Financial Services Commission
Mauritius
Conduct Regulation
- Regulation for Fair Market Conduct

Presented by Clairette Ah-Hen
Sabrina Gujjalu
Yonesha Sahye
Date: 5 July 2013
Outline

• Welcome and Introduction
  – Statutory Objectives and Strategic Plan
  – Concerns
  – Challenges for Sound Conduct

• Regulatory Focus

• Competency Standards

• Guidelines for Advertisement and Marketing of Financial Products

• Questions
Welcome and Introduction
Statutory Objectives

The Financial Services Commission (the “FSC” or “Commission”) has the responsibility under the Financial Services Act 2007 (“FSA”):

• **5 (1)(b) of the FSA**: To ensure the sound conduct of business in the financial services sector and in the global business sector.

• **6 (c) of the FSA**: To set rules and guidance governing the conduct of business in the financial services sector and of global business.
FSC Strategic Plan (since 2012)
Concerns

• **Importance of conduct**

  **Integrity of markets**
  – Markets and financial systems are sound, stable and resilient with transparent pricing information

  **Protection of consumers.**
  – Consumers get financial services and products that meet their needs

• **Rules and Regulation**

  – Strike the right balance between allowing industry to thrives and ensuring it retains its integrity and delivers what consumers expect from it.
  – Enforcement / disciplinary actions
  – Dialogue with stakeholders
Concerns

• Consumer awareness
  ▪ Limited knowledge and experience of financial products

• Sales and Marketing Practices
  ▪ Misleading advertisement
  ▪ Aggressive marketing

• Lack of transparency
  ▪ Key terms, relevant charges and penalties not clearly disclosed to the consumers
  ▪ Terms not legible and not in plain language

• Fees and Charges
  ▪ Hidden fees

• Lack of Competency
  ▪ Service providers do not meet internationally recommended competency standards
Challenges for sound conduct

• **Innovative & Complex financial products**
  - Financial products are becoming more diversified and complex
  - Financial literacy of consumers must keep pace with innovation

• **Wrongful business conducts**
  - Misselling of financial products
    - Abusive and deceptive business practices by service providers
  - Uninformed investment decisions which led to heavy losses
    - Consumers who invested their savings in high-risks products

• **Financial Scams**
Regulatory Focus

1. International Principles and Standards

2. Products

3. Processes and People
   a. Implementation by firms / companies
   b. Areas to be covered

4. Implementation by FSC
# 1. International Principles and Standards

<table>
<thead>
<tr>
<th>IOSCO</th>
<th>IAIS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Out of 38, 36 Observed and largely observed</td>
<td>Out of 26 ICPs, 8 largely observed and 2 partly observed</td>
</tr>
</tbody>
</table>

**Operators Licensees**

**H 31**
... an internal function ... operational conduct, with the aim of protecting the interests of clients

**H 32**
... to minimize damage and loss to investors

**Intermediaries**

**ICP 18**
- To consider the setting of transparent and specific educational requirements for different classes of intermediaries;

**ICP 19**
- To review and address the approach to ‘fair treatment’ of clients;
2. Products

Fair Market Conduct in every phase of the financial product life cycle = Fair outcomes for consumers
3a. Implementation by firms / companies

• To foster a good TCF culture framework, firms must have:
  – Right Leadership
  – Right Strategies
  – Right Decision Making
  – Right Controls
  – Right Recruitment, Training & Competence
  – Right Rewards and Recognition

• Monitoring
  – Firms to provide evidence that they are treating customers fairly and have embedded TCF in their organisational culture.
3b. Areas to be covered

- Staff training/awareness of ‘Treating Customers Fairly’ - TCF
- Sales and marketing **material**
- Product **understanding**
- Advice and sales **process**
- Fact find and flow of **information** to the client (incl. after-sales)
- **Complaint** handling
- Remuneration / **incentives**
- **Risk assessment** of TCF non-compliance
- **Record** keeping and Management Information
4. Implementation by FSC

1st Phase:-

➢ Introduction of Guidelines and Standards for the better protection of consumers of financial services:

A. Competency Standards

B. Guidelines for Advertising and Marketing of Financial Products
A. Competency Standards
Competency Standards

Application:

- Specific licensees who will need to satisfy competency standards before obtaining a licence:
  
  i. Minimum qualification
  
  ii. Minimum experience
  
  iii. Completion of appropriate regulatory assessment / examination
  
  iv. Professional Development (CPD)

Purpose:

- To ensure better and consistent service level from licensees, to protect consumers and to align the market conduct with international standards and best practices
Competency Standards - Sectors

Phased approach:

1. Insurance
2. Capital Markets
3. Fund Management
4. Global Business
5. Pension
Insurance Sector

Target group: Salespersons, Agents and Brokers

Completed:
- Benchmarking against international principles and best practices
- Assessing the current level of competency of existing licensees

Consultation for the Way Forward
Insurance Sector

Benchmarking with International Standards and Best Practices

- IAIS Standards, ICP 18 Intermediaries
- International Best Practices – Agents and Brokers

<table>
<thead>
<tr>
<th>Standards / Formal process</th>
<th>Canada</th>
<th>South Africa</th>
<th>India</th>
<th>Hong Kong</th>
<th>UK</th>
<th>Singapore</th>
<th>Australia</th>
<th>Mauritius *</th>
</tr>
</thead>
<tbody>
<tr>
<td>Minimum qualification</td>
<td>X</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>Qualifying examination</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>✓</td>
</tr>
<tr>
<td>CPD</td>
<td>✓</td>
<td>✓</td>
<td>X</td>
<td>✓</td>
<td>X</td>
<td>✓</td>
<td>X</td>
<td>✓</td>
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* Training by insurers and Assessment at licensing / approval stage by FSC
Insurance Sector

Assessing the Current Level of Competency

Target Group: Salespersons, Agents and Brokers

Key Findings:

- **Qualification**: Salespersons/Agents – School Certificate, Brokers – Graduate/Professional Qualification

- **Experience**: Most Salespersons - No prior working experience, Agents and Brokers – Prior working experience

- **Training**: Salespersons/Agents – In-house training provided
Way Forward – In Progress

Implementation of competency standards
- Consultation with the industry
- Transitional arrangement for existing licensees
- Extended to licensees in other sectors
B. Products
Treating Customers Fairly (TCF)

Inspired by ASIC’s document
Fair treatment throughout the financial product life cycle

New Design Product
- Products designed to meet customers’ needs
- Fair contract terms
- Equitable fees and charges
- Plain language
- Disclosure requirements

Promotion of product or service
- Information given are timely, clear, accurate & comparable
- Marketing materials are clear & not misleading
- Products are sold are suitable to customers

Information after point of sale
- Service support available to deal with enquiries promptly
- Sufficient notice given on renewal/expiry of contract

Complaints and claims handling
- Easily accessible compliant handling process
- Complaints are addressed in equitable, objective and timely manner
Fair treatment throughout the financial product life cycle

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Guidelines for Advertising and Marketing of Financial Products

About the Guidelines:

➢ The Guidelines set out the proposals of the Commission on good practice guidance to assist Promoters of financial products comply with their statutory obligations to give clear, accurate and balanced information when advertising and marketing of financial products.

Launch of the Consultation Process:

➢ The purpose is to seek the views from participants to the presentation and public in general on our proposed Guidelines.
Outline of the Guidelines

Objective:
- To promote responsible, ethical and professional conduct among persons who are involved in the chain of advertising and marketing of financial products, directed at consumers of financial services in Mauritius

Applicability:
- To promoters of financial products offered in Mauritius; and
- To all forms of advertisements.
Advertisements mean:

i. commercial and promotional materials communicated through any medium and in any form, including:
   - magazines and newspapers, radio and television, outdoor advertising
   - the internet;
   - product brochures and promotional fact sheets;
   - direct mail (e.g. by post, facsimile or email);
   - telemarketing activities; and
   - seminars and presentations to groups of people.

ii. used for the marketing or promotion of financial products to consumers in Mauritius; and

iii. which are distributed through any medium.
The Guidelines

Promoters mean:

- any person licensed, authorised or approved under the relevant Acts to carry out or provide any financial services which require a licence, approval, authorisation or registration under the relevant Acts.
Financial Products:

- include facilities through which, or through the acquisition of which, a person does one or more of the following:
  - makes a financial investment;
  - manages financial risk;
  - makes non cash payments;
  - and it includes financial services.
The Guidelines

Coverage of the Guidelines:

- General Principles/ Words and Layout:
  - Use of certain terms and phrases;
  - Returns, benefits and risks;
  - The advertisement’s target audience; and
  - Consistency with disclosure documents

- Performance information;

- Warning disclosures;

- Cold Calls;

- Internet advertisement.
Duties of Promoters:

- To act responsibly, with honesty, fairness, integrity and professionalism;
- Not cause misrepresentations regarding:
  - i. his own credentials or that of the financial products which he represents;
  - ii. the nature or characteristics of the financial products offered; and
  - iii. previous performances of the financial products he is marketing.
## Process and Timeframe

<table>
<thead>
<tr>
<th>Process</th>
<th>Time Frame</th>
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<tbody>
<tr>
<td>Presentation of the Guidelines</td>
<td>5\textsuperscript{th} July 2013</td>
</tr>
<tr>
<td>Deadline for submission of comments on the Guidelines</td>
<td>By 26\textsuperscript{th} July 2013</td>
</tr>
<tr>
<td>Setting up and meeting of the Consultative Committee to discuss comments received</td>
<td>By 30\textsuperscript{th} August 2013</td>
</tr>
<tr>
<td>Release of the Guidelines</td>
<td>By 30\textsuperscript{th} October 2013</td>
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Feedback and Comments

You are invited to submit your views and comments to the Commission by **26 July 2013**:

*By email:*

[advertising.dialogue@fscmauritius.org](mailto:advertising.dialogue@fscmauritius.org)
Any Questions
THANK YOU
FOR YOUR KIND ATTENTION

Vision

“To be an internationally recognised Financial Supervisor committed to the sustained development of Mauritius as a sound and competitive Financial Services Centre”
Financial Services Commission
Mauritius

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