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FSRA
FINANCIAL SERVICES
REGULATORY AUTHORITY

14 March 2024

To all licensed Financial Services Providers

Dear CEOs/POs,

RE: MARKET CONDUCT EXPECTATIONS TO FSPs

Background

1. This letter sets out the Financial Services Regulatory Authority's (Authority/ FSRA) expectations when it comes to market conduct. Market conduct supervision is focused on ensuring that licensed FSPs do not engage in abusive practices to consumers, fostering fair competition in the interest of consumers, and promoting the integrity of the financial system. This is aligned with our mandate as prescribed under Section 4 of the FSRA Act, 2010.

2. The Authority recently issued a letter to all licensed Financial Services Providers (FSPs) in the non-banking sector wherein FSPs were notified of the Authority's organizational redesign. The redesign has culminated in market conduct supervision coming up prominently as a distinct supervisory pillar and department.

3. Market conduct supervision is not a completely new focus area by the Authority. However, it has been realized that due to persistent and pervasive market conduct failures and poor financial consumer outcomes in Eswatini's non-bank sector, there is need to strengthen our regulatory oversight on FSPs activities. Some of the market conduct weaknesses which have resulted in adverse consumer outcomes in the country include weak governance, insider dealing, inappropriate incentives, high and opaque fees for products and services, reckless lending, conflicts of interest, insufficient disclosures etc. These weaknesses have also had a huge impact in the business failures that are currently being experienced in the non-bank sector.

4. Based on the foregoing, the FSRA will be enhancing supervision in this space particularly in trying to protect the vulnerable (retail conduct), but also addressing issues of wholesale conduct (preventing market abuse, insider dealing, issues of conflict of interest etc.), whilst also strengthening our gatekeeping role to ensure that only fit and proper persons hold key positions or are licensed as FSPs.

What the Authority expects from FSPs

5. What the FSRA seeks to achieve are improvements in consumer outcomes in terms of the following.
   a) Price and value
      The Authority expects FSPs to charge fees that are reasonable relevant to the benefits offered for products/ services. The intention of the Authority is not to set prices but will not hesitate to intervene where we determine that consumers are being overcharged for products and services. There is also an increasing concern on lack of full disclosure of fees charged by some FSPs.
   b) Suitable products/ services and customer understanding

The FSRA expects FSPs to have a clear focus on the needs and objectives of their target market(s) and to ensure their products and services remain aligned to consumer's needs, risk profile and circumstances. Therefore, FSPs must not mislead consumers. This includes being transparent and making timely disclosures to consumers which are also easy to understand. For example, disclosure of key terms and conditions, benefits and risks etc.

c) Consumer Support

FSPs are expected to support consumers throughout the product/service life cycle journey. This includes a prompt response to enquiries, having a quick and effective complaints handling mechanism, removing barriers to exit/ switching between products or players etc.

How can these outcomes be achieved?

6. The Authority's expectations are that a FSP should understand conduct risks within its activities and operations to come up with a commensurate conduct risk management framework which is able to mitigate against risks of harm originating from its own behaviors and activities. Key elements to be embedded include the following:

a) *Culture*

The Authority holds the view that culture is the most critical component in an FSP's conduct risk management. This is because to embed good behaviors, an FSP must strengthen its values. This then requires a culture shift to one that is consumer centric and driven by the Board and Senior Management. However, the tone should not only be set at the top but must also include a tone from within. This is because it is one thing to know how Senior Management might respond in a particular situation, but it's another to be clear about how you might respond on your own. The tone from the top set's parameters and expectations, but the tone from within complements it through requiring every employee/ agent to be personally accountable.

b) *Governance*

FSPs with weak governance arrangements can't effectively identify and mitigate risks of harm in their business activities. Effective oversight of how issues are dealt with and by whom is thus very important. This speaks to establishing relevant internal committees, clear responsibilities, etc.

c) *Business Model*

A business model is defined through the collection of processes driving an FSPs operations. This includes customer onboarding, product design, marketing, sales, post sales advice, complaints handling, collections, delivery channels used, as well as customer geographies etc. Based on these it becomes clear that the business model itself can result in adverse consumer outcomes. Therefore, care must be taken in its design so that it doesn't promote risks of harm to consumers.

d) *Conduct Risk Controls*

This includes having policies and procedures in place, collection and analysis of conduct risk data, a management information system, training, an effective market conduct compliance program and auditing, amongst others.

Conclusion

The FSRA emphasizes the need for FSPs to observe the above expectations. However, the Authority is also cognizant that there is no one-size-fit-all approach to manage conduct risk. Therefore, each FSP should develop a conduct risk management program that is commensurate with its operations.

We trust you are guided accordingly and count on you as we continue in the pursuit of the market conduct mandate. FSPs should also bring this letter to the attention of their Board at its next meeting.

Yours faithfully,

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Ncamiso T. Ntshalintshali
CHIEF EXECUTIVE OFFICER