7.9 Building on the TCF framework, South Africa has further sought to strengthen its market conduct regime through the development of the Conduct of Financial Institutions (“CoFI”) Bill. The CoFI Bill is intended to establish a consolidated, comprehensive, and consistent regulatory framework governing the conduct of financial institutions across the sector. It reflects a holistic approach to conduct regulation, addressing governance, institutional culture, product design, disclosure practices, remuneration structures, and the treatment of consumers.
- 7.10 The development of the CoFI framework was informed by persistent conduct-related challenges within the financial sector, including poor governance and control structures, inappropriate incentives, opaque and complex fee structures, inadequate disclosure, mis-selling of financial products, and weak customer outcomes. The framework therefore seeks to address not only compliance failures, but also underlying behavioural and cultural drivers of conduct risk within financial institutions.
- 7.11 The South African approach illustrates the importance of a coordinated and outcomes-focused conduct framework that integrates consumer protection within broader financial sector regulation. It further demonstrates the role of principles-based regulation, supported by supervisory oversight and institutional accountability, in promoting fair consumer outcomes, improving market conduct standards, and strengthening trust and confidence within the financial system.

Kenya

- 7.12 Kenya provides a relevant example of a developing financial market that has progressively strengthened market conduct and consumer protection frameworks in response to rapid financial sector expansion, particularly in digital financial services and mobile-based financial products. The regulatory approach in Kenya reflects a growing

recognition of the need to address conduct-related risks arising from increased financial inclusion, innovation, and consumer participation.

- 7.13 Market conduct oversight in Kenya is undertaken through a multi-regulatory framework involving institutions such as the Central Bank of Kenya (“CBK”), the Capital Markets Authority (“CMA”), and the Insurance Regulatory Authority (“IRA”). While these regulators operate within their respective mandates, there has been increasing emphasis on coordination through platforms such as the Financial Sector Regulators Forum to address cross-cutting consumer protection and conduct issues within the financial sector.
- 7.14 A key driver of market conduct reform in Kenya has been the rapid growth of digital financial services, including mobile money, digital credit, and fintech platforms. While these developments have significantly expanded financial access, they have also introduced new conduct-related risks, including inadequate disclosure, high-cost short-term credit, aggressive digital marketing practices, data privacy concerns, and limited consumer understanding of product terms and conditions. These risks have necessitated targeted regulatory responses aimed at strengthening transparency, responsible lending, and consumer protection.
- 7.15 Kenyan regulators have responded by introducing various measures to strengthen conduct standards across sectors. These include enhanced disclosure requirements, guidelines on digital credit and lending practices, consumer protection provisions within financial sector legislation, and initiatives aimed at improving financial literacy and consumer awareness. In particular, there has been increasing focus on ensuring that consumers receive clear and understandable information, are treated fairly throughout the product lifecycle, and have access to effective complaints handling and redress mechanisms.
- 7.16 In addition, Kenya has emphasised the importance of responsible conduct within digital financial services by introducing regulatory frameworks governing licensing, supervision, and conduct of digital lenders. These measures seek to address risks associated with over-indebtedness, unfair debt collection practices, misuse of consumer data, and inadequate product disclosures, particularly among vulnerable consumer segments.
- 7.17 The Kenyan approach illustrates the challenges and opportunities associated with strengthening market conduct regulation within a rapidly evolving financial sector. It demonstrates the importance of adaptive regulatory frameworks capable of responding to innovation while maintaining appropriate consumer protection safeguards. It further highlights the role of coordinated regulatory oversight, targeted conduct interventions, and financial literacy initiatives in promoting fair treatment of consumers and sustainable financial inclusion.

8. CONCLUSION & RECOMMENDATIONS

- 8.1 Eswatini's non-bank financial services sector has evolved significantly, however the regulatory approach to market conduct has not developed at the same pace. The absence of a structured and outcomes-focused conduct framework has resulted in inconsistent consumer protection standards, uneven supervisory practices, and recurring patterns of consumer harm.
- 8.2 Comparative analysis indicates that jurisdictions such as Mauritius, South Africa, and Kenya have adopted principles-based frameworks grounded in Treating Customers Fairly ("TCF"), embedding fair consumer outcomes across the product lifecycle. In this regard, Eswatini remains relatively behind in establishing a formalised and coordinated approach to market conduct supervision.
- 8.3 The FSRA Act already supports regulatory coordination by providing for information sharing and cooperation between the FSRA and the Central Bank of Eswatini. However, consumer protection and market conduct requirements continue to be developed within separate regulatory frameworks for the banking and non-bank financial sectors. As a result, standards relating to consumer disclosures, complaints handling, customer communication and fair treatment are not always approached through a common framework. Greater alignment in these areas would support more consistent consumer protection outcomes across the financial sector.

Recommendations

- 8.4 The following recommendations are made;
- (a) Develop and implement Market Conduct Rules for the non-bank financial services sector, incorporating TCF principles and clearly defined consumer outcomes across the product lifecycle.
 - (b) Ensure that the Rules establish a comprehensive, principles-based framework governing product design, disclosure, sales practices, intermediary conduct, complaints handling, and post-sale engagement.
 - (c) Draw on international best practices, particularly from South Africa and Mauritius, while ensuring that the framework is appropriately tailored to Eswatini's local market context.
 - (d) Engage with the Central Bank of Eswatini and other stakeholders to promote a consistent and unified approach to financial consumer protection and market conduct supervision.
 - (e) Implement the Market Conduct Rules on a phased basis, supported by industry engagement, capacity building, and appropriate supervisory and enforcement mechanisms.

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