# MARKET CONDUCT REGULATION

CENFRI / WORLD BANK BRAZILIAN REGULATOR STUDY TOUR –

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**Financial Services Board**

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# What is understood by Market Conduct ?

- Governs the relationship between the product provider / services provider and clients
- Includes governance and internal controls that influence the way providers interact with clients
- Objective is confident, informed and empowered clients

# Background to evolvement of market conduct as a distinct regulatory focus area

- Distinguish from prudential regulation
- Middle 1990's – consumer protection measures in legislation deemed inadequate
- Financial consumer education / financial literacy
- UK Financial Services Authority

# Market Conduct & Consumer Protection

Three avenues to achieve consumer protection through regulation:

a) Appropriate policy and regulation (both prudential and market conduct) competition laws and effective ongoing supervision

b) Effective enforcement measures (both judical and administrative processes)

c) Self-regulatory approach

# Market conduct regulation by the Financial Services Board

1. Policy holder protection rules (Insurance Acts)

2. Financial Advisory and Intermediary Services Act, 2002 (FAIS Act)

   2.1 conduct of engagement rules
   2.2 fit and proper requirements
   2.3 disclosures and conflicts of interests

FAIS states that a provider must render services honestly, fairly, with due skill, care and diligence, and in the interest of clients and the integrity of the financial services industry.

3. CISCA and other laws administered by the FSB

FSB

# Treating customers fairly (TCF)

**Pillars**

1. Embedding fair treatment of customers in the governance framework of the financial institution
2. Developing products that are equitable and appropriate for the target market
3. Selling and advising in a responsible way, in terms of a needs analysis
4. Providing adequate after sales service
5. Ensuring product performance meets customers fair expectations
6. Complaints handling and resolution

# Treating customers fairly (TCF)

**Outcomes**

1. Consumers can be confident that they are dealing with firms where the fair treatment of customers is central to the corporate culture. This is a cultural issue that must be driven from the top and requires commitment from senior management.

2. Products and services marketed and sold in the retail market are designed to meet the needs of identified consumer groups and are targeted accordingly. Hedge funds ?

3. Consumers are provided with clear information and are kept appropriately informed before, during and after the point of sale.

   A provider must communicate information to clients in a way that is clear, fair and not misleading.

# Treating customers fairly (TCF) (cont)

**<u>Outcomes</u> (continued)**

4. Where consumers receive advice, the advice is suitable and takes account of their circumstances. A provider must ensure the suitability of its advice and discretionary decisions for all clients and where a client has obtained a recommendation, the advice must reflect the needs, priorities and circumstances of the client.

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

# Treating customers fairly (TCF) (cont)

**<u>Outcomes</u> (continued)**

5. A provider must make it clear to the client about what product or service is being provided and the range of possible results the client may expect. For products which involve market risk for the buyer, there needs to be clarity about the possible impact of, for example, stock market movements; for general insurance, clarity about exclusions and therefore likelikhood of being able to claim.

   The provider must also, once the client has acquired the product, ensure that his / her level of service is acceptable (e.g. no undue delays) and certainly no different from that actually offered.

# Treating customers fairly (TCF) (cont)

**<u>Outcomes</u> (continued)**

6. Consumers do not face unreasonable post-sale barriers imposed by firms to change products, switch providers, submit a claim or make a complaint. Clients should be able to change products or switch providers without incurring excessive penalties or having other unreasonable hurdles on clients when claiming or laying a complaint.

# ANY QUESTIONS ?