Twin Peaks: Days of silo regulators are over

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The days of silo regulators within the financial services sector are soon ending. Twin Peaks will see the establishment of a dedicated prudential regulatory authority in the South African Reserve Bank (SARB) and a new Financial Sector Conduct Authority (FSCA).

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At present, South African insurers, pension funds, collective investment schemes and other financial services providers are regulated by the Financial Services Board (FSB), whereas banks are regulated by the South African Reserve Bank (SARB). Each institution is required to comply with its own industry-specific legislation.

The current Financial Services Board (FSB) will be transformed into the FSCA – responsible for regulating how firms conduct their business, design and price their products and treat their customers. While the Prudential Authority will regulate financial institutions' solvency and liquidity.

The setup of the Prudential Authority is an essential precursor to enacting the new Insurance Bill, which will replace the existing Long-Term and Short-Term Insurance Acts (the Insurance Acts), although certain sections of these Acts will remain in force until the appropriate conduct legislation is promulgated. Legislative implementation of the Insurance Bill is expected to be 1 July 2018. It will also introduce regulation in relation to Insurance Group supervision that does not exist in the current regulatory framework.

Licensing regime

One of the significant changes to be introduced is a new licensing regime. All existing license holders under the existing Insurance Acts will be required to apply for licenses in terms of the new framework, as these won't be granted automatically; therefore, the regulator must be satisfied that an applicant has the necessary resources and expertise to conduct a particular line of business prior to issuing a license.

The new licensing regime will allow for branches of foreign reinsurers. Historically, branches have not been allowed under the Insurance Acts. In contrast, branches of foreign banks already operate in South Africa, which have specific types of risks, which a prudential regulator needs to consider.
The conduct regulator will place significant emphasis on the concept of “show us, don’t tell us”. Implications for industry participants under the new conduct-focused supervisory regime include the monitoring and reporting on:

- Conduct risk indicators
- Adequacy and quality of data
- Continuous improvement in product design and general customer experience through analysis of data
- Consequence management of non-compliance and/or practices relating to poor customer outcomes by outsourced partners

It is interesting to note that (according to Section 291 of the FSR Act) the Council for Medical Schemes will remain the de facto prudential and conduct regulator for medical schemes registered under the Medical Schemes Act. Although the conduct of relevant intermediaries will be regulated under the FSCA.

Furthermore, the National Credit Regulator (NCR) will remain in place, and operate alongside the Twin Peaks structures.

With the Twin Peaks model of regulatory supervision being implemented, insurers along with other financial institutions will embark on a journey which aims to protect their consumers by ensuring that they are treated fairly. It will enhance efficiency and integrity of the financial system and provide financial customers with financial education programmes, ultimately promoting financial literacy.

ABOUT THE AUTHOR

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