Market conduct supervision for the Twin Peaks regime

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Overview

- What is market conduct regulation
- Difference between prudential & market conduct
- Dealing with the complexity
- Managing linkages and tensions associated with Twin Peaks
- Commitment to “higher standards”
- What it means for industry
- Size of challenge

What is market conduct regulation

- Entails both market discipline (transparency and disclosure, corporate governance and risk management) and consumer protection (information, fairness, etc). (Miani and Dreassi, 2007)
- Embraces an evaluation of the provider's governance and internal controls that influences the way the provider interacts with clients.
- Accepts that oversight of the relationships between entities and markets is an integral part of regulation
- Acknowledges that inappropriate behaviour could impact reputation and confidence of market participants.
- Objective is confident, informed and empowered clients (FSB, 2009)

Difference between prudential & conduct

- Regulation and supervision encompasses far more than the registered firms – it includes distribution channels and intermediaries.
- Also requires alignment with other consumer protection agencies, ie ombuds, NCC, NCR
- Market conduct risks tend to be more difficult to define and quantify than solvency risk
- Market conduct involves making judgments on less-than-objective criteria
- Market Conduct probably very susceptible to what Danielsson (2002) has termed a corollary to Goodharts' Law:
  – *Any observed statistical regularity will tend to collapse once pressure is placed upon it for control purposes.*
  – *A risk model breaks down when used for regulatory purposes*

Dealing with the complexity

- The need for overriding market conduct principles - with legislative heft - especially where multiple structures in different ministries exist.
- Evaluation of outcomes enables regulation through principles and encourages a shift away from tick-box compliance by the industry and regulators alike.
- The need for a range of different indicators within the risk based model (understanding business model, target audience, types of disclosure) and for a range of different tools (evaluation of adverts, mystery shopping, testing of provisions).
- Being aware of the limitations of any particular provision, indicators or tool, eg disclosure