

Retail Banking Diagnostic Assessment of Recommendations

Annexure A

Nr.	Theme	Sub-theme	Finding	Recommendation	Allocated FSCA Working group	Status
1.	Product Design	Transactional Accounts for low-income customers	Transactional account offerings aimed at the low-income market largely offer transaction features equivalent to their counterparts targeted at higher-income customers. It also seems that, for customers who do not maintain a significant balance on which they can earn interest to offset costs, the pricing of the major banks' offerings is similar to that of their main commercial competitor in the lower-income bracket. Pricing bundles appear intended to drive customer behaviour away from branch and ATM services to electronic channels. However, at this level of the market, there remains a great propensity to transact in cash. Relevant account offerings are likely to become much more expensive for low-income individuals if they make use of branch or ATM services. Charges for using such services are significant. (For low-income households, account costs can represent up to 10 percent of income.) Reluctance to use electronic channels may also be driven by other circumstances and by communications costs.	The South African authorities should consider strengthening and simplifying the reporting parameters under the FS Code regarding transactional accounts to incentivize banks more clearly to ensure that pricing as well as features support accessibility.	n/a	1. The FSCA is now a syndicate member of the FinScope Survey, a nationally representative study that explores consumers' demand for, usage of and access to financial services. The survey results will be used to better understand customer needs relating to transactional bank accounts and where appropriate align regulatory and supervisory activities accordingly. 2. The FSCA is participating in the Financial Sector Transformation Council (FSTC) process to review the FS Codes. Through this process the FSCA will provide technical inputs on how to position the access to banking services scorecard to be more impactful in terms of promoting access to and sustainable usage of bank accounts that meet the need of the low-income market. 3. Provision is being made in the COFI Bill for financial institutions to submit a transformation plan to the FSCA detailing how they will meet their commitments in term of the FS Code including their commitment relating to access to banking services, and for the FSCA to monitor progress of financial institutions to ensure that they adhere to their plans. 4. The FSCA has initiated a process to create an ability for members of the general public to compare banking fees online.

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2.			It is not clear that the product parameters contemplated under current access reporting requirements focus sufficiently on transactional accounts, and their complexity may also hinder clear reporting focusing specifically on such accounts. It is also not clear that product changes that can have a significant impact on low-income consumers are consistently subject to internal testing by banks.	The South African authorities should also consider introducing measures—such as those introduced through regulation in the European Union, for example, or through a coordinated industry agreement in Canada—promoting the provision of full-featured transactional account offerings that respond to the needs of low-income customers, including in terms of pricing. Consideration should be given to setting out minimum feature and pricing aspects to be met that providers could then enhance and build on, fostering accessibility while allowing for innovation. Importantly, the parameters of any such intervention should be based on comprehensive customer-focused research that examines in sufficient detail not only low-income individuals' current usage in South Africa but also broader financial transaction needs, behaviours, preferences, and related physical and technological accessibility (for example, drivers for continued demand for branch and ATM access and cash usage). Research should also examine potential market impact, including previous experience and concerns expressed with regard to Mzansi accounts.		1. The results of the Finscope Survey, the outcome of the FS Code review process and if necessary further research will inform the FSCA 's policy decision on whether or not there is a need to introduce measures relating to product design of transactional bank accounts aimed at the low-income market. 2. The FSCA is considering reports on the effectiveness/challenges of the Mzansi model. 3. Findings/recommendations from market studies complementary to the above research will further inform regulatory and supervisory activities. 4. Based on the above appropriate measures will be considered for South Africa.

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3.				In addition, the general product-design obligations recommended below should apply to all levels of product offerings, including low-income products.		1. The Banking Conduct Standard puts in place product design principles; such principles will be embedded in primary law through the COFI Bill.
4.	Product Design	Middle income Transactional Account offerings	Structural complexity and differences in the content of the major banks' bundles, and in each bank's individual transaction pricing, continue to make it difficult for a retail customer to undertake a meaningful comparison of each bank's offering. Even where banks had undertaken recent product reviews, they tended to retain complex pricing. Bundle pricing seems intended to encourage usage of digital channels and discourage usage of traditional channels. This also adds to pricing complexity. Several banks have implemented TCF Outcomes-style concepts in their written product-approval and other decision-making policies. However, the level of sophistication and granularity of such policies varies significantly.	The South African authorities should consider including in the COFI FSR Laws specific product-design obligations to ensure that financial institutions' processes for developing and making changes to transactional account (and fixed deposit) products include clear, concrete steps intended to drive TCF Outcomes. Examples of approaches are provided in the report. At least initially, such obligations should be principles-based, particularly assuming that they would not be confined to transactional accounts and fixed deposit products but would also be intended to apply to other financial products. Importantly, however, the FSCA should augment such principles-based obligations by issuing more detailed regulatory guidance, addressing product-specific practicalities and concerns (that can be updated over time reflecting its supervision outcomes). If industry		1. The Banking Conduct Standard puts in place product design principles and governance requirements intended to drive TCF outcomes. 2. In addition, the Conduct of Business Supervision department is proactively identifying misconduct or the risk of misconduct in order to remediate the harm; enforcement action may be taken. 3. Further regulatory requirements may be considered to support principles contained in the Banking Conduct Standard, where targeted interventions may be required.

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5.			Banks have internal product-design and approval processes with varying levels of focus on customer research and testing and assessment rigor to ensure suitability for an identified target market. Overall pricing between the major banks' core bundles is relatively close and higher than some competitor offerings. It was not possible in the scope of the diagnostic to confirm the reasons for pricing similarity or to assess the level of bundle underutilization.	does not meet relevant expectations sufficiently, then more prescriptive requirements could follow. The South African authorities should, in addition, consider undertaking an updated Banking Enquiry-style pricing-versus-costs analysis and a complementary in-depth study of switching behaviour and attitudes among middle-income customers.	Disclosures	1. A Banking Enquiry type study is under review for the medium term; the FSCA will first assess the impact of other interventions (like the Banking Conduct Standard). 2. The FSCA will research international practices regarding account switching, and regulator approaches in this regard.
6.	Product Design	Fixed Deposit Design	A wide range of rates is offered on fixed deposit offerings. There is also significant variation in product structuring for fixed deposits. The availability of a range of offerings of itself is not necessarily of concern, if it gives retail customers the ability to choose more suitable alternatives. However, the complexity involved in comparing individual aspects of current alternatives is likely to make it more difficult for retail customers to choose without assistance.	To assist in addressing these issues, the South African authorities should consider implementing the specific product-design obligations noted above to apply to fixed deposits, as well as the improvements to product disclosure referred to in 2 below.	Disclosures (for some aspects of the recommendation)	1. The Banking Conduct Standard puts in place product design principles, including specific interest rate disclosures that will promote comparability. 2. The FSCA has initiated a process to create an ability for members of the general public to compare banking fees online.

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7.	Product Design	Potentially unfair product terms	A review of a sample of current bank terms and conditions, and discussions with banks, suggests varying degrees of effort across the industry to ensure that such terms do not contain unfair or excessively one-sided clauses. Clauses of concern include, for example, significant exclusions of liability and the placing of excessive responsibility on customers for some risks. (The report discusses a range of examples in more detail.)	A regime that would prohibit unfair terms in transactional account and fixed deposit standard form contracts should be implemented in the COFI/FSR Laws. The regime should provide both for enforcement by the FSCA and reliance by individual retail customers. The regime should contain appropriate adjustments for issues relating to financial products, such as regarding its application to pricing. The FSCA should issue up-front guidance on its expectations in this regard, which should include practical guidance focusing on the application of the regime to key aspects of financial products, such as unilateral rights of variation and exclusions of liability. Institutions should then be expected to undertake (for example, during a transition period) substantive reviews and, where necessary, amendments of terms and conditions to ensure consistency with the regime.	Unfair terms and conditions_ fees and penalties	1. The Banking Conduct Standard addresses unfair terms on a high level. 2. Further regulatory requirements may be considered over time should targeted interventions be required. 3. The FSCA has initiated a process to create an ability for members of the general public to compare banking fees online.
8.	Product offer and sale	Advertising and sales material	There is a significant gap, as well as interpretative inconsistencies, in the applicability of the FAIS Legislation to transactional accounts. There has also been uncertainty regarding the application of the general consumer protection legislation to transactional account and fixed deposits. (This is discussed in more detail in the report.)	The COFI/FSR Laws should explicitly and comprehensively address advertising and marketing practices in relation to transactional accounts and fixed deposits as outlined in the report (including to address existing legal gaps).	Disclosures	1. The Banking Conduct Standard has explicit advertising requirements; 2. Further regulatory requirements may be considered over time should targeted interventions be required.

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9.	Product offer and sale	Product disclosure	The existing legal and regulatory framework for disclosure relating to transactional accounts and fixed deposits is fragmented and limited. There is wide variation in what, when, and how information about product features and pricing is disclosed to retail customers. The CBP approach to alignment and standardization of product terminology has important gaps and has been implemented inconsistently. Despite some progress, the language used to articulate terms and conditions in customer agreements remains dense and laden with legal terms and jargon. There is wide variation in how banks describe interest rates on fixed deposits.	The COFI/FSR Laws should do the following: – Establish a disclosure regime for transactional accounts and fixed deposits that covers key features, terms, pricing, and rights and recourse for transaction and fixed account deposit products, as well as the manner and timing of disclosure. Flexibility for key contractual disclosures to be made in electronic format should be included.	Disclosures	1. The Banking Conduct Standard has explicit disclosure requirements at a principle level, including a specific requirement for disclosure of interest rates; 2. Further regulatory requirements may be considered over time should targeted interventions be required.
10.				– Require provision of a standardized short form disclosure document to summarize key product features, pricing, and terms and conditions of transaction and fixed deposit accounts. (The report discusses the content and provision of such documents in detail, including availability through all applicable channels and the need for verbal explanations in some circumstances.)	Disclosures	1. The requirement to put in place a short-form disclosure template will be considered as part of the disclosure framework that will be put in place under the COFI Bill.
11.				The South African authorities should establish standards for disclosing and explaining interest rates and calculation of interest on fixed deposits in a simplified manner.	Disclosures	1. The Banking Conduct Standard has explicit disclosure requirements at a principle level, including a specific requirement for disclosure of interest rates; further regulatory requirements may be considered over time should targeted interventions be required.
12.				The South African authorities should consider carefully whether it is feasible to include an overall cost indicator (based on standard or sample usage patterns) in short-form disclosure documents for transactional accounts or at least specially targeted categories.	Disclosures	1. The FSCA has initiated a process to create an ability for members of the general public to compare banking fees online.

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13.	Product offer and sale	Product disclosure	Most customer-facing product documentation is available only in English and Afrikaans, despite the fact that 77 percent of adults speak another language as their main language at home. This has implications for customers' understanding of the features and pricing of transactional accounts and fixed deposits.	The COFI/FSR Laws should mandate more comprehensive language requirements for key customer-facing documentation related to transactional accounts and fixed deposits reflecting approaches taken in and, importantly, lessons learned from the implementation of such requirements in the National Credit Act and, for the public sector, the Use of Official Languages Act.	Disclosures	1. The Banking Conduct Standard has plain language requirements. 2. The Conduct of Business Supervision department will engage the individual banks to understand industry lessons learned from implementation of the NCA language requirements. 3. As part of the FSCA Consumer Education initiatives, the FSCA has developed a <i>"Multilingual Financial Terminology List"</i> in cooperation with the Department of Arts and Culture containing financial terms across all South African languages.
14.	Product offer and sale	Product disclosure	Industry-led efforts to provide fee calculators to help customers compare products appear to have been largely ineffective.	The authorities should establish or support the establishment of a centralized website and related tools that make it easy to compare features and prices of transactional accounts and fixed deposits.	Disclosures	1. The FSCA has initiated a process to create an ability for members of the general public to compare banking fees online.
15.	Product offer and sale	Advice and sales practices and incentives	Quantitative sales data remains a key component of compensation metrics for frontline sales staff, though several banks have recently introduced "quality" sales measures. Frontline sales staff often rely solely on income-based account eligibility criteria to guide consumers toward certain products. Although several banks use agents or intermediaries to facilitate customer acquisition and product usage, third-party retail agent models have not been fully leveraged to achieve	Building on the approaches taken in the FAIS Legislation with respect to sales practices, the COFI/FSR Laws should appropriately strengthen governance of advice and sales related to transactional accounts and fixed deposits, including regarding – the compensation of frontline sales staff and agents to limit consumer risks, and – protective rules governing relationships between banks, third-party agents/ intermediaries, and retail customers (leveraging work so far under the Retail Distribution Review). Importantly, the application of these rules should be proportional, and adaptable, to initiatives intended		1. The Conduct of Business Supervision department will engage the individual banks to understand distribution and selling practices, and the extent to which intermediaries are used (and how they are incentivised).

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			financial inclusion policy objectives. There is a lack of clear rules governing the relationship between a customer, an agent or intermediary, and a bank with regard to transactional accounts and, to a certain extent, fixed deposits.	to promote effective access by low-income consumers to transaction and savings products.		
16.	Product operation and administration	Potentially unfair fees	Transactional account and fixed deposit terms and conditions do not seem to have been effectively subjected under the general unfair-terms regime. (The report discusses the reasons for this in more detail.) Common law concepts of penalties and limited legislation seem to apply, but there does not seem to be a common understanding in the banking industry as to when a fee would be prohibited as a penalty. Some banks consider that disclosure can be sufficient to avoid a fee being a penalty. While there have been some improvements in fee-charging practices, some fees continue to be charged that could potentially be restricted penalties in the sense contemplated under existing legislation or, even if this is not the case, could nevertheless be viewed as unfair or unreasonable (for example, certain dishonour fees or fees	The regime prohibiting unfair terms recommended above in 1 should apply to relevant fees. The fairness of such fees would then be tested against the restrictions in the regime to determine whether the fee is appropriate.	Unfair terms and conditions_ fees and penalties	1. The Banking Conduct Standard addresses unfair terms on a high level. 2. Further regulatory requirements may be considered over time should targeted interventions be required.
17.				If necessary (depending on the implementation of the regime), the application of existing legislative and common law doctrines on penalties should be clarified for financial sector participants.	Unfair terms and conditions_ fees and penalties	1. The Unfair Terms and Conditions working group will be used to determine the types of “penalty fees” in the market. 2. The FSCA has initiated a process to create an ability for members of the general public to compare banking fees online and consideration will be given to use the online comparator to also reflect penalty fees. 3. Based on the above research, the FSCA will consider the need for further intervention.
18.				The disclosure improvements recommended above in 2 should also be pursued to address the potential lack of customer awareness regarding the application of relevant fees. Such fees should not be enforceable unless disclosed consistently with new disclosure requirements.	Disclosures	1. The FSCA has initiated a process to create an ability for members of the general public to compare banking fees online. 2. The Banking Conduct Standard has explicit disclosure requirements at a principle level.

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			associated with debit order disputes).	The potential lack of customer awareness regarding the application of relevant fees. Such fees should not be enforceable unless disclosed consistently with new disclosure requirements.		3. The requirement to put in place a short-form disclosure template will be considered as part of the disclosure framework that will be put in place under the COFI Bill.
19.	Product operation and administration	Dormant transactional accounts	There do not currently appear to be regulatory or self-regulatory requirements, nor uniform industry practices, for dealing with dormant accounts. Fees may continue to be charged on an inactive or a dormant account for different periods, depending on the bank.	South African authorities should issue specific regulatory requirements on transparency and fair conduct related to dormant accounts, including defining the time or circumstances when an account would be considered dormant, to ensure uniformity of customer treatment by banks, and parameters for (i) identification of dormant accounts, (ii) notification to consumers, and (iii) closure. Specific prohibitions of adverse practices should also be considered, such as continuing to charge maintenance fees on dormant accounts that have reached a zero or negative balance.	Account Closures and Switching	1. The Banking Conduct Standard sets principles-based requirements in relation to dormant accounts; the FSCA is considering additional requirements in this regard as part of the unclaimed assets project. Banks have been requested to provide input through that process. 2. The Account Closures and Switching working group to assist with research regarding current practices in the market. 3. Based on the above research the FSCA will determine whether and how to intervene with additional regulatory requirements.

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20.	Product operation and administration	Temporary overdrafts or "shadow" credit limits	Some banks allow selected customers to temporarily overdraw their transactional account without a prior agreed overdraft, while others charge for this service. It seems that customers would need to expressly opt out if they are not in fact interested in receiving this service. There are differing legal views between the banks regarding the application of the National Credit Act to such temporary overdrawing and thus to compliance. Indications are that, notwithstanding specific references in some terms and conditions, customers do not necessarily understand that they have been granted such credit nor how it operates. Some of the consulted banks started implementing alternative ways to notify customers in case their transactional accounts may not have sufficient funds to cover future debits (to avoid overdrawing as well as dishonours).	While recognizing that temporary overdrawing can serve a legitimate customer purpose, the South African authorities should consider how best to regulate it (for example, whether it is necessary to amend the National Credit Act or National Credit Regulations to extend them more clearly to such facilities or impose requirements through the COFI/FSR Laws) to ensure that banks do not engage in unfair practices in relation to temporary overdrawing of transactional accounts. More specific product-design obligations of the kinds recommended above in 1 would also be relevant in ensuring that the inclusion of such features in transaction accounts is consistent with TCF Outcomes.	NCR engagement required.	1. The FSCA will engage the NCR with regards to the recommendations.

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21.				In the meantime, the NCR should also consider a targeted review of banks' current practices relating to temporary credit provided in connection with transactional accounts to ensure compliance with the National Credit Act and National Credit Regulations.		n/a
22.	Product operation and administration	Changes to terms and conditions and fees and charges	In their account terms and conditions, banks retain extensive unilateral rights to make changes to fees and charges and other terms. Some banks' terms and conditions contain clauses indicating that a bank can change the fees and charges and other terms and conditions for an account without prior individual notice being given to the customer.	The COFI/FSR Laws should mandate minimum notice periods and require individual customer notice of changes that will have a direct customer impact, considering the likelihood that a customer may not become aware of general public notices of relevant changes.	Disclosure	1. The Banking Conduct Standard addresses unfair terms and in addition requires timely and complete disclosures across the life of a financial product, that is appropriate for the target market and empowers customers to assess costs and value. 2. Further regulatory requirements may be considered should targeted interventions be required
23.				Unilateral variation rights included in terms and conditions should also be subject to an unfair-terms regime as recommended above in 1.	Unfair terms and conditions_ fees and penalties	1. The Banking Conduct Standard addresses unfair terms but does not explicitly deal with unilateral changes. Practices in this regard will be monitored and further regulatory requirements may be considered over time.

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24.	Product operation and administration	Statements	Statement requirements for transactional accounts are not currently regulated by legislation. The CoBP addresses the provision of statements for transactional accounts only to some extent. Banks indicated that they provide customers with a statement either on a regular basis or upon request. Practice in this regard seems to vary and charging for paper statements seems a common practice. Consumer representatives indicated that access to bank account statements is one of the main challenges faced by account holders.	The COFI/FSR Laws should specify requirements for the provision of periodic statements for transactional accounts. Regulatory requirements should address minimum content and format requirements, as well as frequency, timing, and manner of delivery (including making appropriate provision for easy access to statements and other transactional information through electronic channels).	Disclosures	1. The FAIS Short-term Deposit Code as well as the General Code has requirements with regards to Statements to clients. These requirements will be re-evaluated and strengthened where considered appropriate. 2. The recommendations are quite rules based and the FSCA will need to consider to what extent some of these more detailed rules are necessary to support the relevant principles. The FSCA is, however, wary of imposing too many detailed rules as this will defeat the rationale behind having principle-based requirements. 3. The Conduct of Business Supervision department will engage the individual banks to understand current practices and approaches. 4. Further regulatory requirements may be considered should targeted interventions be required.
25.	Product operation and administration	Information about external dispute resolution	Information regarding external dispute resolution mechanisms does not seem to be consistently available across all channels.	The disclosure requirements recommended in the report should require banks to disclose clearly the contact information and basic processes for internal and external complaints handling mechanisms.		1. The Banking Conduct Standard addresses complaints handling, including the disclosure details of relevant Ombuds. 2. Further regulatory requirements may be considered should targeted interventions be required.
26.	Product closure and mobility	Potential barriers to account closure	Banks generally confirmed that account closure is at the customer's discretion but that some administrative steps would need to be undertaken. The OBS reports only a few complaints related to account	See below.	Account Closures and Switching	1. The Banking Conduct Standard addresses account closures by either the bank or the customer. 2. Further regulatory requirements may be considered should targeted interventions be required.

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			closure, but there seems to be a lack of transparency or publicly available information regarding applicable procedures and varying degrees of facilitation by banks.			
27.	Product closure and mobility	Account-switching processes	Banks tend to follow the CBP's provisions regarding switching processes, but these place some of the administrative onus on customers.	The new disclosure requirements recommended above in 2 should cover inclusion of clear information regarding closure and switching rights and processes.	Disclosures	1. The Banking Conduct Standard addresses account closures by either the bank or the customer, including account switching and disclosures that should be made in this regard. 2. Further regulatory requirements may be considered should targeted interventions be required.
28.			Industry information regarding switching processes is unclear, and some banks are more facilitative than others. Some banks have developed debit order switching authorization forms as part of the initiatives to assist customers to switch in.	The authorities should work with the banking industry to achieve a common and facilitative industry approach to transferring bank accounts, including debit orders (before considering regulatory intervention).	Account Closures and Switching	1. The FSCA is considering international approaches to facilitate seamless switching for customers between banks and will engage industry with proposals over the medium term.
29.	Product closure and mobility	Early termination and rollover of fixed deposits	Customers may not understand fully the implications of restrictions on fixed deposit withdrawals. Automatic roll-overs of fixed-term deposits may sometimes also occur without customer understanding.	The short-form disclosure documents that are recommended to be introduced in 2 should provide a brief, clear explanation of the consequences of early termination and of the implications at maturity if the customer does not withdraw the fixed deposit.	Disclosures	1. The Banking Conduct Standard requires timely and complete disclosures across the life of a financial product, that is appropriate for the target market and empowers customers to assess costs and value. 2. The requirement to put in place a short-form disclosure template will be considered as part of the disclosure framework that will be put in place under the COFI Bill.
30.				Potential inappropriateness or unfairness of terms governing early withdrawals should also be addressed through the product-design and unfair-terms measures referred to above in 1.	Unfair terms and conditions_ fees and penalties	1. The Banking Conduct Standard addresses these matters through requirements relating to <i>inter alia</i> product design, unfair terms and disclosures.

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						2. Further regulatory requirements may be considered should targeted interventions be required.
31.				A coordinated industry approach should be considered for providing alerts ahead of the maturity date of fixed deposits.	Disclosures	1. It is proposed that the Disclosures working group assist with research regarding current practices in the market. 2. Based on the above research the FSCA will consider the need for further intervention.
32.	Code of Banking Practice	Code of Banking Practice	The report recommends in various instances addressing objectives reflected by the TCF Outcomes through legislative reforms, but the CoBP also remains a key document governing and influencing bank practices in relation to transactional accounts and fixed deposits. Several banks suggested that the CoBP should be reviewed and further updated in the light of TCF Outcomes, and the report notes some examples where it may currently have gaps or inconsistencies in this regard.	The CoBP should be reviewed to ensure that it fully reflects the latest public and regulatory expectations in the context of the TCF Outcomes.	n/a	1. BASA should action recommendation
33.				Efforts should be made to enhance consumer awareness of the CoBP.	n/a	