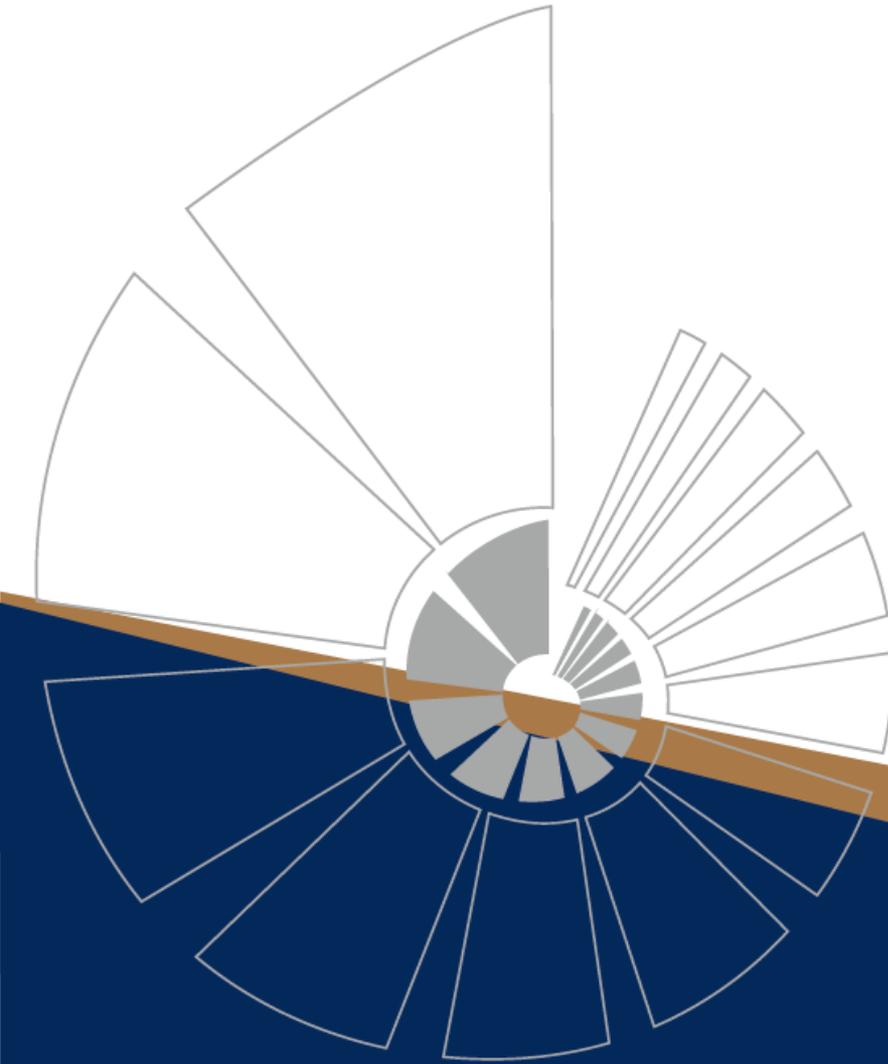




FSR BILL – ISSUES IMPACTING THE FSB/FSCA

**SCOF PRESENTATION
25 NOVEMBER 2015**





Twin Peaks – in brief

A new financial regulatory architecture structured around 'objectives' of financial regulation and supervision rather than an 'industry silos' approach

Rationale:

- Incorporates lessons from financial crisis
- Judged particularly relevant for SA:
 - Prominence of financial conglomerates
 - Financial stability enhanced through role of SARB
 - **Allows for dedicated focus on market conduct issues**



Twin Peaks

MARKET CONDUCT

Conduct of Business

Market Integrity

Consumer Education

FSCA

PRUDENTIAL

Banking

Insurance

Financial
Conglomerates

PA

FINANCIAL STABILITY

Financial Stability
Oversight Committee

Financial Market
Infrastructure

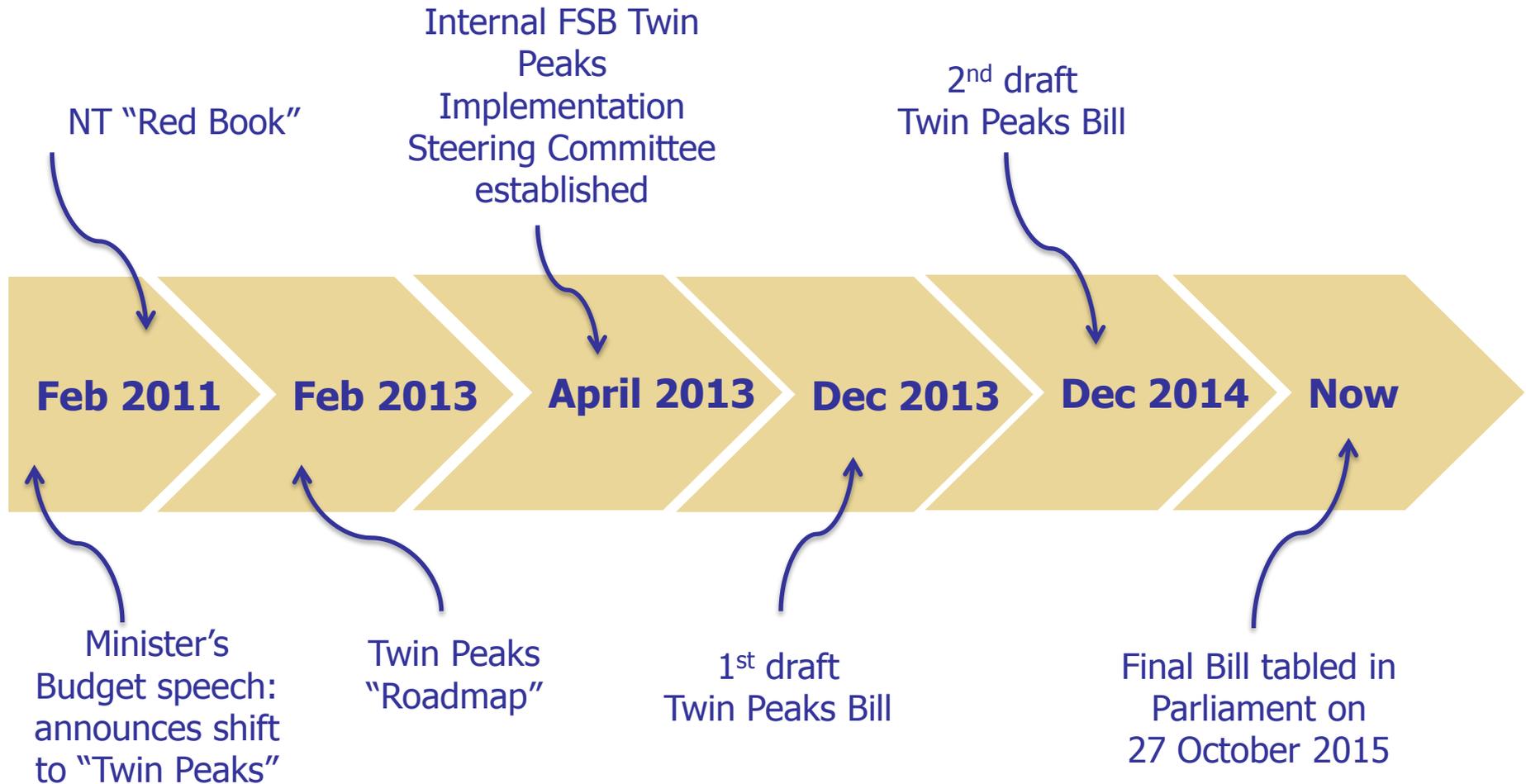
Resolution Authority

SARB





Twin Peaks timelines





FSCA Objectives

The objective of the Financial Sector Conduct Authority is to—

- (a) enhance and support the efficiency and integrity of the financial system; and
- (b) protect financial customers by—
 - (i) promoting fair treatment of financial customers by financial institutions; and
 - (ii) providing financial customers and potential financial customers with financial education programs, and otherwise promoting financial literacy and the ability of financial customers and potential financial customers to make sound financial decisions; and
- (c) assist in maintaining financial stability.



FSCA Functions

In order to achieve its objectives, the FSCA must –

- regulate and supervise the conduct of financial institutions;
- co-operate with, and assist, the SARB, FSOC, PA, NCR and CMS;
- promote sustainable competition in the provision of financial products and financial services, including through co-operating and collaborating with the Competition Commission;
- promote financial inclusion;
- regularly review the perimeter and scope of financial sector regulation, and take steps to mitigate risks to the achievement of its objectives;
- administer the collection of levies;
- conduct and publish research relevant to its objectives;
- monitor the extent to which the financial system is delivering fair outcomes for financial customers; and
- formulate and implement strategies and programs for financial education.



FSCA Functions (cont.)

In performing its functions, the FSCA must also:

- co-ordinate on the demarcation of scope of regulation/supervision with the NCR;
- take into account the need for a primarily pre-emptive, outcomes focused and risk-based approach;
- have regard to international regulatory and supervisory standards, but taking into account local circumstances; and
- perform its functions without fear, favour or prejudice.



Co-operation & collaboration

- The FSCA, PA, NCR, FIC & SARB must co-operate and collaborate when performing their functions, including —
 - generally assisting and supporting each other;
 - striving to adopt consistent regulatory strategies;
 - co-ordinating actions in relation to—
 - standards and other regulatory instruments;
 - licensing;
 - supervisory on-site inspections and investigations;
 - enforcement;
 - information sharing;
 - recovery and resolution; and
 - reporting by financial institutions;
 - minimising duplication of effort and expense, including common or shared databases and other facilities; and
 - agreeing on attendance at relevant international forums and developing, to the extent appropriate, consistent policy positions.



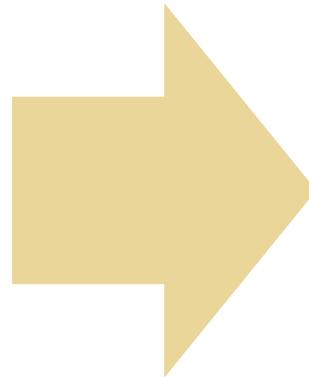
Co-operation & collaboration (cont.)

- Mechanisms to enforce co-operation & collaboration –
 - Reporting to the relevant Cabinet members
 - Entering into one or more MoU's
 - Discussions through the Financial System Council of Regulators
 - Oversight by Financial Sector Inter-Ministerial Council, incl. power to:
 - make recommendations to amend legislation to ensure equivalent protection to the Consumer Protection Act
 - require an independent evaluation of the effectiveness of co-operation and collaboration between financial regulators
 - Participation in the Financial Stability Oversight Committee (FSOC) to support SARB in its functions in relation to financial stability



Regulatory paradigm shift

- Backward-looking
- Compliance-based
- “One-size-fits-all”
- “Silo” approach



- Forward-looking
- Pre-emptive and proactive
- Outcomes-based
- Risk-based and proportionate
- Comprehensive and consistent
- Intensive and intrusive...

National Treasury, February 2011

“A safer financial sector to serve South Africa better”



Conduct of business

Forward-looking

- FSCA / firms to identify future conduct risks
- Market and consumer research

Pre-emptive and proactive

- Not just responding to complaints
- On-site visits, thematic reviews, off-site reporting, mystery shopping
- Addressing risks at source (culture, governance, structural interventions)

Outcomes focused

- Firms to demonstrate delivery of TCF outcomes
- On-site / off-site testing of TCF commitment
- Testing TCF in complaints handling

Risk-based and proportionate

- Tiered regulatory framework based on risks to customer outcomes

Comprehensive and consistent

- Expanding scope of conduct supervision
- Cross-cutting activity-based focus areas
- Consolidated legislative framework

Intensive and intrusive

- Build up a centralised “conduct profile” of entities & groups
- Visible enforcement



Activity-based focus areas

Culture and governance

Product value

Unfair contract terms

Misleading advertising/marketing

Ineffective disclosure

Conflicted advice

Poor claims handling

Poor complaints handling

Empowered customers

Testing outcomes, rather than compliance 'tick-box'

Rebalancing of responsibilities:
Increased scrutiny of the way firms develop products;
Product provider oversight of chosen distribution channel

Fair outcomes can be achieved in different ways, through emphasising different TCF elements



Implications for FSCA

- ❑ Centralised capacity along ‘functional’ lines
 - Regulatory framework (standard setting), licensing; supervision; and enforcement functions organised centrally to ensure consistency
- ❑ IT system support to drive efficiency
 - Information system upgrades to support efficient business processes and to enable analysis and identification of risks
- ❑ Skills development to drive ‘judgment-based’ supervision
 - Outcomes focused approach requires supervisory judgment
 - Need specialist support teams and skills development
- ❑ Enhanced checks and balances
 - Expanded powers and ‘judgment-based’ approach require a robust system of review for consistency of regulatory decisions
- ❑ Robust mechanisms for consultation and cooperation
 - Stakeholder consultation on standard setting
 - Coordination with other regulators



Transition to FSCA

- Oversight by FSB Regulatory Strategy Committee (RSC)
 - FSCA transition programme management
 - Organisational design for FSCA
 - Regulatory strategy for FSCA
- Organisational design
 - Independent international and local expert input
 - Guided by key design principles – including new regulatory approach and extended scope of regulatory functions
 - Functional design is informing organisational structure, operating model, business processes re-engineering, culture, change management
- Regulatory strategy
 - Informed by market conduct policy priorities & stakeholder consultation
- Phasing of transition



Questions?