



**Retail Distribution Review:
Status update - June 2018**

RDR STATUS UPDATE

June 2018

1. BACKGROUND AND PURPOSE OF THIS DOCUMENT

The former Financial Services Board (FSB) published its *Retail Distribution Review* (RDR) in November 2014. The RDR proposed a number of regulatory reforms related to the distribution of financial products and the provision of financial advice. The RDR was informed by the FSB's Treating Customers Fairly (TCF) initiative, targeted at ensuring that the financial sector delivers clearly articulated fair outcomes for financial customers.

The RDR reforms were expressed as a set of 55 inter-related regulatory proposals, to be implemented through a multi-year regulatory reform process. Since the publication of the initial RDR proposals the FSB has published a number of RDR progress reports, updated proposals, and various specific regulatory measures through different regulatory instruments.

The Financial Sector Conduct Authority (FSCA) is continuing to roll out the RDR reforms, underpinned by its statutory mandate to promote the fair treatment of financial customers by financial institutions. Similarly to the FSB's approach, the FSCA will continue to implement the RDR proposals in a phased manner, aligning the development of regulatory instruments to broader legislative and regulatory developments giving effect to the Twin Peaks model of financial sector regulation. The RDR proposals will therefore be implemented using an appropriate combination of instruments under existing financial sector laws and standards under the Financial Sector Regulation Act (FSR Act) and the planned future Conduct of Financial Institutions Act (CoFI Act).

This document summarises the current implementation status of the 55 RDR regulatory proposals initially published in 2014 and planned RDR developments for the remainder of 2018.

Comments or questions:

This document is provided for information purposes, rather than to invite stakeholder input. Nevertheless, if you do have any comments or questions on the document, please feel free to submit them to FSCA.rdrfeedback@fsca.co.za.

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2. RDR STATUS UPDATE TABLE

This Table sets out the current status of all the proposals contained in the initial RDR document published by the FSB in November 2014.

The Table is structured as follows:

Column 1: Sets out the **initial RDR proposal** number and short description, as at November 2014. Where the description of a proposal has changed in light of subsequent RDR updates, the change is shown in Column 1 as “**Restated**”.

Column 2: A number of the RDR proposals comprise two or more **sub-elements**, which may be at different implementation stages. Column 2 sets out these sub-elements.

Column 3: Sets out the current **status** of each proposal and, where applicable, each sub-element of the proposal, using the following key:

• N/A = Proposal / element no longer applicable or no longer being pursued
• 1 = Proposal / element being deliberated within the FSCA, no significant public developments since initial proposal
• 2 = Informal stakeholder consultation at an early stage
• 3 = Informal stakeholder consultation and / or technical work at an advanced stage
• 4 = Formal public consultation in progress
• 5 = Final regulatory instrument published, subject to transitional periods before coming into operation
• 6 = Final regulatory instrument published and operational.

Column 4: Provides further explanatory **detail** on the status of each proposal or sub-element.

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Table:

Initial RDR proposal	Sub-elements	Status	Detail
A. Forms of advice defined		N/A	Different forms of advice will not be formally defined. Where appropriate, standards relating to advice generally will include requirements where advice is provided on an ongoing basis or up-front. <i>Exception:</i> Financial planning will be defined (see proposals T and U).
B. Standards for “low advice” distribution models		N/A	This proposal will not be pursued. Instead, we are consulting on changes to s.8(4) of the FAIS General Code of Conduct to clarify that existing suitability analysis requirements are flexible enough to be scaled to the circumstances of each transaction.
C. Standards for “wholesale” financial advice		4	See proposed changes to s.8(1)(a) of the FAIS General Code of Conduct, published for consultation in November 2017.
D. Standards for sales execution	Defining sales execution	6	See amended FAIS Fit & Proper standards, which define “execution of sales”. The definition came into operation on 1 April 2018.
	Fit and proper standards for sales execution	5	See amended FAIS Fit & Proper standards. These include fit and proper standards for “execution of sales” which come into operation between April and August 2018. Within these, specific

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			standards apply to execution of sales carried out using a script.
	Other conduct standards for sales execution	1	The FAIS Fit & Proper standards which came into operation in April 2018 set conduct pre-requisites that must be met in order to qualify for somewhat more lenient competency requirements in relation to execution of sales in terms of a script. We are however internally considering whether more direct conduct standards for sales execution are required – including in relation to establishing the customer’s financial capability. Standards for execution of orders in respect of securities, similar to those under MiFiD II, are also being considered. A decision on whether there should, in addition, be a direct limitation on these distribution models to simpler products (as proposed in the initial Proposal D) will be taken after we have gained more supervisory experience on the effect of the revised Fit & Proper standards.
<i>E. Standards for ongoing product servicing</i>	Standards for servicing by intermediaries	3	Although certain of the FAIS General Code of Conduct changes being consulted on have an impact on servicing matters (for e.g. standards for advertising and marketing and for complaints management), further proposals will be informed by the outcomes of the intermediary activity segmentation analysis in progress.
	Standards for servicing by product suppliers	See	These standards are being introduced on an ongoing basis through various sectoral instruments to support a range of other

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Initial RDR proposal	Sub-elements	Status	Detail
		Detail	regulatory reforms. These include amendments to Insurance PPRs, various retirement fund instruments (including TCF guidance), collective investment scheme instruments, etc. which are at various stages of implementation.
<i>F. Insurance premium collection to be limited to qualifying intermediaries</i>		4	See Tranche 2 of the proposed amendments to the LTIA and STIA Regulations respectively that were published for formal consultation on 23 March 2018.
<i>G. Revised standards for investment platform administration</i>		1	Will be informed in part by informal consultation currently in progress on a draft discussion document on Investment Management and Investment Advisers. (Relationships with LISPs form part of this work).
<i>H. Standards for product aggregation and comparison services</i>		2	Fact-finding research and engagements on current business models have commenced, to inform the development of standards.
<i>I. Standards for referrals and lead generation</i>	Referrals and leads in context of limiting tied advisers to their home supplier's products only	2	Initial thoughts have been shared in various RDR updates. Further proposals will be consulted on in an Adviser Categorisation discussion paper to be published in the third quarter of 2018.
	Other standards for	1	Under consideration.

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	referrals and leads		
<i>J. Outsourced services obo product suppliers to be more clearly identified and regulated</i>	Insurance binder arrangements	5	See various provisions relating to binder arrangements in: <ul style="list-style-type: none"> • Tranche 1 amendments to the LTIA and STIA Regulations, that became effective 1 January 2018, with specific provisions coming into operation between January 2018 and January 2020. • Section 1.3 in Chapter 1 and Rule 13 of the amended LTIA and STIA PPRs, effective 15 December 2017 and 15 December 2019 respectively.
	Other outsourcing in the Insurance sector	3	Additional standards to be informed by the intermediary activity segmentation analysis currently underway and insights obtained through supervision of Tranche 1 amendments to the LTIA and STIA Regulations.
	Outsourcing in the Investments sector	3	Consultation in progress on outsourcing in the investments sector, particularly relating to third party co-branding arrangements in the collective investment schemes space, as part of consultation on a draft discussion document on Investment Management and Investment Advisers. A public discussion document will be published by mid-2018. In addition, the FAIS Fit & Proper Requirements that came into effect on 1 April 2018 set

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			specific requirements for all FSPs regarding the outsourcing of functions.
	General outsourcing standards	6	General outsourcing standards are provided for in the new FAIS Fit & Proper Requirements which came into effect on 1 April 2018. General outsourcing standards for the insurance sector, to date set out in Directive 159, have been included in the Prudential Standards issued under the Insurance Act. Also note that the FSR Act contains far-reaching regulatory standard setting, supervisory and enforcement powers in relation to outsourcing arrangements. The intermediary activity segmentation analysis currently underway, although focused on the Insurance sector, may also inform broader outsourcing conduct standards.
<i>K. Types of adviser defined: independent, multi-tied or tied</i> <i>Restated: Types of adviser defined: Product supplier agent (PSA or tied adviser); registered financial adviser (RFA or non-tied adviser).</i>		3	<p>Extensive stakeholder engagement has taken place. An updated Adviser Categorisation discussion paper will be published for public consultation in the third quarter of 2018.</p> <p><i>Note:</i> The final terminology to be used to describe different categories of financial advisers is to be informed by consumer testing. The terms “Registered Financial Adviser” and “Product Supplier Agent” are therefore preliminary proposals at this stage.</p>

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<i>L. An IFA may advise on certain products on a multi-tied basis</i>		N/A	No longer applicable in light of revised approach to adviser categorisation.
<i>M. Criteria for IFAs to offer sufficient product and product supplier choice</i>		N/A	No longer applicable in light of revised approach to adviser categorisation.
<i>N. Criteria for IFAs to be free of product supplier influence</i> <i>Restated: Criteria for an RFA / non-tied adviser to be entitled to use the descriptor “independent”</i>		4	See proposed new s.3(5) of the FAIS General Code of Conduct, published for consultation in November 2017. We are considering whether these requirements should be further strengthened.
<i>O. Status disclosure to be made by IFAs</i>		N/A	See restated Proposal N.
<i>P. Criteria for multi-tied advisers</i> <i>Restated: Criteria for RFAs / non-tied advisers</i>		3	An updated Adviser Categorisation discussion paper will be published for public consultation in the third quarter of 2018.

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Initial RDR proposal	Sub-elements	Status	Detail
<p>Q. Status disclosure to be made by multi-tied advisers</p> <p>Restated: Status disclosure to be made by RFAs / non-tied advisers</p>		1	<p>To be considered in an updated Adviser Categorisation discussion paper to be published for public consultation in the third quarter of 2018.</p>
<p>R. Criteria for tied advisers</p>		3	<p>An updated Adviser Categorisation discussion paper will be published for public consultation in the third quarter of 2018, providing further details.</p>
<p>S. Status disclosure to be made by tied advisers</p>		1	<p>To be considered in an updated Adviser Categorisation discussion paper to be published for public consultation in the third quarter of 2018.</p>
<p>T. Criteria for financial planners</p>		2	<p>Proposed approach is that financial planning will not be a separate adviser licence category, but rather that the descriptor / designation “financial planner” or “financial planning” will be reserved for advisers meeting prescribed professional body criteria.</p>
<p>U. Status disclosure to be made by financial planners</p>		2	<p>See Proposal T.</p>

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<i>V. Insurer tied advisers may no longer provide advice or services in relation to another insurer's products</i>		6	See amended definition of "representative" in the LTIA Regulations, which came into operation on 1 January 2018.
<i>W. "Juristic representatives" to be disallowed from providing financial advice</i>		3	An updated Adviser Categorisation discussion paper will be published for public consultation in the third quarter of 2018, providing further detail.
<i>X. Standards for juristic intermediaries (adviser firms)</i>		2	These standards will develop in parallel with the adviser categorisation model and other standards applicable to individual advisers.
<i>Y. Advisers may not act as representatives of more than one juristic intermediary (adviser firm)</i>		1	Changes to the FAIS Act to give effect to this proposal are under consideration. These include provisions to enable the Authority to prohibit representatives generally – or particular categories or types of representatives – from: (i) acting on behalf of more than one provider;(ii) acting on behalf of particular types of providers; or (iii) rendering particular financial services. As an alternative to amending primary legislation, the option of issuing an appropriate conduct standard under the FSR Act is also being considered.
<i>Z. Restricted outsourcing to</i>		Various	See detail under Proposal J, setting out various developments for

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<i>financial advisers.</i>		stages. See Detail	<p>different forms of outsourcing.</p> <p>Also note new Part 3D of the LTIA Regulations and Part 5C of the STIA Regulations (which came into operation on 1 January 2018), requiring insurers to notify the regulator of any intent to remunerate an intermediary for services other than services as intermediary or a binder function.</p> <p>Further restrictions may be considered subject to finalisation of the intermediary activity segmentation analysis and insights obtained through supervision of Tranche 1 amendments to the LTIA and STIA Regulations.</p>
<i>AA. Certain functions permitted to be outsourced to financial advisers</i>		Various stages. See Detail	<p>See detail under Proposal J, setting out various developments for different forms of outsourcing.</p>
<i>BB. Product supplier responsibility for tied advisers</i>		See Detail	<p>This matter is not expected to be contentious or require detailed standards. Product suppliers clearly bear full legal accountability for advice provided by their tied advisers in accordance with ordinary agency principles.</p>

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<p><i>CC. Product supplier responsibility for multi-tied advisers</i></p> <p><i>Restated: Product supplier responsibility for RFAs / non-tied advisers</i></p>	Specific responsibilities for insurers	5	<p>Note the following provisions of the PPRs:</p> <ul style="list-style-type: none"> • Rule 1.4(d) and 1.9 of the LTIA and STIA PPRs, coming into operation on 15 December 2017 and 15 December 2018 respectively, describing the insurer's responsibility in relation to advice provided. • Rule 12.2.1 of the LTIA and STIA PPRs, which came into operation on 15 December 2017 for new intermediary agreements and will come into operation on 15 December 2018 for existing intermediary agreements, which require insurers to ensure that intermediaries with whom they contract comply with FAIS product knowledge requirements. • Rule 18 of the LTIA and STIA PPRs, coming into operation on 15 December 2018, which includes requirements for insurers to have processes in place to deal with customer complaints relating to advisers.
	Additional product supplier responsibility standards	2	<p>An updated Adviser Categorisation discussion paper will be published for public consultation in the third quarter of 2018, providing further details on proposed product supplier responsibility (including in relation to insurers).</p>

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DD. Product supplier responsibility for IFAs Restated: Product supplier responsibility for RFAs entitled to use the descriptor “independent:		2	An updated Adviser Categorisation discussion paper will be published for public consultation in the third quarter of 2018, providing further details. Note however that, in the Insurance sector, the specific insurer responsibilities outlined under Proposal CC would apply equally to “independent” RFA channels used by the insurer.
EE. Product supplier responsibility for non-advice sales execution		1	Standards to be considered together with additional standards for non-advice sales execution under Proposal D. Note however that, in the Insurance sector, the specific insurer responsibilities outlined under Proposal CC apply equally to non-advice distribution channels used by the insurer.
FF. General product supplier responsibilities in relation to receiving and providing customer related data	Standards in the Insurance sector	5	See general data related responsibilities in the LTIA and STIA PPRs and specific data related provisions relating to binder and outsourcing arrangements in the LTIA and STIA Regulations, all coming into operation in January 2020.
	Standards for other sectors	1	We are considering appropriate instruments for data related responsibilities for product suppliers generally. Note that the provisions of the POPI legislation are also applicable.
GG. Ownership structures to		See	Potential conflicts arising from ownership arrangements are being

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<i>be reviewed to assess conflicts of interest</i>		Detail	taken into account in the development of various other RDR proposals – including (among others) those relating to adviser categorisation, product supplier responsibility and use of the descriptor “independent”. We have accepted that the mere existence of an ownership relationship between a product supplier and an adviser firm does not in and of itself mean that the adviser firm is “tied” to the product supplier.
<i>HH. General disclosure standards in relation to fees or other remuneration</i>	FAIS enhancements	4	See proposed strengthened remuneration disclosure provisions in s.7 of the FAIS General Code of Conduct, published for consultation in November 2017.
	Additional disclosure standards	1	Additional standards will be developed in parallel with standards for Proposals JJ and KK.
<i>II. Standards for financial planning / risk planning fees</i>		1	Standards will be developed in parallel with standards for Proposal T.
<i>JJ. Standards for up-front and ongoing product advice fees</i>	FAIS enhancements	4	See proposed general remuneration principles in s.3A of the FAIS General Code of Conduct, published for consultation in November 2017.
	Advice fees in the Insurance sector	2	Further amendments to the Regulations under the LTIA and STIA will be required to allow for the payment of advice fees separately

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			from commission. Findings from the intermediary activity segmentation analysis and the technical work on insurance life risk commission models will also inform advice fee standards.
	Additional advice fee standards	1	The need for additional advice fee standards will be considered.
<i>KK. Additional standards for ongoing advice fees</i>		Various stages	As for Proposal JJ.
<i>LL. Product suppliers to facilitate advice fees</i>	Facilitation of advice fees for investment products	3	Consultation in progress as part of consultation on a draft discussion document on Investment Management and Investment Advisers. A public discussion document will be published by mid-2018.
	Facilitation of other advice fees	1	Standards to be developed in parallel with Proposals JJ, MM, NN and UU.
<i>MM. Remuneration for selling & servicing investment products</i>		3	Consultation in progress as part of consultation on a draft discussion document on Investment Management and Investment Advisers. A public discussion document will be published by mid-2018.

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NN. Remuneration for selling & servicing risk policies		3	Technical work on developing an actuarial model to test new life risk commission model impacts, in consultation with ASISA, is near completion. The model will be made available to a broader range of stakeholders to commence actual testing. Further technical work is also planned to apply the intermediary activity segmentation analysis undertaken for short-term insurance to the long-term sector (See Proposal UU).
OO. Product supplier commission prohibited on replacement life risk policies	Interim measure: Insurers to monitor quality of replacement disclosures	5	See Rule 19 of the LTIA PPRs, initially scheduled to come into operation on 15 June 2018 but now deferred to 1 January 2019.
	Defining replacement	5	See definition in the LTIA PPRs (that will come into operation on 1 January 2019) and in the proposed changes to the FAIS General Code of Conduct (published for comment in November 2017). The publication of guidance in this regard is also currently under consideration.
	Remuneration on replacement life risk policies	2	A decision on potential remuneration interventions on replacements will be informed by the modelling work to be undertaken for Proposal NN. In the interim, Regulation 3.9A under the LTIA Regulations (initially scheduled to come into

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			operation on 1 July 2018 but now deferred to 1 January 2019) provides in effect for non-payment of commission on replacement risk policies in the event of non-compliance with prescribed replacement disclosure standards.
PP. Commission regulation anomalies on “legacy” insurance policies to be addressed		6	See Regulation 3.10(1)(b) and definition of “variable premium increase” in Regulation 5.1 of the Regulations under the LTIA, which came into operation on 1 January 2018.
QQ. Conflicted remuneration on RA transfers to be addressed		1	Under consideration. Note that definition of “replacement” in the proposed amendments to the FAIS General Code of Conduct, published for comment in November 2017, confirms that such transfers constitute a replacement.
RR. Equivalence of reward to be reviewed	Strengthening regulator’s powers to determine what constitutes “Equivalence”	6	See Regulations 3.2(4A) and (5) and 3.11(2) of the LTIA Regulations, which came into operation on 1 January 2018.
	Interim measure to address specific practices	4	Formal consultation on a proposed Determination took place during November and December 2017. Based on feedback received, we have decided to conduct further research into

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			current tied adviser remuneration practices before confirming whether or how interim measures will be implemented.
	Equivalence of Reward to apply at individual adviser level	2	Approach to be informed by the planned research. Note that we are no longer of the view that implementation of equivalence at individual adviser level needs to be deferred to implementation of Proposal NN.
<i>SS. Standards for remuneration arrangements between adviser firms and individual advisers</i>		See detail	Standards to be developed in parallel with standards for the various other RDR proposals relating to remuneration.
<i>TT. Special remuneration dispensation for the low income market</i>	Dispensation for investment / savings products	2	Initial industry consultation has taken place. A discussion paper will be published for public consultation in the third quarter of 2018, providing more detailed proposals.
	Dispensation for life risk products	4	See proposed commission regulations relating to micro-insurance and funeral policies in the proposed Tranche 2 amendments to the LTIA Regulations.
<i>UU. Remuneration for selling & servicing short-term insurance policies</i>	"Section 8(5) fees"	5	Provision for these fees has been repealed and replaced with PPR provisions stipulating circumstances in which fees other than commission may be charged. See Rule 12.4 of the STIA PPRs,

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			coming into operation on 15 December 2018.
	Intermediary activity analysis	3	Findings of the intermediary activity segmentation analysis have been shared with industry. An analysis on comments received is currently underway. Further industry engagements are planned in this regard.
	Additional short-term remuneration standards	2	Standards to be informed by findings of the intermediary activity segmentation analysis, in addition to further technical work.
<i>VV. Conditions for short-term insurance cover cancellations</i> <i>Restated: Conditions for insurance cover cancellations.</i>		5	See Rule 19 of the STIA PPRs and Rule 20 of the LTIA PPRs, coming into operation on 15 December 2019. Note that the standards apply to both long-term and short-term insurance.
<i>WW. Remuneration for direct non-advice sales execution</i>		1	Standards to be considered together with additional standards for non-advice sales execution under Proposal D.
<i>XX. Remuneration for referrals, leads, product aggregation and comparison services</i>		2	Standards to be considered together with standards under Proposals H and I.
<i>YY. Remuneration for investment platform</i>		1	Standards to be developed in parallel with standards under Proposal G.

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<i>administration</i>			
<i>ZZ. Binder fees to multi-tied intermediaries to be capped</i> <i>Restated: Binder fees to financial advisers to be capped</i>		5	See new Part 3C of the LTIA Regulations and Part 5B of the STIA Regulations, coming into operation between 1 January 2018 and 1 January 2019. Note that these Regulations must be read with the strengthened operational and governance requirements imposed by Part 6 of the Regulations.
<i>AAA. Commission cap for credit life schemes with “administrative work” to be removed</i>		5	See revised commission caps for credit schemes in the commission Table (Annexure 1) of the LTIA Regulations, coming into operation on 1 January 2019.
<i>BBB. Outsourcing fees for issuing insurance policy documents</i>		N/A	This activity is generally regarded as incidental to a binder activity. In instances where the insurer believes that additional remuneration should be paid because the nature of the work required to issue such documentation falls outside the scope of binder or intermediary activities, details of such remuneration must be notified to the FSCA in terms of the new Part 3D of the LTIA Regulations and Part 5C of the STIA Regulations (which came into operation on 1 January 2018). A formal notification template setting out the detailed criteria that will be considered in this regard is planned to be published during the first half of 2018.

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<i>CCC. General standard re financial interests</i>		1	Under consideration.

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3. NEXT STEPS FOR 2018

As indicated in the Table above, the following RDR developments are planned for the remainder of 2018. This is not a closed list of actions and additional implementation steps may be communicated in the course of the year.

Before end June 2018:

- Publication of a discussion paper on RDR Proposals relating to Investment Management and Investment Advisers. The purpose of the paper will be to elicit stakeholder input on:
 - possible regulatory proposals to define the activity of “investment management”;
 - considering the extent to which investment management needs to be demarcated from other forms of discretionary investment mandates;
 - clarifying the nature of the legal and business relationships between different types of entities in the investments sector; and
 - resulting fee and remuneration implications.

Remainder of 2018:

- Finalising the RDR related changes to the FAIS General Code of Conduct.
- Ongoing technical work on intermediary activity segmentation.
- Completion of the actuarial model for testing new life risk commission model impacts, and commencement of the testing process.
- Research into current tied adviser remuneration practices in the long-term insurance sector, to inform next steps on the proposal to strengthen the principle of Equivalence of Reward (RDR Proposal RR).
- Publication of a discussion paper on Adviser Categorisation. The paper will present updated proposals on:
 - practical aspects of the previously proposed two-tier adviser categorisation model;

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- possibly allowing product supplier agents to advise on products of another product provider in respect of different classes of financial products;
 - product supplier responsibility in relation to different categories of adviser;
 - use of referrals and leads to meet “gap filling” needs in tied advice models;
 - conditions for using the descriptors “independent” or “financial planning” to describe advice; and
 - implications for juristic representatives and group structures.
- Consumer testing of an RDR communication brochure and levels of consumer understanding of different terms used to describe different types of advisers.
 - Publication of a discussion paper on an RDR Remuneration Dispensation for the Low Income Market (RDR Proposal TT). The paper will take into account the FSCA’s broader financial inclusion and transformation priorities, including the proposed micro-insurance conduct standards being introduced through the LTIA and STIA PPRs.

4. GLOSSARY

In this document, the following acronyms have the following meanings:

ASISA	Association for Savings and Investment South Africa
CoFI Act	Conduct of Financial Institutions Act
FAIS	Financial Advisory and Intermediary Services Act, 37 of 2002
FSB	Financial Services Board
FSCA	Financial Sector Conduct Authority
FSR Act	Financial Sector Regulation Act, 9 of 2017
LISP	Linked Investment Service Provider
LTIA	Long-term Insurance Act, 52 of 1998
MiFiD II	Markets in Financial Instruments Directive (2004/39/EC)
POPI	Protection of Personal Information Act, 4 of 2013

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PPRs	Policyholder Protection Rules, published under the LTIA and STIA respectively
RDR	Retail Distribution Review, published by the Financial Services Board in November 2014
STIA	Short-term Insurance Act, 53 of 1998
TCF	Treating Customers Fairly