



FOR PROFESSIONALS

SINCE 1941

CONSUMER PROTECTION IN FINANCIAL SERVICES

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CONSUMER PROTECTION IN FINANCIAL SERVICES

THE ROLE OF THE FSB

The FSB is the statutory regulator of the following financial industries in South Africa and carries out its functions in terms of the Financial Services Board Act in the public interest:

- insurance;
- retirement funds;
- financial markets;
- collective investments; and
- financial advisory and intermediary services.

FINANCIAL ADVISORY AND INTERMEDIARY SERVICES ACT (FAIS) SINCE 2004

Designed to ***protect consumers*** of financial products and services
Applies to any provider of financial services and its representatives, any person who gives financial advice or who provides an intermediary service.
Main purpose of FAIS Act is to:

- protect consumers of financial products and services;
- regulate the selling and advice-giving activities of FSP (FSPs);
- ensure that the consumers are provided with adequate information about the financial product they use; and about the people and institutions who sell these financial products. This must be done in a competent and open manner; and
- establish a properly regulated financial services profession

2011: elimination and/or disclosure of conflict of interest (ownership and incentives to brokers) which influences ability to provide objective advice

LONG-TERM INSURANCE ACT

Long-term insurance is insurance that covers life-changing events in life, such as death, retirement and disability

The Act provides for :

- Registration of life companies
- Capital and solvency requirements
- Various policyholder Protection rules
- 2006: reduction of early termination charges and limit upfront commission on investment products



**10 TIPS FOR
CONSUMERS**
WHEN BUYING
INSURANCE POLICIES

DISPUTE RESOLUTION FOR CONSUMERS

- The Ombud for Financial Services Providers (FAIS Ombud)
 - The Pension Funds Adjudicator
 - The Ombudsman for Long-Term Insurance
 - The Ombudsman for Short-Term Insurance
 - Ombudsman for Banking Services
 - Credit Ombud
 - Internal arbitrators
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- Some are statutory, some voluntary
 - Various levels of effectiveness
 - Various levels of buy-in from industry (see SHA's court challenge of FAIS Ombud jurisdiction)
 - Decisions based on equity and fairness, not necessarily the law
 - Low cost alternative for consumers

NATIONAL TREASURY

"A SAFER FINANCIAL SECTOR TO SERVE SOUTH AFRICA BETTER"

3 year plan published in 2011

Introduces a series of legislative changes, many standards to align to commitments agreed to at G-20

4 Policy Priorities

1. Financial stability of financial institutions
2. Consumer Protection and Market Conduct
3. Expanding access through financial inclusion
4. Combatting financial crime

Underpinned by "twin peaks" model for financial regulation (incl. banks)

- Prudential regulation (safety soundness and solvency): Reserve Bank
- Market Conduct Regulation (customer perspectives): FSB

NEW DEVELOPMENTS

CPA AND TREATING CUSTOMERS FAIRLY (TCF)

- Consumer Protection Act: will apply from October 2012 to Long-term and Short-term Insurance Companies
- However TCF aims for a higher standard of consumer protection in financial services

- TCF applies to all FSB regulated entities (from 2013)
- Retail banking services market conduct regulator to be created at FSB
- Follows Financial Services Authority (FSA UK) standard
- Outcomes based approach ensuring fair treatment of customer at all stages of product life cycle
- Encourages firms to re-evaluate company culture and foster attitude of treating customers fairly

THE 6 TCF OUTCOMES

Right culture

- Customers are confident that they are dealing with firms where the fair treatment of customers is central to the firm's culture

Right targeting

- Products and services marketed and sold in the retail market are designed to meet the needs of identified customer groups and are targeted accordingly

Right information

- Customers are given clear information and are kept appropriately informed before, during and after the time of contracting

Right advice

- Where customers receive advice, the advice is suitable and takes account of their circumstances

Right delivery

- Customers are provided with products that perform as firms have led them to expect, and the associated service is both of an acceptable standard and what they have been led to expect

Right post-sale treatment

- Customers do not face unreasonable post-sale barriers to changing of product, switching of provider, submitting a claim or making a complaint

COMING UP

CPA for long-term and short-term insurance

- Exclusion for long and short term insurance expires in 2012
- Industry to fully comply by October

Protection of Personal Information Bill

Broker commission

- Churn/replacement of policies rife
- FSB believes is commission driven
- May fully eliminate upfront commission
- Client has to agree to all commission payment

Ombud system

- Super-ombud for financial services sector considered
- Consolidation of all ombuds schemes

Solvency Assessment and Management (SAM)

- Managing solvency of insurers
- Governance and risk management of life companies
- Alignment to Solvency II (EU standard)

Further changes to Insurance Acts to ensure companies meet obligations to consumers

CONCLUSION

CONSUMER RIGHTS EMERGING IN INSURANCE OVER THE NEXT 3 YEARS

- Right to deal with financial services firms where treating customers fairly is central to the culture of the firm
- Right to access of financial services (incl. micro insurance)
- Right to be full informed of the purchase
- Right to protection of personal information provided to insurer
- Right to receive correct unbiased advice
- Right that product must perform as promised
- Right to free and easy resolution of complaints

Overall consumer right to be treated fairly from product design to claim

THANK YOU