QUESTIONS: GENERAL

1. As a registered Financial Service provider one could hardly be compliant or fit and proper and not treat customers fairly particularly as regards ADVICE (as defined in FAIS COC Point 8 (1) a & b) and the qualification necessary prior to giving advice.

Answer:
- TCF & FAIS are complementary
- TCF applies throughout the life cycle of a product and across value chains, which makes it more holistic than the FAIS standards
- If an FSP really (not just pay lip service to it) “gets” both the letter and spirit of the FAIS standards then TCF will most probably take little effort on their side HOWEVER do not disregard TCF – TCF will still need attention as you will need to be able to demonstrate your delivering of the six TCF outcomes.
- Importantly, FAIS is focused to a large degree on TCF Outcome 4. Intermediaries need to think carefully about how they can play their part in supporting delivery of the other TCF Outcomes.

2. Would it then be fair to say that TCF carries a lot of (confusing) duplication?

Answer:
- No, not at all. There are no principle conflicts between TCF and FAIS.
- Please refer to the answer of question 1 above bearing in mind that the TCF outcomes and FAIS Act are complementary to each other.
- In as far as their might be some duplication, the ultimate intention is to create a holistic, co-ordinated and consistent financial consumer protection regulatory framework that will apply to all regulated entities. This may require revision of some detail aspects of the current FAIS framework to ensure alignment.

3. On this basis – who is TCF really aimed at to the extent that it was necessary to document it against the background of all recent other legislative/regulatory introductions? What is expected to occur (that the CPA, NCA and FAIS etc) would not achieve?

Answer:
- It should be noted that the CPA and NCA does not fall within the mandate of the FSB.
- FAIS finds focussed application whereas TCF is applicable to all role players in the value chain throughout the full life cycle of the product.
- TCF comprises a set of overarching standards that are being used to inform the development of the overall regulatory framework in a consistent way.

4. Banks and their charges and the concept of securitization are hardly TCF. What is your understanding and comment in this regard?

Answer:
- The FSB’s current mandate does not include the banking activities of Banks and as such this aspect will only be looked at in the future after the implementation of the Twin Peaks Regulatory approach. However, we can confirm that the banking industry is already involved in various TCF related forums and initiatives of the FSB, in anticipation of having their conduct regulated by the FSB in future.
5. Is a formal written TCF policy required at retail level and could you suggest the possible content required?

**Answer:**
- There is no insistence on a specific TCF policy. The focus will be on demonstrating what has been done by an FSP from a TCF perspective. The content, which ever route it takes, will be the Outcomes as they apply to the business model of the FSP.

6. Reference is made to a regulatory framework (e.g. motor retail) within which we are expected to operate. Can you elaborate please?

**Answer:**
- The TCF Regulatory Framework Steering Committee consists of representatives from various role players in industry, Ombud's Offices, National Treasury as well as industry bodies. This Committee has carried out a detailed regulatory gap analysis, which is being used to identify the need for future regulatory changes to support TCF. Full consultation will take place, both through this Committee and more broadly, as and when any specific regulatory changes are proposed.

7. What is a NON public TCF report and what is expected by way of content?

**Answer:**
- Non-public reports will be reports made only to the FSB. The format of these reports is still being developed. In the case of long-term and short-term insurers, consultation with industry is already taking place on the format of proposed new “Conduct of Business” statutory returns.

8. Is TCF a requirement of a compliance audit given that FSB is common to both?

**Answer:**
- Yes – however take care as TCF is not a “tick box” function. TCF will eventually infiltrate everything the FSB will do (market conduct)

9. The Ombud will ensure resolution of TCF failings. What criteria are envisaged by which this interpretation will be decided upon? (as applicable to motor retail)

**Answer:**
- The FSBB has already started engaging with the various voluntary Ombuds, who have agreed in principle to incorporate the TCF outcomes in their determinations as part of their equity mandate. The National Treasury is in the process of reviewing the future regulatory framework for financial services Ombud schemes more generally, as part of the overarching review of legislation under Twin Peaks. The intention is to ensure alignment between the ombuds’ equity mandates and the TCF outcomes – although a high degree of alignment already exists.

10. How will compliance with TCF be assessed for a company?

**Answer:**
- TCF will be incorporated in all on-site visits, off-site monitoring tools, compliance reports etc. All market conduct supervisory mechanisms will include TCF.
11. And what will be the consequences of non-compliance?

**Answer:**
- In the current regulatory framework, as a TCF breach is likely to be a breach of some other underlying legislation as well, the consequences will be as provided for in that legislation. Other actions will include both pre-emptive and remedial interactions with the FSP to achieve corrective measures being taken that may not require any punitive sanction. IN the future Twin Peaks legislative framework, TCF principles will be reflected in an overarching manner.

12. How would the FSB be able to determine that a client is being treated fairly by a representative who has stringent product targets and whose commission structure is based on product sales?

**Answer:**
- Representatives are already bound by the FAIS standards regarding conflicts of interest, which disallow remuneration based solely on volume of sales. FSP’s and representatives actions will in future also be measured against delivery on the TCF outcomes.

13. What measures are put in place to ensure clients cannot make frivolous or unreasonable complaints?

**Answer:**
- The FSP is responsible to judge the complaint with TCF in mind – not for the FSB to prevent frivolous or unreasonable complaints. If the FSP concludes that a complaint is not justified, then it is perfectly acceptable for it to reject the complaint, provided that this decision can subsequently be motivated.

14. Where we act as a broker performing a very limited role in dealing with clients, where the Insurer or appointed administrator is responsible for product design, sending policy docs, amending policies, handling claims, processing cancellations and refunds, etc. How far are we as the broker expected to get involved where clients may complain and we feel the insurer or administrator is not acting in accordance with TCF principles? Or how do we handle this situation, besides just voicing our concern to the insurer/administrator? (does TCF have to be incorporated into the contractual agreements and SLA’s?)

**Answer:**
- The issues must be raised with the insurer concerned. A lack of action could lead to an escalation to the industry body concerned as a lack of action could be a breach of their own industry body code of conduct.
- Escalation to the FSB is also an option.
- Incorporation of TCF into contracts/SLA’s is an option but likely to be a tricky thing to achieve effective application. This would also only be meaningful if the relevant contractual provisions are in fact acted on in practice.

15. Regarding customer surveys; if we arrange for post-sale client surveys where the client is contacted to determine their satisfaction with our service and conduct, and we plan on using these surveys as a measure of TCF being in place; can these surveys be carried out by an
internal department within the group of companies, or must it be done by an independent external company?

**Answer:**
- The methodology adopted would be up to the FSP – including whether done internally or outsourced.
- Take care not to confuse client satisfaction with fair treatment of the client as a satisfied client was not necessarily treated fairly.
- Customer satisfaction should ideally be used together with other types of TCF indicators.

16. We as a FSP adhere to the Code of Conduct, how are we supposed to include TCF in our company policies?

**Answer:**
- This will be up to the FSP to decide. Use TCF outcomes to “double check” yourself and be able to demonstrate that TCF has been incorporated into your culture.

17. What will the FSB be looking for when looking at FSP TCF policies when we submit our annual reports and when they do on-site visits?

**Answer:**
- The focus will be on the delivery of the TCF outcomes and the FSP being able to demonstrate such delivery. Where you have decided to develop a specific TCF policy, our focus would be on how you have gone about implementing the policy and ensuring that is meets its aims.

18. We understand the 6 Outcomes and how it relates to us but do not know what the expectation of the FSB is in this whole implementation?

**Answer:**
- The TCF self-assessment tool which is published on the FSB’s website is a useful tool to ‘unpack’ the six TCF outcomes.
- Note that the tool should be adapted to the FSP’s target market, product types and business model.
- On-going guidance will be provided by the FSB including meetings with FSP’s who wish to gain the FSB’s guidance on their approach to TCF BUT the FSB will never provide a list of specific “do this” things to do.

19. Could we get a view from the FSB on binders held by brokers and how they see brokers managing any potential conflict of interest when it comes to TCF.

**Answer:**
- There should be no conflict of interest as a result of having a binder. The binder regulations incorporated TCF standards. If any issues arise these should be reported to the FSB.

20. Given there is no official start date do we assume there is no official completion date? What expectations do the FSB have on how quickly an FSP should be seen to have completed the initial implementation of their TCF strategy?

**Answer:**
- The TCF self-assessment tool which is published on the FSB’s website is a useful tool to ‘unpack’ the six TCF outcomes.
- Note that the tool should be adapted to the FSP’s target market, product types and business model.
**Answer:**

- The FSB want to see what actions FSP's have already taken to embed the TCF outcome as well as what they are doing about those areas where the delivery of TCF is lacking.
- From now on forward, TCF will be part and parcel of everything the FSB will be doing.
- TCF delivery will require ongoing focus and commitment from FSP’s and other regulated entities – it will not ever be seen as “completed”.

21. What is standardised key information documents and when will they be available?

**Answer:**

- These are documents that provide key product information to a client prior to the purchase of a retail financial product.
- These documents are still in their development stage.

22. We need more detail or subsections for each outcome. Is there anything available?

**Answer:**

- The best documents to use in this regard would be the FSB’s self-assessment tool and the feedback document on the Pilot study – both available on the FSB’s website.

Additional issue raised by an FSP;

1. What is the role of the compliance office in TCF?

**Answer:**

- The one aspect the compliance officer cannot be asked to do is set the culture and overall management approach to TCF – that is the responsibility of the board or management/owners (depending on the relevant business model)
- The embedding of TCF - it is not only a once-off project - cannot simply be dumped on the compliance officer (based on the first bullet point) plus it needs to be owned by the board/management.
- The compliance officer, if they are skilled enough and have the capacity, can assist in certain aspects of the TCF strategy e.g.
  - assessing gaps within the business based on the outcomes
  - assisting with documenting new or revised policies and procedures
  - Monitoring of desired outcomes to assess success of the project

2. An FSP stated that whilst they understood the outcomes they were really struggling to know if their implementation is up to standard?

**Answer:**
• If the FSB were to walk into an FSP right now, will the FSP be in position to illustrate that they are delivering on the TCF outcomes and working on the identified problem areas? Can they demonstrate what TCF means to them? If they can, then they are probably well on the way to implementing TCF.

• If not, serious work is needed. The FSB stated they are there to assist and welcomed direct contact to the TCF department:

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