FSCA

Financial Sector Conduct Authority

CONDUCT STANDARD 3 OF 2020 (BANKS)

FINANCIAL SECTOR REGULATION ACT, 2017

CONDUCT STANDARD FOR BANKS

The Financial Sector Conduct Authority, under section 106(1), read with sections 106(2)(b) and 108(1) of the Financial Sector Regulation Act, 2017 (Act No. 9 of 2017), hereby makes a conduct standard setting out requirements applicable to banks, as per the Schedule below.

DP Tshidi

DP TSHIDI

FOR THE FINANCIAL SECTOR CONDUCT AUTHORITY

Date of publication: 03 July 2020

SCHEDULE

CONDUCT STANDARD 3 OF 2020 (BANKS)

ARRANGEMENT OF SECTIONS

1. Definitions

In this Conduct Standard, "**the Act**" means the Financial Sector Regulation Act, 2017 (Act No. 9 of 2017), and any word or expression to which a meaning has been assigned in the Act bears the meaning so assigned to it unless the context otherwise indicates, and -

"**advertisement**" means any communication published through any medium and in any form, by itself or together with any other communication, which is intended to create public interest in the business, financial products or financial services of a bank, or to persuade the public (or a part thereof) to transact in relation to a financial product or financial service of the bank in any manner, but which does not purport to provide detailed information to or for a specific financial customer regarding a specific financial product or financial service and "advertise" and "advertising" have corresponding meanings;

"**Authority**" means the Financial Sector Conduct Authority as defined in section 1 of the Act;

"**bank**" means a bank as defined in the Banks Act, a mutual bank as defined in the Mutual Banks Act, 1993 (Act No. 124 of 1993) and a co-operative bank as defined in the Co-operative Banks Act, 2007 (Act No. 40 of 2007);

"compensation" means the provision of money, or a benefit or service , by or on behalf of a bank to a complainant to compensate the complainant for a proven or estimated financial loss incurred as a result of the bank's non-compliance, action, failure to act, or unfair treatment forming the basis of the complaint, where the bank accepts liability for having caused the loss concerned, but excludes any -

(a) goodwill payment;

(b) payment contractually due to the complainant in terms of a product or service agreement with the bank; or

(c) refund of an amount paid by or on behalf of the complainant to the bank where such payment was not contractually due;

and includes any interest on late payment of any amount referred to in paragraphs (b) or (c);

"complainant" means a person who has submitted a specific complaint to a bank and who -

(a) is a financial customer or potential financial customer of the bank concerned and has a direct interest in the financial product or financial service to which the complaint relates; or

(b) has submitted the complaint on behalf of a person mentioned in paragraph (a),

provided that a potential financial customer will only be regarded as a complainant to the extent that the complaint relates to the potential financial customer's dissatisfaction in relation to the activities contemplated in the definition of "potential financial customer";

"complaint" means an expression of dissatisfaction by a person to a bank or, to the knowledge of the bank, to the bank's service provider relating to a financial product or financial service provided or offered by that bank which indicates or alleges, regardless of whether such an expression of dissatisfaction is submitted together with or in relation to a customer query, that -

(a) the bank or its service provider has contravened or failed to comply with an agreement, a law, a rule, or a code of conduct which is binding on the bank or to which it subscribes;

(b) the bank or its service provider's maladministration or wilful or negligent action or failure to act, has caused the person harm, prejudice, distress or substantial inconvenience; or

(c) the bank or its service provider has treated the person unfairly;

"effective annual interest rate" is the interest rate restated from the nominal interest rate as an interest rate with annual compound interest payable in arrears;

"goodwill payment" means the provision of money, a benefit or service by or on behalf of a bank to a complainant as an expression of goodwill aimed at resolving a complaint, where the bank does not accept liability for any financial loss to the complainant as a result of the matter complained about;

"pension fund" means a pension fund as defined in the Pension Funds Act;

"plain language" means communication that -

(a) is clear and easy to understand;

(b) avoids uncertainty or confusion; and

(c) is adequate and appropriate in the circumstances,

taking into account the factually established or reasonably assumed level of knowledge of the person or average persons at whom the communication is targeted;

"potential financial customer" means a person who has applied to or otherwise approached the bank in relation to becoming a financial customer of the bank, or a person who has been solicited by the bank to become a financial customer, or has received advertising material in relation to the bank's financial products or financial services;

"potential retail financial customer" means a person who has applied to or otherwise approached the bank in relation to becoming a retail financial customer of the bank, or a person who has been solicited by the bank to become a retail financial customer, or has received advertising material in relation to the bank's financial products or financial services;

"rejected" in relation to a complaint means that a complaint has not been upheld and the bank regards the complaint as finalised after advising the complainant that it does not intend to take any further action to resolve the complaint and includes complaints regarded by the bank as unjustified or invalid, or where the complainant does not accept or respond to the bank's proposals to resolve the complaint;

"reportable complaint" means any complaint other than a complaint that has been -

(a) upheld immediately by the person who initially received the complaint;

(b) upheld within the bank's ordinary processes for handling customer queries in relation to the type of financial product or financial service complained about, provided that such process does not take more than five business days from the date the complaint is received; or

(c) submitted to or brought to the attention of the bank in such a manner that the bank does not have a reasonable opportunity to record such details of the complaint as may be prescribed in relation to reportable complaints;

"retail complainant" means a person who has submitted a specific complaint to a bank and who -

(a) is a retail financial customer or potential retail financial customer of the bank concerned and has a direct interest in the financial product or financial service to which the complaint relates; or

(b) has submitted the complaint on behalf of a person mentioned in paragraph (a),

provided that a potential retail financial customer will only be regarded as a complainant to the extent that the complaint relates to the potential retail financial customer's dissatisfaction in relation to the activities contemplated in the definition of "potential retail financial customer;

"retail financial customer" means a financial customer that is -

(a) a natural person; or

(b) a juristic person, whose asset value or annual turnover is less than the threshold value as determined by the Minister of Trade and Industry in terms of section 6(1) of the Consumer Protection Act, 2008 (Act No. 68 of 2008);

"service provider" means any person, whether or not that person is a representative or other agent of a bank, with whom a bank has an arrangement relating to the advertising or provision of the financial products or financial services of the bank; and

"upheld" means that a complaint has been finalised wholly or partially in favour of the complainant and that -

(a) the complainant has explicitly accepted that the matter is fully resolved; or

(b) it is reasonable for the bank to assume that the complainant has so accepted;

and all undertakings made by the bank to resolve the complaint have been met or the complainant has explicitly indicated satisfaction with any arrangements to ensure such undertakings will be met by the bank within a time acceptable to the complainant.

2. Application and general obligations

(1) Subject to subsection (3), this Conduct Standard is applicable to banks in relation to their provision of financial products and financial services.

(2) This Conduct Standard applies in addition to any other regulatory requirements imposed on a bank in relation to its provision of a financial product or financial service.

(3) Sections 4 to 10 do not apply to a bank in relation to the provision of credit under a credit agreement.

(4) A bank must conduct its business in a manner that prioritises the fair treatment of financial customers.

(5) The fair treatment of financial customers by banks includes achieving at least the following outcomes:

(a) Financial customers can be confident that they are dealing with a bank where the fair treatment of financial customers is central to the bank's culture;

(b) where a bank provides financial products and financial services to retail financial customers, those financial products and financial services are suitably designed to meet the needs of identified types, kinds or categories of financial customers who are targeted accordingly;

(c) financial customers are given clear information and are kept appropriately informed before, during and after the time of entering into a contract in respect of a financial product or financial service offered or provided by a bank;

(d) any advice provided to financial customers in respect of a bank's financial products is suitable and takes into account the needs and circumstances of those financial customers;

(e) financial customers are provided with financial products that perform as a bank or its representatives have led them to expect, and the related customer service is of an acceptable standard and in line with the expectations created; and

(f) financial customers do not face unreasonable post-sale barriers imposed by or on behalf of a bank to change or replace a financial product or financial service, request a withdrawal or submit a complaint.

(6) When a bank renders a financial service, the service must be rendered in accordance with the contractual relationship and reasonable requests or instructions of the client, which must be executed as soon as reasonably possible and with due regard to the interests of the client which must be accorded appropriate priority over any interests of the provider.

3. Culture and governance

(1) A bank must at all times -

(a) conduct its business with integrity;

(b) act honestly, fairly, with due skill, care and diligence, and in a manner that does not bring the financial sector into disrepute;

(c) organise and manage its affairs responsibly and efficiently;

(d) avoid or, where avoidance is not possible, manage and mitigate actual or potential conflicts of interest;

(e) deal with the Authority in an open and cooperative manner; and

(f) conduct its business transparently and with due regard to the information needs of its financial customers.

(2) A bank must document, adopt, implement and monitor the effectiveness of appropriate governance arrangements that are reasonably necessary to ensure adherence to the requirements in section 2(4) and 3(1).

(3) The governance arrangements referred to in subsection (2) must -

(a) be proportionate to the nature, scale and complexity of the activities and business model of the bank, having due regard to the inherent risks associated with such activities and model;

(b) describe how the bank will comply with this section and must at least, through appropriate policies and procedures, address -

(i) roles and responsibilities of the governing body and key persons of the bank;

(ii) remuneration, compensation and incentive practices;

(iii) conflicts of interest;

(iv) disclosure of interests in related and inter-related parties;

(v) record keeping;

(vi) communication with the Authority;

(vii) decision making and management procedures, including delegation of authority arrangements;

(viii) risk management, compliance and internal control procedures, including segregation of duties and functions;

(ix) security, integrity, privacy and confidentiality of information; and

(x) any other matter that this Conduct Standard requires to be included in the governance arrangements.

(4) The matters contemplated in subsection (3)*(b)* may be addressed in one or more separate policies or procedures forming part of the overall governance arrangements of the bank.

(5) A bank's governance arrangements must provide for regular risk-based monitoring and evaluation of the adequacy and effectiveness of the bank's systems, processes, procedures and internal control mechanisms and measures to address any identified deficiencies.

(6) The monitoring and evaluation contemplated in subsection (5) must specifically consider the systems, processes, procedures and internal control mechanisms in place to ensure -

(a) compliance with this Conduct Standard and other applicable legislation; and

(b) the effectiveness of the bank's practices in relation to the fair treatment of its financial customers.

(7) The governing body of a bank is accountable for the approval, establishment, embedment, ongoing review of, and continued compliance with, the bank's governance arrangements to reasonably ensure the fair treatment of its financial customers.

4. Design, suitability and performance requirements for financial products and financial services

(1) A bank must design its financial products and financial services, including the related models utilised for the advertising, distribution and provision of these financial products and financial services, with due regard to the interests of its financial customers.

(2) A bank must ensure that the relevant personnel responsible for the design of its financial products and financial services possess the necessary skills, knowledge and expertise to fulfil their functions.

(3) A bank must establish and implement appropriate oversight arrangements to monitor and review the design and suitability of its financial products and financial services on an ongoing basis.

(4) The oversight arrangements referred to in subsection (3) must -

(a) support the achievement of subsections (1) and (2) and, where applicable, the achievement of section 5;

(b) address the management of conflicts of interest:

(c) ensure that the objectives, interests and characteristics of targeted retail financial customer groups are duly taken into account;

(d) appropriately take into account risks borne by targeted retail financial customer groups in respect of a financial product or a financial service;

(e) allocate clear roles and responsibilities for persons in the bank responsible for, or partly responsible for, establishing and implementing the oversight arrangements;

(f) incorporate effective assessment by the risk and compliance functions of the extent to which subsections (1) to (3) and, where applicable, section 5, are being achieved;

(g) provide for relevant key person approval, including relevant key person confirmation that a financial product or a financial service adequately meets required outcomes for the fair treatment of retail financial customers, prior to advertising or providing such financial product or financial service;

(h) include a financial product and financial service design policy, and ensure that the policy is not compromised as a result of commercial, time or funding pressures;

(i) include a financial product and financial service approval process as contemplated in subsections (8) and (9); and

(j) ensure appropriate record keeping, monitoring and analysis of arrangements relating to the design of financial products and financial services, and regular and ad hoc reporting to the governing body of the bank and any relevant committee on:

(i) identified customer related risks and trends and actions taken in response thereto; and

(ii) the effectiveness and outcomes of such arrangements.

(5) A bank must include the oversight arrangements referred to in this section as part of the governance arrangements referred to in section 3(2) and make them readily available to relevant persons responsible for the design of financial products and financial services.

(6) The oversight arrangements referred to in this section may vary depending on the financial product or financial service, taking into consideration the nature, scale and complexity of the relevant business of the bank and the complexity of the financial product or financial service, and related business models.

(7) A bank must ensure that a financial product or financial service -

(a) performs or is executed as that bank or its service provider has led financial customers to expect, which expectations include those created through advertising and disclosure;

(b) is subject to appropriate monitoring by relevant key persons to enable on-going, informed decision making relating to the extent to which the financial product or financial service continues to comply with the requirements of this Conduct Standard; and

(c) is supported by adequate post-sales service that is of a standard that financial customers have been led to expect.

(8) The relevant key person approval of a new financial product or financial service or of a material variation of the design of an existing financial product or financial service must be accompanied by a confirmation that the provision of the financial product or financial service, distribution method, advertising approach and materials, and disclosure documents are consistent with the objectives set out in section 3.

(9) A bank must regularly review the oversight arrangements referred to in this section to ensure that they remain effective and up to date.

(10) A bank must ensure that timeous remedial action is taken in respect of those financial products and financial services that are reasonably expected to lead, or are leading, to unfair outcomes for financial customers.

5. Additional requirements in respect of retail financial customers

(1) A bank that provides financial products or financial services to retail financial customers must -

(a) when designing a financial product or financial service, make use of adequate information on the needs and reasonable expectations of retail financial customers and undertake an assessment by persons with relevant competence relating to the characteristics of the financial product or financial service, the distribution methods intended to be used in relation to the financial product or financial service, and the related advertising and disclosure approach and materials, to ensure that they -

(i) are consistent with the bank's business model and risk management approach;

(ii) target the identified groups of retail financial customers for whose needs and reasonable expectations the financial product or financial service is likely to be appropriate;

(iii) include reasonable measures to limit access by retail financial customers for whom the financial product or financial service is likely to be inappropriate; and

(iv) are appropriate, taking into account the risk of unfair outcomes for retail financial customers;

(b) ensure on an on-going basis that the financial products or financial services remain appropriate to meet the identified needs of the target market after they have been made available to the market;

(c) ensure reasonable flexibility in the design of financial products and financial services to deal with and adjust to the reasonably expected changes in the needs of targeted retail financial customers during the lifetime of the financial product or financial service; and

(d) ensure that the terms, conditions and requirements in a contract between the bank and its retail financial customer, relating to a financial product or financial service, including fees and charges, are not unfair.

(2) Without limiting the generality of subsection (1)(d) a term, condition or a requirement in a contract is unfair, if it -

(a) would cause a significant and unreasonable imbalance in the parties' rights and obligations under the contract;

(b) is not reasonably necessary to protect the legitimate interests of the financial institution, who would be unduly advantaged by the term, condition or requirement;

(c) would result in an unfair outcome (financial or otherwise) to a retail financial customer if it was applied or relied on;

(d) unreasonably requires a retail financial customer, whether as a condition to enter into a transaction or otherwise, to:

(i) waive any right; or

(ii) absolve the bank of any obligation or liability.

(3) Where a bank provides financial products or financial services to a pension fund or another member-based entity, or to another financial customer that is acting for or on behalf of other retail financial customers, all requirements in this Conduct Standard relating to retail financial customers apply equally in relation to the members of that pension fund or other member-based entity or in relation to those other retail financial customers.

6. Advertising

(1) A bank must ensure that its financial products and financial services are advertised to financial customers in a way that is clear, fair and not misleading.

(2) If a bank relies on another person to advertise a financial product or financial service on its behalf, the bank remains responsible for -

(a) the manner in which its financial product or financial service is advertised; and

(b) ensuring that the advertisement complies with this Conduct Standard.

(3) Advertising by a bank must -

(a) be factually correct;

(b) not contain any statement, promise or forecast which is fraudulent, untrue or misleading; and

(c) in the case of advertising targeting retail financial customers, use plain language.

(4) Where an advertisement includes a reference to interest payable by the bank to a financial customer, in respect of a financial product, the advertisement must comply with the disclosure requirement in section 7(4).

(5) A bank may not offer or provide any financial product or financial service to a retail financial customer or potential retail financial customer on the basis that any transaction will be entered into automatically unless the financial customer explicitly declines the offer.

(6) Where a bank uses a telephone or mobile phone call, voice or text message or other electronic communication for any advertisement targeted at a retail financial customer or potential retail financial customer, it must inform the retail financial customer during that call or within a reasonable time after receiving the message, that the retail financial customer may demand that the bank not make use of any of these mediums to provide any further advertising to the retail financial customer.

(7) A bank or any person acting on its behalf must comply with a demand made by a retail financial customer in terms of subsection (6).

(8) A bank or any person acting on its behalf may not charge a retail financial customer a fee or allow a service provider to charge a retail financial customer any fee for making a demand in terms of subsection (6).

(9) A bank must have in place processes and procedures for the approval of advertisements and advertising methods by a person of appropriate seniority and expertise within the bank, which must form part of the governance arrangements required in section 3 above.

(10) Where a bank becomes aware that any advertising that relates to its business, financial products or financial services, whether published by the bank or any other person, is inconsistent with this Conduct Standard, the bank must -

(a) as soon as reasonably practicable correct or withdraw the advertising; or

(b) take reasonable steps to ensure that it is corrected or withdrawn; and

(c) notify any persons who it knows have relied on the advertising.

(11) A bank must keep adequate records of all advertisements for a period of at least five years after publication.

(12) Subsections (1) to (11) apply equally to the advertising of any service or benefit provided or made available by a bank together with or in connection with any financial product or financial service, including a loyalty benefit.

7. Disclosures

(1) Before, during and after the conclusion of a contract for the provision of a financial product or a financial service, a bank must take reasonable steps to ensure that a financial customer is aware of all relevant facts that could reasonably be expected to influence the financial customer's decisions relating to the financial product or financial service, including -

(a) a balanced presentation of benefits and risks in relation to the financial product or financial service;

(b) all estimated costs to the financial customer in relation to the supply of that financial product or financial service, including the total expected or actual costs as may be appropriate, and, for the same period, the total expected, or actual returns earned by the financial customer in relation to the supply of that financial product or financial service as may be appropriate;

(c) contractual obligations of the financial customer and the bank;

(d) the consequences for each party should there be a breach of contract; and

(e) recourse options available to the financial customer in the case of a dispute.

(2) A bank must make disclosures to financial customers that -

(a) in the case of retail financial customers, use plain language;

(b) are adequate, appropriate, timely, relevant and complete;

(c) are factually correct and not misleading,

(d) are not deceptive, fraudulent, contrary to the public interest and do not contain incorrect statements;

(e) in the case of retail financial customers, promote understanding of the financial product or financial service being provided; and

(f) are readily available to the financial customer affected by the agreement.

(3) When making disclosures to financial customers, a bank must take into account the -

(a) nature and complexity of the financial product or financial service concerned;

(b) needs and reasonably assumed level of knowledge, understanding and experience of financial customers at whom the disclosure is targeted; and

(c) most appropriate timing of the disclosure concerned, in order to ensure that a financial customer is given appropriate information about a financial product or financial service at the point at which the information will be most useful to the financial customer's decision-making in relation to entering into, using or maintaining the financial product or financial service.

(4) Where a financial product provides for the payment of interest by the bank to the financial customer, a bank must, in addition to and with equal prominence to any other disclosure regarding the interest rate concerned, appropriately describe the rate of interest concerned and also disclose to a financial customer the effective annual interest rate of the financial product.

(5) The Authority may determine the manner and form of disclosures that must be made in respect of financial products and financial services to retail financial customers.

8. Complaints

(1) A bank must establish, maintain and operate an adequate and effective complaints management framework to ensure the fair treatment of complainants that -

(a) is proportionate to the nature, scale and complexity of the bank's business and risks;

(b) is appropriate for the business model, financial products, financial services and financial customers of the bank;

(c) enables complaints to be considered after taking reasonable steps to gather and investigate all relevant and appropriate information and circumstances, with due regard to the fair treatment of complainants;

(d) does not impose unreasonable barriers to complainants; and

(e) must address and provide for, at least, the matters provided for in this section.

(2) A bank must regularly review its complaints management framework and document any changes thereto.

(3) The complaints management framework must at least, provide for -

(a) relevant objectives, key principles and the proper allocation of responsibilities for dealing with complaints across the business of the bank;

(b) appropriate performance standards and remuneration and reward strategies (internally and where any functions are outsourced) for complaints management to ensure objectivity and impartiality;

(c) documented procedures for the appropriate management and categorisation of complaints, including expected timeframes and the circumstances under which any of the timeframes may be extended;

(d) documented procedures which clearly define the escalation, decision-making, monitoring, oversight and review processes within the complaints management framework;

(e) appropriate complaint record keeping, monitoring and analysis of complaints, and reporting (regular and ad hoc) to the governing body of the bank and any relevant committee on -

(i) identified risks, trends and actions taken in response thereto; and

(ii) the effectiveness and outcomes of the complaints management framework;

(f) appropriate communication with complainants and their authorised representatives on the complaints and the complaints processes and procedures;

(g) appropriate engagement between the bank and a relevant ombud;

(h) compliance with any applicable requirements for reporting to the Authority and public reporting;

(i) a process for managing complaints relating to the bank's service providers, insofar as such complaints relate to services provided in connection with the bank's financial products or financial services, which process must -

(i) enable the bank to reasonably satisfy itself that the service provider has adequate complaints management processes and procedures in place to ensure the fair treatment of complainants;

(ii) provide for monitoring and analysis by the bank of aggregated complaints data in relation to complaints received by the service provider and their outcomes;

(iii) include effective referral processes between the bank and the service provider for handling and monitoring complaints that are submitted directly to either of them and require referral to the other for resolution; and

(iv) include processes to ensure that complainants are appropriately informed of the process being followed and the outcome of the complaint; and

(j) regular monitoring of the complaints management framework.

(4) The governing body of a bank is responsible for effective complaints management and must approve and oversee the effectiveness of the implementation of the bank's complaints management framework.

(5) The oversight responsibility referred to in 8(4), may be delegated to a person of appropriate seniority and expertise within the bank,

(6) Any person that is responsible for making decisions or recommendations in respect of complaints generally or a specific complaint must -

(a) be adequately trained;

(b) have an appropriate mix of experience, knowledge and skills in complaints handling, fair treatment of financial customers, the subject matter of the complaints concerned and relevant legal and regulatory matters;

(c) not be referred to as an internal ombud to avoid creating confusion with the established relevant ombuds;

(d) not be subject to a conflict of interest; and

(e) be adequately empowered to make impartial decisions or recommendations.

(7) A bank must categorise reportable complaints received from a retail complainant in accordance with the following minimum categories:

(a) Complaints relating to the design of a financial product or financial service, including the fees or charges related to that financial product or financial service;

(b) complaints relating to disclosures made to financial customers;

(c) complaints relating to advertising of financial products and financial services;

(d) complaints relating to advice;

(e) complaints relating to the performance of a financial product and financial service;

(f) complaints relating to financial customer service, including complaints relating to the way in which staff dealt with the financial customer, the administrative processing of payments to or by the financial customer as well as breaches of confidentiality;

(g) complaints relating to the accessibility of funds, changes or switches between financial products or financial services;

(h) complaints relating to complaints handling; and

(i) other complaints.

(8) A bank, in addition to the categorisation set out in subsection (7), must consider additional categories relevant to its chosen business model, financial products, financial services and financial customer base that will support the effectiveness of its complaint management framework in managing conduct risks and effecting improved outcomes and processes for its financial customers.

(9) A bank must categorise, record and report on reportable complaints by identifying the category contemplated in subsection (7) to which a complaint most closely relates and group complaints accordingly.

(10) A bank must establish and maintain an appropriate internal complaints escalation and review process.

(11) Procedures within the complaints escalation and review process must provide for internal escalation of complex or unusual complaints as well as the allocation to a person of appropriate seniority and expertise within the bank, which must form part of the complaint management framework required in subsection (3) above.

(12) Where a complaint is upheld, any commitment by the bank to make a compensation payment, goodwill payment or to take any other action must be carried out without undue delay and within any agreed timeframes.

(13) Where a complaint is rejected, the complainant must be provided with clear and adequate reasons for the decision and must be informed of any applicable escalation or review processes, including how to use them and any relevant time limits.

(14) A bank must ensure accurate, efficient and secure recording of complaints-related information, including in respect of each reportable complaint received from a retail complainant:

(a) All relevant details of the complainant and the subject matter of the complaint;

(b) copies of all relevant evidence, correspondence and decisions;

(c) the complaint categorisation as set out in subsection (7); and

(d) progress and status of the complaint, including whether such progress is within or outside any set timelines.

(15) A bank must maintain the following data in relation to reportable complaints received and categorised in accordance with subsection (7):

(a) Number of complaints received;

(b) number of complaints upheld;

(c) number of rejected complaints and reasons for the rejection;

(d) number of complaints escalated by complainants to the internal complaints escalation process;

(e) number of complaints referred to an ombud and their outcome;

(f) number and amounts of compensation payments made;

(g) number and amounts of goodwill payments made; and

(h) total number of complaints outstanding.

(16) Complaints information recorded in accordance with subsection (15) must be scrutinised and analysed by a bank on an ongoing basis and utilised to pro-actively identify and manage conduct risks and affect improved outcomes and processes for its financial customers, and to prevent recurrences of poor outcomes and errors.

(17) A bank must establish and maintain appropriate processes and procedures for reporting of the information in subsection (16) to its governing body and appropriate key persons.

(18) A bank must ensure that its complaint processes and procedures are transparent, visible and accessible through channels that are appropriate to the bank and its financial customers.

(19) A bank may not impose any charge for a complainant to make use of complaint processes and procedures.

(20) All communications with a retail complainant must use plain language.

(21) A bank must, within a reasonable time after receipt of a complaint, acknowledge receipt thereof and promptly inform a complainant of the process to be followed in handling the complaint, including -

(a) contact details of the person or department that will be handling the complaint;

(b) indicative timelines for addressing the complaint;

(c) details of the internal complaints escalation and review process if the complainant is not satisfied with the outcome of a complaint; and

(d) details of escalation of complaints to the office of a relevant ombud where applicable.

(22) A complainant must be kept adequately informed of -

(a) the progress of the complaint;

(b) causes of any delay in the finalisation of the complaint and revised timelines; and

(c) the bank's decision in response to the complaint.

(23) A bank must -

(a) have appropriate processes and procedures in place for engagement with any relevant ombud in relation to its complaints;

(b) clearly and transparently communicate the availability and contact details of the relevant ombud services to financial customers and complainants at all relevant stages of the relationship with the bank, including at point of sale, in relevant periodic communications, and when a complaint is rejected;

(c) display or make available information regarding the availability and contact details of the relevant ombud services at the premises or on the website of the bank;

(d) maintain specific records and carry out specific analysis of complaints referred to the bank by the ombud and the outcomes of such complaints; and

(e) monitor determinations, publications and guidance issued by any relevant ombud with a view to identifying failings or risks in their own financial products, financial services or practices.

(24) A bank must have appropriate processes and procedures in place to ensure compliance with any prescribed requirements for reporting complaints information to the Authority or to the public as may be required by the Authority.

9. Refusal, withdrawal or closure of financial products or financial services by the bank

(1) A bank must, subject to other applicable regulatory requirements, document, adopt and implement processes and procedures relating to the -

(a) refusal to provide a financial product or render a financial service to one or more financial customers;

(b) withdrawal, termination or closure of a financial product or withdrawal or termination of a financial service in respect of one or more financial customers.

(2) Subject to subsection (4), a bank may not take any of the actions referred to in subsection (1)(b), without providing reasonable prior notice of the withdrawal, termination or closure to the financial customer.

(3) Subject to subsection (4), a bank must, when it takes any of the actions referred to in subsection (1), disclose to the financial customer the reasons for the refusal, withdrawal, termination or closure.

(4) A bank may take any of the actions referred to in subsection (1) without providing the financial customer reasonable prior notice or reasons as contemplated in subsections (2) and (3) if it –

(a) is compelled to do so by law; or

(b) has a reasonable suspicion that the financial product or financial service is being used for any illegal purpose; and

(c) has made the necessary reports to the appropriate authority.

(5) Contractual agreements with financial customers must make provision for the types of circumstances in which the contractual agreement may be terminated or withdrawn by the bank.

10. Termination, closure or switching of financial products or financial services by the financial customer

(1) A bank must not impose unreasonable barriers where a financial customer requests the termination, closure or transfer to another bank, of a financial product or financial service.

(2) A bank must assist a financial customer to close, terminate or transfer to another bank a financial product or financial service, upon receiving a request from a financial customer to do so.

(3) Contractual agreements with financial customers must make provision for the circumstances in which the contractual agreement may be terminated or closed by the financial customer.

(4) A bank must proactively disclose to a financial customer the effect and implications of maintaining a dormant financial product as opposed to closing or terminating the financial product.

(5) A bank must have processes and procedures in place to identify a dormant financial product and notify the financial customer of such dormancy, including

the decisions available to the financial customer with regards to such dormant financial product.

11. Short title and commencement

This Conduct Standard is called the Conduct Standard for Banks, 2020 and comes into operation as follows:

(a) Sections 3, 4, 5 and 6 come into operation 8 months after the date of publication of this Conduct Standard;

(b) sections 7, 8, 9, and 10 come into operation 12 months after the date of publication of this Conduct Standard; and

(c) all other sections come into operation on the date of publication.