

# Dashboard

## Legal Updates

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### The FSCA has issued draft minimum standards for a financial institution if it provides financial education initiatives

#### **Draft general FSCA Conduct Standard - requirements for financial institutions providing *financial education* initiatives.**

The Financial Sector Conduct Authority (FSCA) has issued this draft Conduct Standard for comment. The aim is to set minimum standards and requirements for any financial institution that is providing financial education for its customers.

Conduct Standards are law and must be complied with.

#### **What is the aim of regulating financial education according to the FSCA?**

The FSCA states that data gathered over the last decade provides strong evidence of persistent low levels of financial literacy in South Africa and, in some instances, declining financial literacy levels of consumers. Financial education initiatives can influence customer's financial decisions and well-being. The FSCA notes the following aims:

- The protection of financial customers by providing them with financial education initiatives that promote financial education and literacy and the ability of financial customers to make sound financial decisions about their personal finances, as well as the financial health of their small businesses.
- That financial education initiatives, or other activities promoting financial education and literacy are appropriate to achieve the intended outcome in a).
- That a financial institution providing financial education initiatives takes reasonable steps to ensure appropriate standards of behaviour, governance and oversight when developing content, implementing, monitoring, evaluating, and reporting on the effectiveness, efficiency, and appropriateness of financial education initiatives, including reporting to the FSCA.

#### **Who does the Conduct Standard apply to?**

It is intended to apply to all financial institutions, including retirement funds, administrators, and financial services providers. It would come into effect nine months after the date of publication.

The requirements may be applied in a proportional manner considering the nature, size, complexity, target market and risk profile of the relevant financial institution.

## What is classified as financial education?

The FSCA defines financial education as “the process by which financial customers improve their understanding of financial products, concepts and risk and, through information, instruction and / or objective advice, develop the skills and confidence to become more aware of financial risks and opportunities, to make informed choices, to know where to go for help, and to take other effective actions to improve their financial well-being”.

## From the draft Conduct Standard, we can ascertain that the minimum standards and requirements would apply where:

- A financial institution, or a service provider<sup>1</sup> on its behalf,
- Offers a financial education initiative - any financial education programme, or other activity promoting “financial education” or literacy,
- To financial customers.

## At this early stage of the draft Conduct Standard's progress through consultation, there are still many questions, such as:

- How is it intended to apply to retirement funds?
- Is it intended to apply to training/ communication/ booklets on a specific product or a specific retirement fund’s benefits?
- What is intended by a “financial concept”? For example, if a retirement fund communicates about new regulatory or legislative developments, is this a financial concept and covered by the Conduct Standard?
- Is retirement benefit counselling a financial education initiative?
- It is not clear whether it is intended for the minimum standards and requirements to apply to customers who are not natural persons, or which are not small enterprises.

## Some of the instances the Conduct Standard could possibly apply (as currently worded) in a retirement fund context are:

- Certain training or communication by retirement funds of members.
- Training by administrators of participating employers in funds, trustees or members.
- Training by fund consultants of fund members.

## The financial institution is accountable, even if it appoints a service provider

It is clear from the draft Conduct Standard that it is the financial institution that is accountable for complying with the minimum standards and requirements. Even if a financial institution appoints a service provider to provide the financial education initiative for it, the financial institutions must comply with and ensure the service provider complies with the standards and requirements.

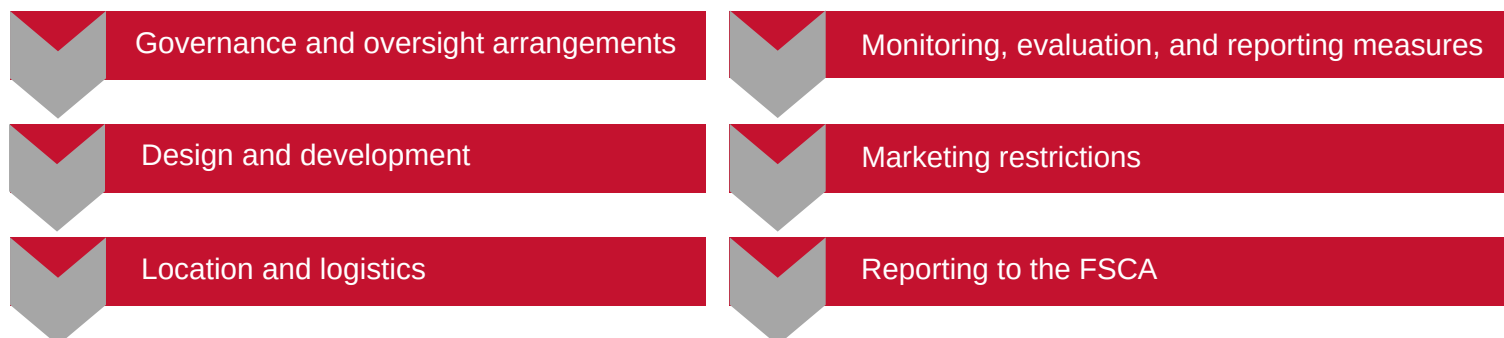
Where a financial institution appoints a service provider to offer financial education initiatives on its behalf, the financial institution must:

<sup>1</sup>Section 83(4) of the Promotion of Access to Information Act: For the purpose of the annual report referred to in section 84 and if so requested by the Information Regulator, the head of a private body may furnish to that Commission information about requests for access to records of the body.

<sup>2</sup>See section 84 of the Promotion of Access to Information Act.

- Ensure the effectiveness of the initiatives.
- Monitor the output to ensure the financial education initiatives are appropriate and effective.
- Ensure that the external service provider is appropriately and suitably skilled, equipped and knowledgeable.
- Monitor the service provider to ensure that they perform their service efficiently, effectively and in alignment with the Conduct Standard; and
- Have a service level agreement in place.

### The draft Standard covers the following minimum standards and requirements:



#### Governance and oversight arrangements

- A financial institution must establish and implement appropriate oversight arrangements to monitor and review the design, suitability, and effectiveness of its financial education initiatives on an ongoing basis.
- Systems, processes, policies, and controls must be in place to ensure appropriate reporting on financial education initiatives to the FSCA, and
- Employees who are responsible for the design and implementation of financial education initiatives must possess the necessary skills, knowledge, and expertise to fulfil their functions.

#### Design and development

Any delivery platform may be used, provided it is appropriate for the type of financial education initiative and the identified target groups, to ensure appropriate and effective reach.

The content of a financial education initiative provided by a financial institution must:

- Be based on objective and impartial information, generally accepted methodologies, research, and trends.
- Not be prescriptive and must be targeted appropriately at the appropriate target group.
- Be distinct from any brand specific financial product or financial service or marketing campaign.
- Be brand agnostic, but may deal with different financial concepts and terms related to a financial product or financial services.

#### Location and logistics

- Regardless of whether the financial education initiatives are provided face-to-face or virtually, the location or platform must be appropriate to ensure that the financial education initiative is effective.
- Contingency plans for unforeseen circumstances must be considered, e.g. load shedding.

## Measurable

The outcomes of financial education initiatives must be measurable, to demonstrate effectiveness and measure impact. This requires financial institutions to identify, monitor and report on outcomes.

## Monitoring and evaluation

A financial institution must monitor and evaluate each financial education initiative to:

- Assess its effectiveness.
- Identify areas for improvement.
- Collect data, which can be used to promote programme success, encourage positive customer behaviour, influence desired behavioural changes and contribute to long term skills development.

## Marketing restriction

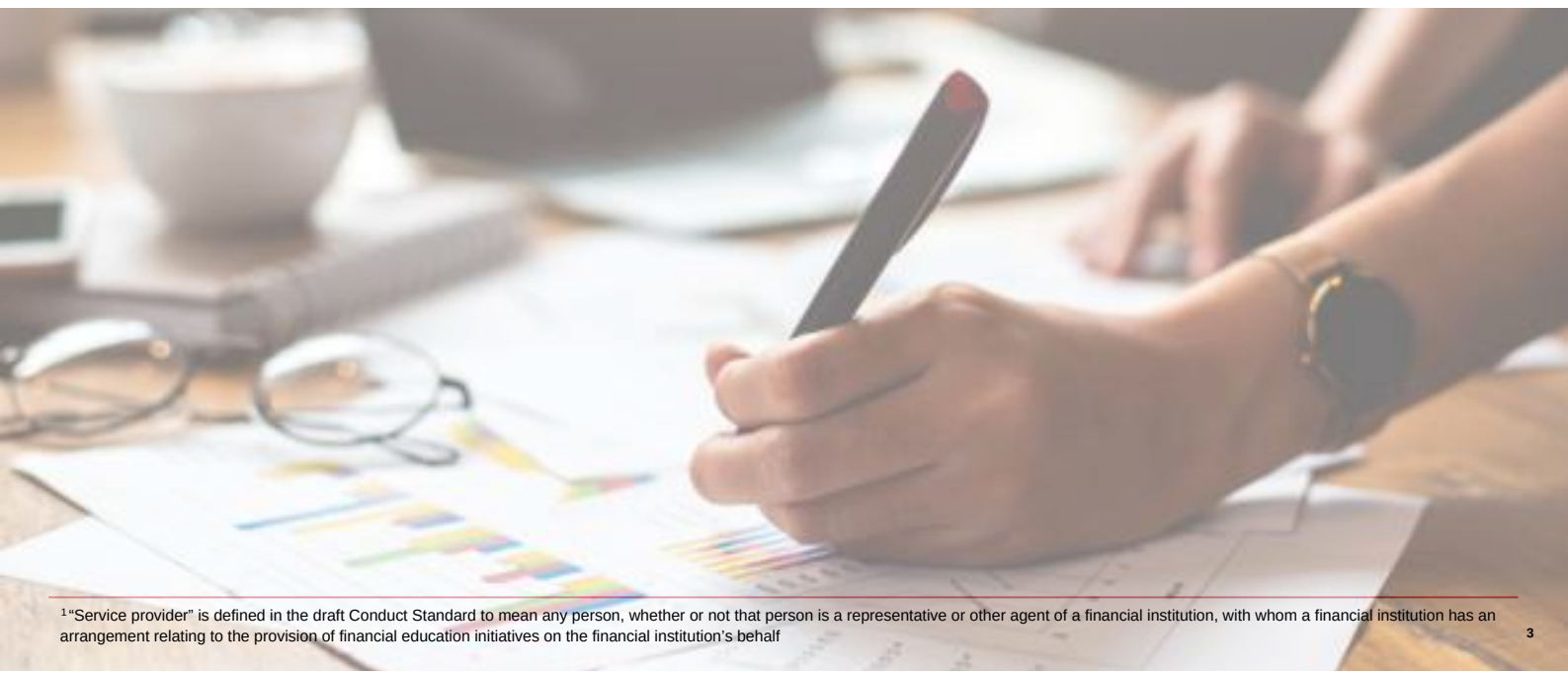
Financial institutions currently use various methods of design and development for financial education activities. The FSCA is of the view that this sometimes leads to marketing principles and interventions being used under the guise of education.

Thus, a financial institution may not use a financial education initiative for:

- Excessive marketing of a specific brand or financial institution, to the extent that it overwhelms the educational content, or
- Marketing of a financial product or financial service.

## Reporting to the FSCA

The FSCA has not included the specific reporting requirements in the draft Conduct Standard. Instead, it has made allowance for notice on its website, at a later date, setting out the medium, form, manner, content and intervals for reporting information required to demonstrate adherence to the Conduct Standard. No doubt the reporting requirements will relate to the minimum standards and requirements. Financial Institutions may see an Information Request from the FSCA later this year requesting information about financial education initiatives. Replying to an Information Request is compulsory.



<sup>1</sup>“Service provider” is defined in the draft Conduct Standard to mean any person, whether or not that person is a representative or other agent of a financial institution, with whom a financial institution has an arrangement relating to the provision of financial education initiatives on the financial institution’s behalf



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