

THE ROLE OF THE FINANCIAL SECTOR CONDUCT AUTHORITY AND THE NEW FIT AND PROPER REQUIREMENTS

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Presented at the INSETA QA Information Sessions
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Overview

- **Introducing the FSCA**
- **Current Fit and Proper Requirements**
- **Future regulatory framework**


INTRODUCING THE FSCA



Introducing the FSCA

Our statutory mandate (s.57 of the FSR Act)

The objective of the FSCA is to –

- enhance and support the efficiency and integrity of financial markets
 - protect financial customers by –
 - promoting fair treatment of financial customers by financial institutions; and
 - providing financial customers and potential financial customers with financial education programs and otherwise promoting financial literacy and the ability of financial customers and potential financial customers to make sound financial decisions
 - assist in maintaining financial stability.
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Key differences between the FSCA and FSB

	FSB	FSCA
Jurisdiction	Non-banking financial sector	All financial institutions
Focus	Combined prudential and market conduct regulator	Dedicated market conduct regulator
Founding legislation	Financial Services Board Act	Financial Sector Regulation Act
Legislation overseen	A range of sector-specific laws	Existing sector-specific laws to be replaced by an overarching, cross-cutting Conduct of Financial Institutions Act (COFI)



Key differences between the FSCA and FSB

	FSB	FSCA
Governance structure	Overseen by a Board appointed by the Minister with governance sub-committees	Overseen by Executive Committee comprising the FSCA Commissioner and Deputy Commissioners appointed by Minister of Finance, with governance sub-committees appointed by National Treasury
Regulatory decision-makers	Executive Officer and (through delegation) Deputy Executive Officers, appointed by the Minister	Commissioner is accountable for day-to-day management of the FSCA and for performing its functions, other than certain key functions (including standard setting and licensing) to be performed by EXCO as collective



Key differences between the FSCA and FSB

	FSB	FSCA
Organisation design	Sector-specific divisions focused on sector-specific laws	Largely functional design, with cross-cutting licensing, enforcement and conduct of business supervision groups. Strengthened research and technical analysis capacity
Licensing	Multiple sector laws, complex licensing framework	Two step process: <ul style="list-style-type: none">•Pre-CoFI vs post-CoFI•Post-CoFI conduct licensing framework will be activity-based



FIT AND PROPER REQUIREMENTS



Fit and Proper Requirements

**Determination of Fit and Proper Requirements for Financial Services Providers, 2017
(Board Notice 194 of 2017)**


Came into effect on 1 April 2018





General Requirements

💡 General Competence Requirements (*Section 12*)

- *must have **adequate**, **appropriate** and **relevant** skills, knowledge and expertise in respect of financial services, financial products and functions that are performed*
 - *must comply with the minimum requirements as set out in Part 2, 3, 4 and 5 of Chapter 3*
 - *must **maintain** their competence.*
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Competency Requirements: Category I FSP

Person	Experience	Qualifications	Exams	Class of business	Product specific	CPD
FSP	Product & Service	Recognised qual. Exceptions: ▪ Funeral & Friendly	RE 1 Exceptions: ▪ Funeral & Friendly	Yes Exceptions: ▪ Funeral & Friendly	Yes	Yes Exceptions: Funeral & Friendly
	Management of Cat I service	Recognised qual. Exceptions: ▪ Funeral & Friendly	RE 1 Exceptions: ▪ Funeral & Friendly	Yes Exceptions: ▪ Funeral & Friendly		No
Rep	Product & Service	Recognised qual. Exceptions: ▪ Funeral & Friendly ▪ Scripted sales execution - all products – Grade 12	RE 5 Exceptions: ▪ Funeral & Friendly ▪ Tier 2 products – all services ▪ Tier 1 products - scripted sales execution only	Yes Exceptions: ▪ Funeral & Friendly ▪ Tier 2 products – all services ▪ Tier 1 products – scripted sales execution only	Yes	Yes Exceptions: ▪ Funeral & Friendly ▪ Tier 2 products – all services ▪ Tier 1 products – intermediary services only



Competency Requirements: Other Category FSP

Person	Experience	Qualifications	Exams	Class of business	Product specific	CPD
Category II						
FSP	Product & Service	Recognised qual.	RE 1 & RE 3	Yes	No	Yes
KI	Man. of Cat II service	Recognised qual.	RE 1 & RE 3	Yes	No	Yes
Rep	Product & Service	Recognised qual.	RE 5	Yes	No	Yes
Category IIA						
FSP	Product & Service	Recognised qual.	RE 1 & RE 3	Yes	No	Yes
KI	Man. of Cat IIA service	Recognised qual.	RE 1 & RE 3	Yes	No	Yes
Rep	Product & Service	Recognised qual.	RE 5	Yes	No	Yes
Category III						
FSP	Product & Service	Recognised qual.	RE 1 & RE 4	Yes	No	Yes
KI	Man. of Cat III service	Recognised qual.	RE 1 & RE 4	Yes	No	Yes
Rep	Product & Service	Recognised qual.	RE 5	Yes	No	Yes
Category IV						
FSP	Product & Service	Recognised qual.	RE1	Yes	Yes	Yes
KI	Man. of Cat IV service	Recognised qual.	RE1	Yes	No	Yes
Rep	Product & Service	Recognised qual.	RE 5	Yes	Yes	Yes

Qualifications

The requirement is that an FSP, key individual or representative must hold a recognised qualification. Qualifications are recognised based on the following criteria:

Relevance – Must equip the person with the relevant abilities, knowledge and skills:

- Must be based on an appropriate curriculum framework containing a body of knowledge and learning outcomes that is necessary for the person to discharge his or her responsibilities under the Act
- Must be quantitatively and qualitatively relevant to the **role and function** to be performed by the person under the Act.

Qualifications

Non-unit standard based:

- At least 3 appropriate subjects (see subject list);
- Degree must have at least one appropriate subject at final year level / major subject.

Unit standard based:

- Core and electives must relate to at least three modules / subjects that appear on the appropriate subject list.



Qualifications

- 🎓 Qualifications are recognised by the FSCA in respect of:
 - *Categories of FSPs*
 - *Key individuals in each of the categories of FSPs*
 - *Different types of financial services and financial products*
 - *Lists can be found on the website at*

<https://www.fsca.co.za/Regulated%20Entities/Pages/LR-FAIS-Fit%20and%20Proper.aspx>

List 1: Qualifications recognised for Category I FSPs																																		
No	Qualification title	Inst No	Institution	SAQA ID	Level	Credits	Category 1 [Sub Categories Below]																											
							1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	KI	
468	ADVANCED DIPLOMA IN FINANCIAL PLANNING	X	Name of Institution	76964	6	240	G	G	G	G	G	G	G	G	G	G	G	G	G	G	G	G	G	G	G	G	G	G	G	G	G	G	G	
70	CERTIFICATE IN INSURANCE	X	Name of Institution	FSB003	0	0	-	G	G	-	-	G	-	-	-	-	-	-	-	-	-	-	-	-	-	G	G	G	G	-	-	-	G	

Qualifications

Occupational qualifications

- Only difference – it includes a workplace-based assessment
- Only the assessment differs from current qualifications
- There is an ongoing process to replace all qualifications with occupational qualifications
- If there is an occupational qualification that is appropriate to be recognised for purposes of the Fit and Proper Requirements, the process is the same as the current process to apply for recognition of a qualification



Qualifications

What to do to obtain recognition for a qualification?

- Submit a completed application form:
 - *Application must be accompanied by a transcript (subjects / modules);*
 - *Foreign qualifications – must have a SAQA equivalence certificate;*
 - *Proof of payment;*
 - *must be submitted to fais.qualifications@fsca.co.za.*



Regulatory Examinations

- 💡 Four regulatory examinations each dealing with specific subject matter
- 💡 Preparation determines success
- 💡 **Preparation Guide** is critical – contains all the information to be successful – can be found on the FSCA's website



Class of Business training

1.	Short-term Insurance: Personal Lines
Subclasses	
1.1	Personal lines: Accident and health policy
1.2	Personal lines: Liability policy
1.4	Personal lines: Miscellaneous policy
1.5	Personal lines: Motor policy
1.6	Personal lines: Property policy
1.7	Personal lines: Transportation policy
1.8	Personal lines: Short-term reinsurance policy
2.	Short-term Insurance: Commercial Lines
Subclasses	
2.1	Commercial lines: Accident and health policy
2.2	Commercial lines: Engineering policy
2.3	Commercial lines: Guarantee policy
2.4	Commercial lines: Liability policy
2.5	Commercial lines: Miscellaneous policy
2.6	Commercial lines: Motor policy
2.7	Commercial lines: Property policy
2.8	Commercial lines: Transportation policy
2.9	Commercial lines: Short-term reinsurance policy

Classes of Business

3.	Long-term Insurance
Subclasses	
3.1	Assistance policy
3.2	Life risk policy
3.3	Life investment, policy
3.4	Fund policy
3.5	Sinking fund policy
3.6	Long-term reinsurance policy
4.	Pension Fund Benefits
5.	Short-term and Long-term Deposits
6.	Structured Deposits

7.	Investments
Subclasses	
7.1	Shares
7.2	Money market instruments
7.3	Debentures and securitised debt
7.4	Bonds
7.5	Derivative instruments, warrants, certificates or other instruments
7.6	Securities and Instruments
7.7	Participatory interests in a collective investment scheme
7.8	Participatory interest in a CIS hedge fund
7.9	Retail Pension Benefits
8.	Forex Investments
9.	Health Services Benefits

- ⚙️ Regarded as foundational product knowledge i.e., the fundamentals of short-term insurance
- ⚙️ These principles don't change – once off training





Class of Business training

- ⚙️ Section 29 – criteria that must be covered in the training
- ⚙️ Must be trained and assessed by an accredited training provider / higher learning institution
- ⚙️ Record keeping requirement – competence register to be updated within 15 days after training occurred
- ⚙️ Retain records for a period of at least 5 years



Product specific training

- ❗ Must complete product specific training before any services are rendered.
- ❗ Product specific training refers to the specific product in respect of which services are rendered that is unique to that particular product supplier.
- ❗ Product training **includes product amendments**:
 - *Any person can conduct this training*
 - *Not applicable to Cat II, IIA and III FSPs*
 - *Takes place each time a product change is made*
- ❗ Same record keeping requirement as for COB.
- ❗ FSP must provide confirmation of training to product supplier where requested to so.



CPD requirements

- A CPD cycle runs over a period of 12 months commencing 1 June of every year to 31 May of the following year.
- Section 12 of the Fit and Proper Requirements – **must comply at all times.**



CPD requirements

- **Interrupted employment** during a CPD cycle – section 34(1) creates a dispensation to accommodate representatives absent from work for the reasons set out in this section. When these specific circumstances apply then the calculation can be used to calculate the reduced hours:

$$[X \div 12] \times Y = Z$$

X = Number of annual required CPD hours

Y = Number of months from the date of compliance until the end of the CPD cycle

Z = Required pro-rata CPD training



Experience

- Does not replace a qualification or any of the other competence requirements.
- Specific to the Category and sub-category (type of activity and financial product).
- Lapsing of experience (FSP / representative) – not rendered the particular financial service in respect of the particular financial product for a period of 5 consecutive years.
- Lapsing of experience (key individual) – management and oversight of a particular financial service in respect of a particular financial product for a period of 5 consecutive years.



Exemption of Services under Supervision

The purpose of this exemption:

- To allow for the appointment of representatives to work under supervision where these representatives were appointed for the first time in respect of a specific category and subcategory;
- To allow for these newly appointed representatives to work under supervision subject to specific conditions;
- To allow sufficient time for these newly appointed representatives to meet the relevant competence requirements in relation to the category and subcategories for which they were appointed.
- **Does not apply to product specific training.**

Conditions

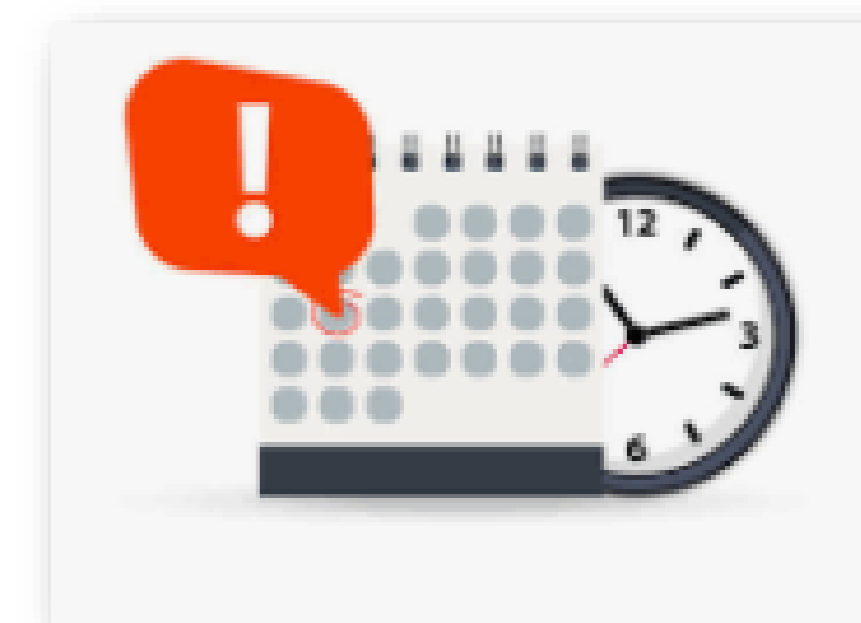
1: ENTRY LEVEL REQUIREMENTS

Representative in respect of...

- Category I & IV – must have a Grade 12 National Certificate or equivalent
- Category I execution of sales only – Grade 10 or equivalent
- Category I appointed for subcategory 1.1 and 1.19 only – excluded
- Category II, IIA and III must have a recognised qualification at a degree level



Conditions



2: SPECIFIC COMPLIANCE PERIODS

DATE OF FIRST APPOINTMENT
IN RESPECT OF A SPECIFIC CATEGORY AND SUBCATEGORY

Experience

- *BN 194 of 2017*
- *Min Experience as per Annexure 1 Table 1 & 2*
- *Must be assessed at the end of supervision period*
- *May run concurrently*
- *Commence on DOFA*

Qualification

- *6 years max.*
- *Excl. subcategory 1.1. & 1.19*
- *Recognised qualification*

Regulatory Examination

- *2 years from DOFA*
- *No longer linked to financial product – linked to DOFA as a rep)*
- *Only applies to:*
 - ✓ *Cat I (Tier 1 advice & intermediary)*
 - ✓ *Cat II, IIA, III*
 - ✓ *Cat IV*

Class of Business

- *12 months from DOFA*

Continuous Professional Development

- *After meeting qualification, RE, class of business or*
- *After 6 years*
- *Only applies to:*
 - ✓ *Cat I (Tier 1 advice & intermediary)*
 - ✓ *Cat II, IIA, III*
 - ✓ *Cat IV*

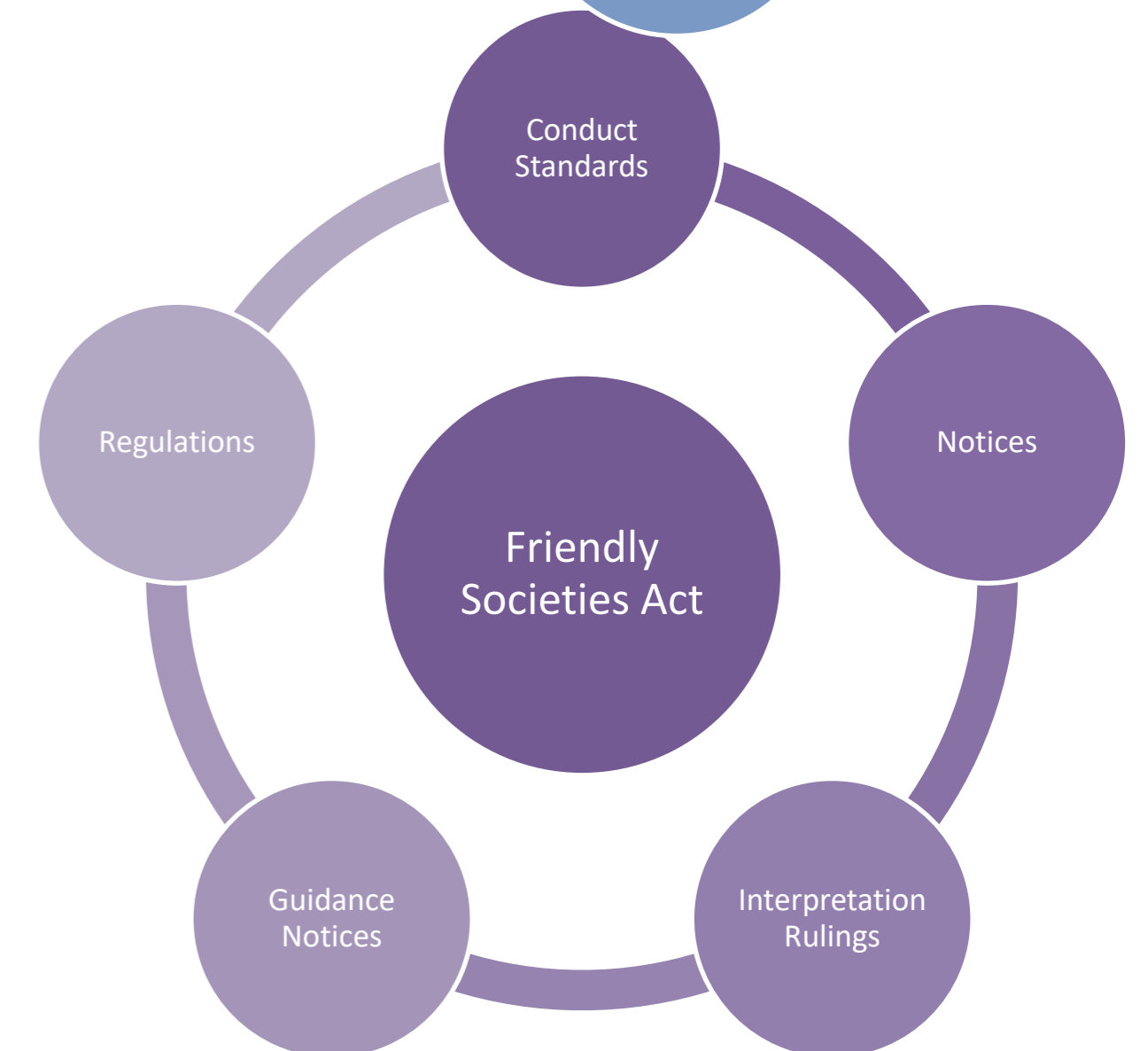
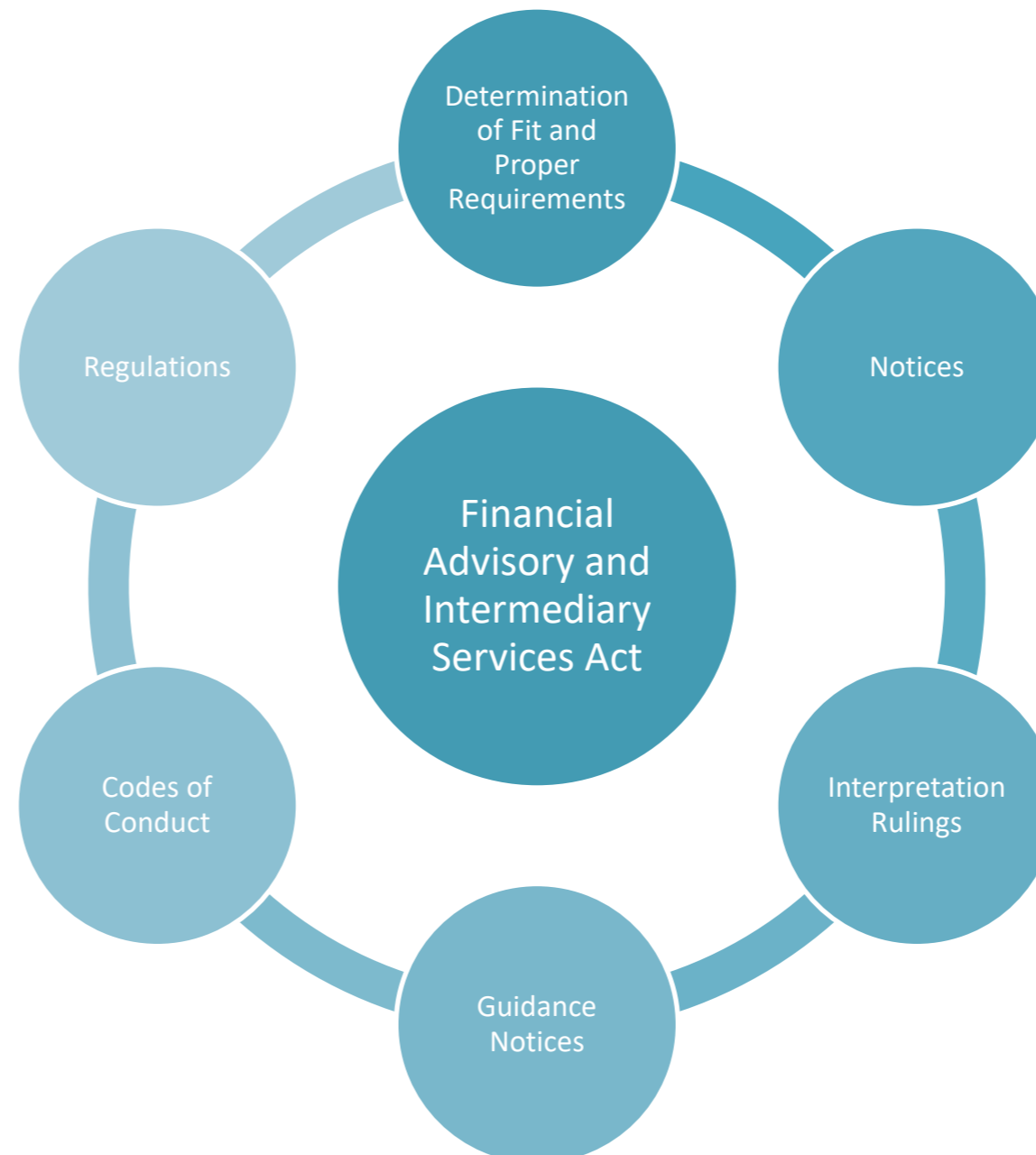
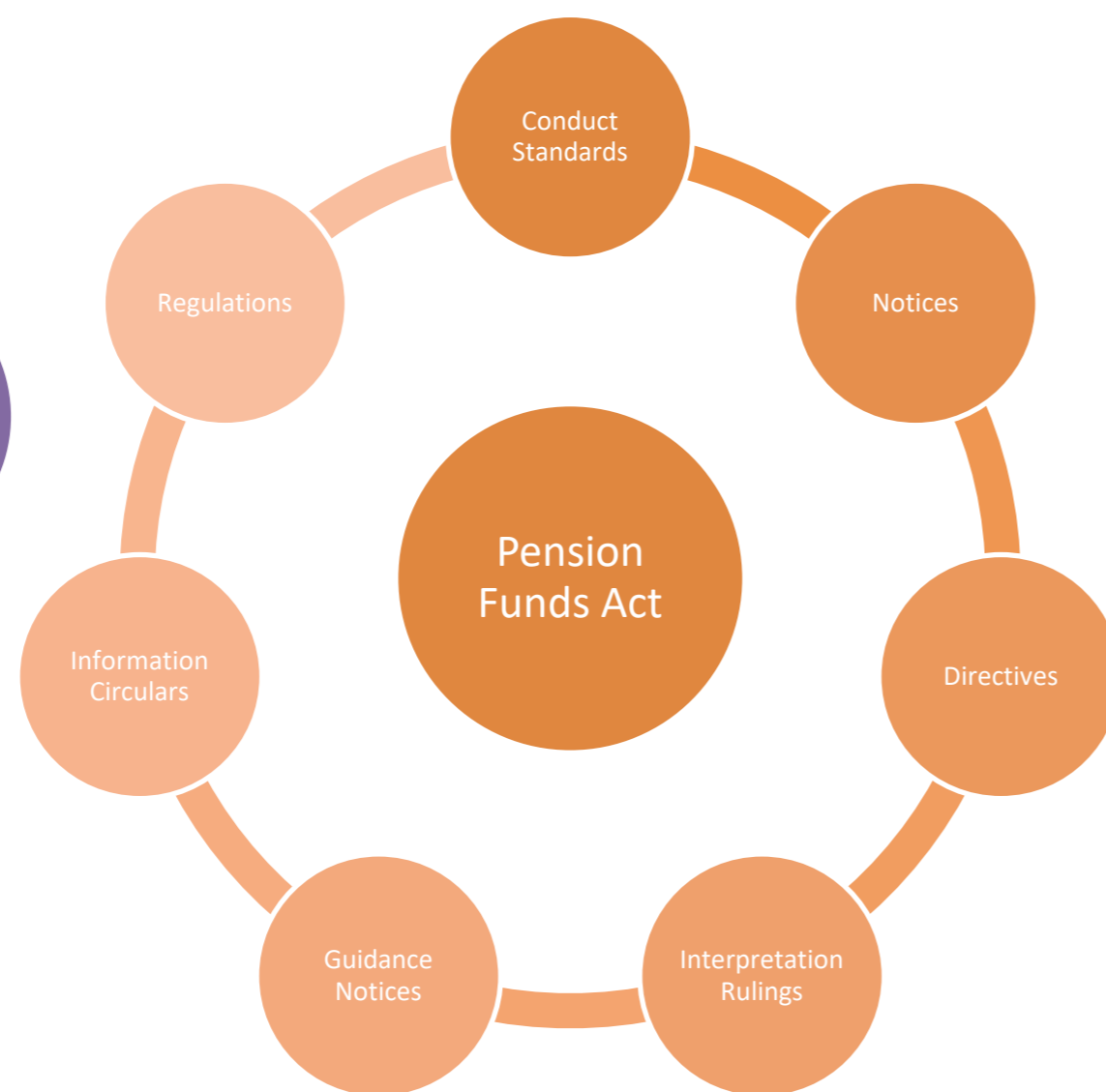
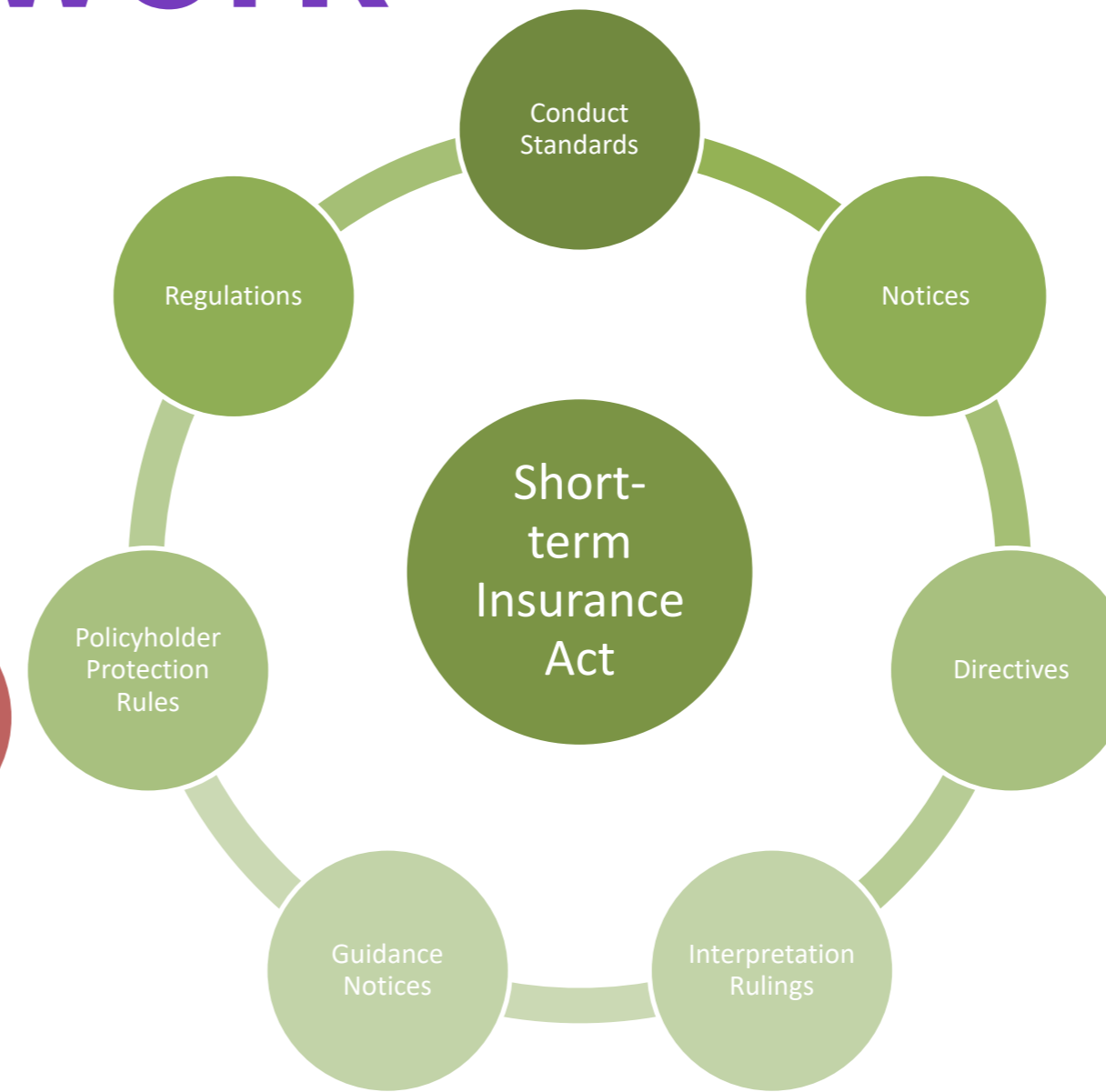
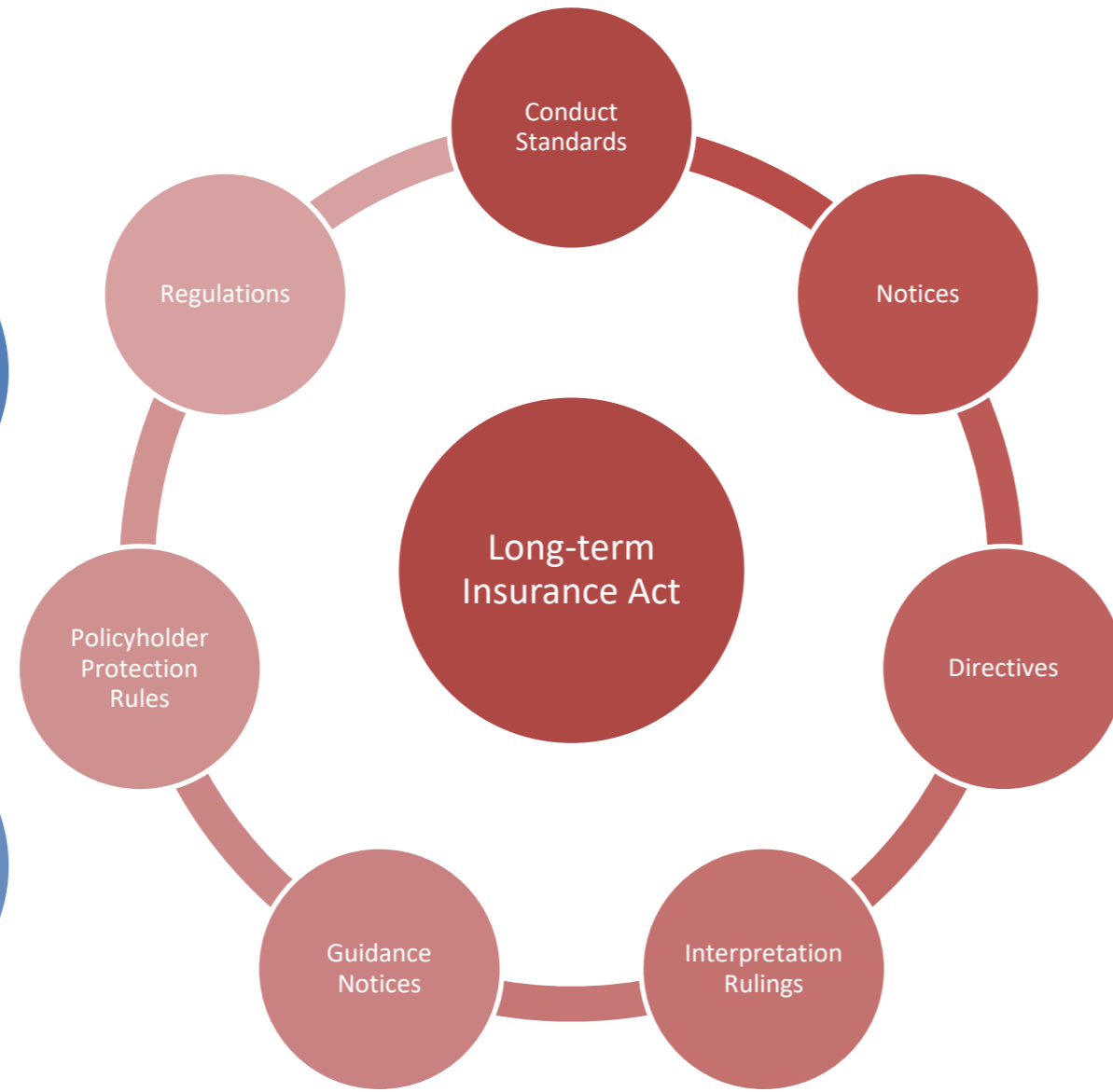
Future regulatory framework

Conduct of Financial Institutions Act (COFI)

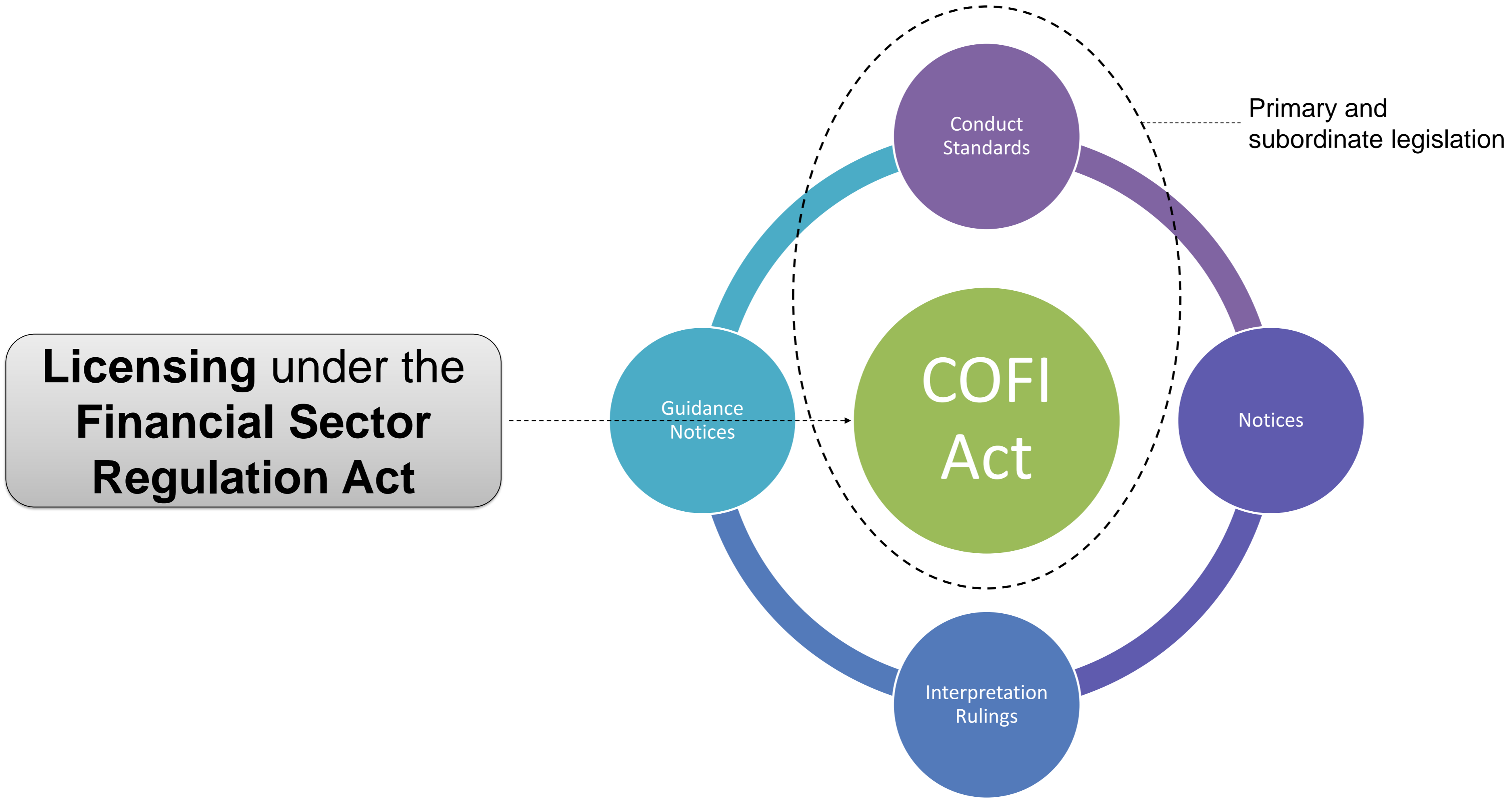
- framework is still evolving
- will be more outcomes- and principles based
- will be a high level, overarching framework applicable to all sectors within the industry
- specific, more detailed requirements will be contained in Conduct Standards, where necessary



Current sectoral law framework



Future sectoral law architecture



THANK YOU

Questions?

Questions can also be emailed to
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