



REGULATORY

Mind the Conduct: A Guide to COFI – Part 4: Principles and Conduct Requirements

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Introduction

In this article series, we take a deep dive into the South African Conduct of Financial Institutions (COFI) Bill – a major financial sector regulatory reform – one theme at a time.

COFI was drafted in conjunction with the Financial Sector Regulation Act (FSRA), the two pillars of the Twin Peaks regulatory reform. The Twin Peaks regulatory reform is a response to financial system weaknesses identified by the 2008 Global Financial Crisis, such as the systemic risks of large insurers and inappropriate market conduct practices.

The FSRA has already been implemented. The FSRA introduced the Twin Peaks regulatory framework, bringing into existence two regulators for the industry. The first regulator is the Prudential Authority (PA) responsible for the prudential regulation of financial institutions, while the second is the Financial Sector Conduct Authority (FSCA) responsible for regulating market conduct.

COFI represents a major overhaul of how financial institutions will be regulated in South Africa. Currently, different financial institutions are regulated by different legislation. COFI will involve shifting to a harmonised, principles-based conduct regime focused on customer outcomes, transparency and inclusion. COFI also provides for a single licensing and supervision framework and stronger enforcement and standards across the financial sector. Its implementation will unfold over several years and reshape regulatory expectations for financial institutions and consumers alike.

National Treasury has indicated that COFI will be finalised in 2026. COFI has recently been adopted by Cabinet for submission to Parliament.

Principles and Conduct Requirements: Part 4

In our previous articles, we examined the [Purpose and Application of COFI](#), the [Licensing Framework](#) and [Consumer Protection and Transparency](#) under COFI. In this article, we consider the conduct requirements introduced by COFI, which form the core of the new market conduct regime.

A shift to outcomes-based regulation

COFI represents a decisive move away from detailed, rules-based regulation towards a principles-and outcomes-based framework. Rather than prescribing exhaustive requirements for each sector, COFI establishes overarching conduct principles that apply across all financial institutions.

At the centre of this framework is the expectation that financial institutions must deliver fair outcomes for financial customers. This reflects the long-standing “Treating Customers Fairly” (TCF) approach, embedded into primary legislation.

Financial institutions will be required not only to comply with specific rules, but to demonstrate that their business models, products and distribution practices consistently result in fair customer outcomes.

While the conduct framework under COFI is conceptually coherent, it raises a number of practical challenges. The concern most commonly raised is that the shift to an outcomes-based model introduces interpretive uncertainty. Unlike a rules-based framework, which provides prescriptive requirements and clearer compliance benchmarks, an outcomes-based approach requires financial institutions to exercise judgment in determining what constitutes “fair outcomes” in a wide range of contexts. This creates challenges in both designing compliant processes and evidencing compliance to the regulator. Institutions may struggle to assess whether their product design, distribution strategies, pricing models and customer communications meet the required standard, particularly where customer outcomes may vary across different segments.

Conduct standards and regulatory flexibility

A key feature of COFI is the expanded role of the FSCA in issuing conduct standards. These standards will provide more detailed, activity-specific requirements that sit beneath the primary legislation.

This approach allows the regulatory framework to evolve over time, enabling the FSCA to respond more quickly to emerging risks, new products and market developments without requiring legislative amendment.

However, this flexibility also introduces a degree of regulatory uncertainty, particularly in the early stages of implementation, as much of the practical detail will be contained in future conduct standards rather than in COFI. In addition, the lack of early guidance increases the risk of inconsistent interpretation across the industry, potentially leading to uneven application of the law and retrospective regulatory scrutiny once conduct standards and supervisory expectations become more clearly defined.

Core conduct principles

COFI introduces a set of high-level conduct principles that apply across the financial sector, including acting honestly, fairly, and with due skill, care and diligence; avoiding conflicts of interest; ensuring that customers are provided with clear, appropriate and timely information; and design and distribution of financial products in a manner that is appropriate for the target market. These principles are deliberately broad and are intended to apply across a wide range of business models and activities.

Product life cycle

COFI places significant emphasis on product governance and oversight. Financial institutions will be required to ensure that (a) products are designed with a clearly identified target market; (b) distribution strategies are aligned to that target market; and (c) products continue to perform as expected over their lifecycle.

This represents a shift from a disclosure-based regime to one that scrutinises the entire product lifecycle, from design through to post-sale monitoring.

Conduct culture

COFI is focused on conduct culture within institutions. Boards and senior management will be expected to take responsibility for embedding a culture that prioritises fair customer outcomes.

This reflects a broader regulatory trend towards holding senior individuals accountable for the conduct of the institutions they manage.

Practical implications

COFI's conduct requirements will require financial institutions to move beyond a tick-box compliance approach and towards a more holistic, outcomes-focused model.

In preparation, institutions should consider reviewing their product governance frameworks, assessing how customer outcomes are currently measured and monitored, strengthening conduct risk management processes and embedding conduct considerations into decision-making at all levels of the organisation.

Ultimately, COFI signals a shift towards a regulatory regime in which *it is not only what you do that counts, but how you behave while doing it and how it lands with consumers.*



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